Maksymuik, Amanda (ENERGY)

From: Kacaba, Jennifer (ENERGY)
Sent: February-13-17 1:31 PM
To: Maksymuik, Amanda (ENERGY)
Subject: Fw: Rate mitigation options

Importance: High

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Calwell, Carolyn (ENERGY/MEDEI/MRI) <Carolyn.Calwell@ontario.ca>
Sent: Monday, February 13, 2017 1:17 PM
To: Johnson, Paul (ENERGY/MEDEI/MRI); Kacaba, Jennifer (ENERGY)
Subject: RE: Rate mitigation options

Jane has asked for more on the trade question. Here is a draft response. Anything to add?

Jane, here are some thoughts based on the nature of the initiatives currently contemplated:

1. Helping the most vulnerable by enhancing electricity support programs and shifting cost onto the tax-base:

- Rural or Remote Electricity Rate Protection (RRRP) Enhancement (Delivery Charge Relief);
- Ontario Electricity Support Program (OESP) Expansion;
- LDC Affordability Fund; and
- First Nations Rate.

These initiatives target residential consumers. They help businesses by moving costs from the rate base to the tax base, but they are not targeted to help business. The policy rationale for the move to the tax base is that these are social programs, not electricity sector costs.

2. Ongoing activities to bend the future cost curve of electricity:

- Ontario Energy Board (OEB) – Identify opportunities for OEB red-tape reduction and future LDC efficiencies and rates.
- Independent Electricity System Operator (IESO) – Modernize Ontario's electricity market through electricity Market Renewal initiatives.

These initiatives are targeted at energy sector participants (the OEB as an independent, quasi-judicial regulator, the IESO as a statutory non-share capital corporation whose directors are appointed by the government, but which is not a Crown agent). As with the initiatives above, business would benefit from costs savings found through efficiencies in these organizations, but these are not measures targeted at business.

3. Smoothing the global adjustment (GA) to provide significant and immediate rate relief through cost deferral of the GA:

- Implementation Model.
- Smoothing Mechanism; and

From: Johnson, Paul (ENERGY/MEDEI/MRI)
Sent: Sunday, February 12, 2017 10:56 AM
To: Mallen, Jane (MAG); Perun, Halyna N. (MOECC)
Cc: Helie, Michel (MAG)
Subject: Re: Rate mitigation options

I've seen no traffic this weekend.

From: Mallen, Jane (MAG)
Sent: Sunday, February 12, 2017 10:04 AM
To: Perun, Halyna N. (MOECC); Johnson, Paul (ENERGY/MEDEI/MRI)
Cc: Helie, Michel (MAG)
Subject: Re: Rate mitigation options

Hi Paul, do you have updates?

Thanks,
Jane

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Perun, Halyna N. (MOECC)
Sent: Friday, February 10, 2017 7:30 PM
To: Johnson, Paul (ENERGY/MEDEI/MRI); Mallen, Jane (MAG)
Cc: Helie, Michel (MAG)
Subject: Re: Rate mitigation options

Ok thanks Paul

Halyna Perun
Office: 416-327-2125
BlackBerry: 416-671-2607
May contain confidential and privileged information .

From: Johnson, Paul (ENERGY/MEDEI/MRI)
Sent: Friday, February 10, 2017 7:19 PM
To: Mallen, Jane (MAG); Perun, Halyna N. (MOECC)
Cc: Helie, Michel (MAG)
Subject: Re: Rate mitigation options

Another turn of the deck is supposed to come tomorrow. I'll have a clearer picture then.

From: Mallen, Jane (MAG)
Sent: Friday, February 10, 2017 7:03 PM
To: Perun, Halyna N. (MOECC); Johnson, Paul (ENERGY/MEDEI/MRI)
Cc: Helie, Michel (MAG)
Subject: Re: Rate mitigation options

Paul, please let us know what the proposal is re: the GGRA proceeds.

Also, do you have any information re: timelines for the cab sub? Do you still need some bullets on the legals?

P.s. I haven't copied Carolyn as she is off today and I am trying not to bug her!

Sent from my BlackBerry 10 smartphone on the Rogers network.

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JPR Instructs – GAM (Feb 10-17) based on GOV2016.146.e
2-TK

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Electricity Amendment Act, 2016 (Proceeds Recycling)

EXPLANATORY NOTE

[Insert explanatory note.]

This draft has not been edited.

ENE to confirm consultation plans with MOECC and MOF (and CLB?)

ELECTRICITY ACT, 1998

1. Section 1 of the *Electricity Act, 1998* is amended by adding the following clauses:

(d.1) to continue, create or facilitate the continuance or creation of initiatives that are reasonably likely to reduce or to support the reduction of greenhouse gas,[1] including initiatives relating to electricity conservation and efficiency or to the use of cleaner energy sources and technologies, and to provide mechanisms for mitigating related costs to consumers;

Comment [JPR1]: This portion of the drafting relates to the legacy GGRA work that we had done over the summer. It is a bit of a template for the work we're doing now with GAM refinancing.

(d.2) to establish one or more mechanisms to facilitate the Government of Ontario's policy to smooth electricity prices and to recover from consumers the costs associated with such activities, including policies designed to ensure that those consumers who benefit from investments made in generation, conservation, demand-management and energy efficiency bear an appropriate share of those costs; ***[ntd-jpr: This new object is designed to provide further authority context for Government to be able to establish rate-(GA) smoothing mechanisms, including mechanisms which [re]-allocate the value future benefits to today's consumers ("intergenerational fairness" is the organizing principle), and costs associated with future benefits to future consumers. This is consistent with our CLB advice on the GAM proposals.]***

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Ntd-jpr: Hi, OLC Counsel:. These amendments are focussed on two key changes to the existing global adjustment mechanism (GAM) provisions (including related regulation-making authority) associated with ENERGY's rate smoothing strategy.

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[1] FLS: See s. 71 (2) para. 2 of the Climate Change... Act.

1) **IESO Makes payments to and from a newly-established entity** (e.g. corporation or trust) designed to borrow large sums of money on behalf of consumers and to pay amounts to the IESO to allow the IESO to pay those amounts into GAM as an offset to the amounts that consumers would otherwise have to pay (similar to the GGRA idea but instead of receiving money from Government's GGRA (an account within the crf) this would be money from an entity which deals at arms length from both Government and the IESO. Dan Shear is to instruct on the entity. The real difference between the payment flows between the IESO under the GGRA scenario versus "the entity" scenario is that for the latter, the IESO would also be collecting amounts to **repay the entity** (including capital and interest charges) for the amount the entity borrows. Those amounts are collected from consumers. Significant amounts would need to be borrowed in order to lower consumers GAM-related costs up-front to give them an appreciable (25 or 30 percent) total bill reduction. The repayment schedule would increase over time and add to both the cost at the later end (see deck (Feb 6/17 version) at slides 5 – 9 for an indication of how the bill impact would look for average consumers over the next 15 to 20 years.).

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[NTD-JPR: We need to amend the IESO Fees-making provision at s.25.1 to ensure

x. (2) Section 25.1 of the Act is amended by adding the following subsection:

(2) the IESO shall establish a fee to recover from consumers ***[all or a portion of? the]*** administrative, operational and management costs of the Financing Subsidiary to the financing or refinancing of all or a portion of the amounts otherwise payable by consumers pursuant to section 25.33 and the regulations, including but not limited to all or a portion of the administration and operating expenses of the entity *[corporation]* referred to in x.

(2.1) The IESO shall establish and maintain separate accounts reflecting the amounts collected from consumers and paid to the entity referred to s.53.x of the Act from any other books or accounts related to its operations or the fees that it collects for those purposes.

Comment [JPR2]: I'm still considering whether we need to address the IESO's "Fees" provisions which could be designed to recover any amounts related to the costs associated with GAM refinancing: it may be redundant to the IESO's GAM cost-recovery authority specified below. However, it may be an important "back-stop" to the GAM-related authorities to ensure that stray amounts not easily relatable to the borrowed funds (such as a share of the new entity's administrative operating expenses) can be recovered.

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x. (1) Clause 25.33 (1)(a) of the Act is amended by adding "the entity *[corporation]* referred to in section x", after "Financial Corporation" and replace "under section 78.1, 78.2 or 78.5" with "under 78.1, 78.2, 78.5 or 78.6".

Comment [JPR3]: See in OEBA-related amendments: new s.78.6 to deal with IESO payments to new entity and OEB oversight.

x. (1) Subsection 25.33 (1) of the Act is amended by striking out "and" at the end of clause (a), by adding "and" to the end of clause (b) and by adding the following clause:

(c) amounts received by the IESO, directly or indirectly, from the Greenhouse Gas Reduction Account established under section 71 of the *Climate Change* ~~*Mitigation*~~ *Smoothingand Low-Carbon Economy Act, 2016* for the funding of greenhouse gas reduction initiatives under this Act or the *Ontario Energy Board Act, 1998* for which the costs are, or would otherwise be, borne in whole or in part by consumers.

(d) amounts received by the IESO, directly or indirectly, from **[the entity referred to in Part x]**, for which the costs are, or would otherwise be, borne in whole or in part by consumers. ***[ntd-jpr: part of the rate-smoothingplan relating to GAM is to create a separate entity (either a trust or other not-for profit entity which is capable of either borrowing or receiving borrowed funds and ensuring that the borrowed funds themselves and the costs of the borrowed funds, (e.g. the interest/financing costs which are expected to be quite significant), are recovered from consumers. The current plan is to have the IESO continue to act as the settlement agent for consumers – it would receive amounts from the entity to flow into and through GAM using those amounts to reduce GAM liability, and recover and much much later down the road, the costs of borrowing (capital plus interest) from consumers. The GAM-related amendments are designed to ensure that there is an appropriate "line in" and "line out" of GAM in respect of amounts the IESO is supposed to receive from the entity and, over time, pay out to the entity relating to the borrowed funds and interest costs.***

(e) amounts payable by the IESO, on behalf of consumers, to **[the entity referred to in Part x]**.

(2) Subsection 25.33 (2) of the Act is amended by striking out "and" at the end of clause (a), by adding "and" to the end of clause (b) and by adding the following clause:

(c) amounts received by the IESO, directly or indirectly, from the Greenhouse Gas Reduction Account established under section 71 of the *Climate Change* ~~*Mitigation*~~ *Smoothingand Low-Carbon Economy Act, 2016* for the funding of greenhouse gas reduction initiatives under this Act or the *Ontario Energy Board Act, 1998* for which the costs are, or would otherwise be, borne in whole or in part by consumers.

OLC Counsel:, next we need to require that distributors make adjustments in their account which recognize the funds (amounts) received from the IESO that are

Comment [JPR4]: This relates to potential GGRA funding via GAM.

Comment [JPR5]: These are the costs related to GAM which consumers are otherwise responsible for, but for which the amounts paid out by the new entity are being used, in part, to address (lower).

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paid by the entity (the borrowed funds) in order to combine those amounts with the amounts that consumers will pay under clause 25.33(2)(a):

(d) amounts received by the IESO, directly or indirectly, from Financing Subsidiary for which the costs are, or would otherwise be, borne in whole or in part by the following classes of consumers;

(i) Consumers who participate in the Board's Regulated Price Plan established under section 79.16 of the *Ontario Energy Board Act, 1998*;***[ntd-jpr: to which subsection 79.16 and regulations made thereunder apply.] Note: s.79.16(1) authorizes the OEB to create its Regulated Price Plan (RPP) and O. Reg. 95/05 (Classes of Consumers and Determination of Rates) fixes the classes of consumers who are eligible to participate in the RPP. Some "opt out" (per s.79.16(4) for retail contracts – I assume that they, too, would be entitled ot receive the benefits of and costs of "rate smoothing"]***. and,

(ii) Consumers who are eligible to participate in the Board's Regulated Price Plan established under section 79.16 of the *Ontario Energy Board Act, 1998* and who have entered into a contract with a retailer;

(iii) Consumers who are served by a sub-metering entity; ***[ntd-jpr: this provision may require further discussion/building out.]***

(e) amounts payable by the IESO, on behalf of consumers, to the Financing Subsidiary.

[ntd-jpr: one of the purposes of our GA-related work is to reflect the "intergenerational" nature of the benefits (and costs) that we're attempting to reallocate. I've tried to tailer an object (mocked-up above as an amendment to s.2)]

x. Section 25.33 is amended by adding the following subsection after subsection (5):

[OLC Counsel:, below I'm trying to clarify that for the GGRA funds received by the IESO, that the IESO may be required (via regulation – amendments to O. Reg. 429/04) to settle certain contracts and classes of contracts with certain generators and classes of generators using GGRA amounts. This is to ensure that Government can always track the GGRA funds as specifically and separately as required in order to match those amounts paid out of the GGRA with the GHG-lowering initiatives which the contracts and classes of contracts represent].

GGRA funding, separate payments and tracking,

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Comment [JPR6]: These are the costs related to GAM which consumers are otherwise responsible for, but for which the amounts paid out by the new entity are being used, in part, to address (lower).

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Comment [JPR7]: Here we're ensuring that distributors must recognize amounts that consumers have to *pay back* to the entity (and its financiers) including borrowed funds, interest and carrying charges. Probably has to include admin and operational-related costs of running the entity.

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(5.1) If required by the regulations, the IESO shall separately track and account for the amounts it receives pursuant to clause 25.33(1)(c) and to direct such amounts to the contracts and generators or classes of contracts and generators as may be prescribed.

Financing Subsidiary funding, separate payments and tracking,

(5.2) For the purposes of ensuring that amounts received from the Financing Subsidiary are paid toward the costs consumers are otherwise required to bear pursuant to section 25.33, the IESO shall, on behalf of consumers or the Financing Subsidiary,

(a) allocate amounts received from the Financing Subsidiary toward the amounts otherwise payable by consumers under section 25.33(1) in accordance with ***[ntd for clients; need instructions here: the schedule approved by the Board? Alternativley, do we plan to place instructions right in the legislation? Consider.]***

(b) recover the amounts ***[ntd:; these are the amounts borrowed by the financing sub including interest costs]*** to be paid by the IESO to the Financing Subsidiary pursuant to subsection 25.33(2) from consumers in accordance with ***[ntd for clients: need instructions here: the schedule approved by the Board? Alternativley, do we plan to place instructions right in the legislation? Consider.]***

(c) recover the amounts, on behalf of the Financing Subsidiary, of administrative, operating ***[ntd-jpr: operational?]*** and management costs and fees associated with the Financing Subsidiary's ***[ntd: rate smoothing?]*** activities conducted on behalf of consumers from consumers.

(d) separately track and account for,

(i) the amounts received from the Financing Subsidiary *[ntd: and allocated toward the amounts/costs provided for under section 25.33 (1) that consumers would otherwise bear;*

(ii) the amounts paid to the Financing Subsidiary *[ntd: related to the amounts referred to in sub-clause (i));*

(iii) the amounts that that the IESO pays to the Financing Subsidiary related to the Subsidiary's administrative, operational and management costs;

(iv) the amounts related to (iii) that are recovered from consumers; and,

Comment [JPR8]: This is just preserving the GGRA-traacking/tracing to specific FIT and GEIA contracts amounts. The IESO must separately track for future audit.

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(v) any variances between the amounts reflected in subclauses (i) and (ii), or the amounts reflected in subclauses (iii) and (iv) or such variances which relate to any of the amounts reflected in subclauses (i) through (iv) that the IESO deems appropriate;

True up,

(5.3) The IESO shall annually, or more frequently as is practicable, recover from consumers and pay to the Financing Subsidiary, any amounts determined under this section ***[ntd: could isolate to subsection (5.2)]*** which are due and payable to the Financing Subsidiary.

Entity funding, distributors, separate payments and tracking,

(5.3) If required by the regulations, distributors and retailers shall separately track and account for the amounts received from the IESO, and payments it makes to the IESO, the entity ***[corporation]*** referred to under Part X of the Act, pursuant to ***clause 25.33(1)(d) or (e)***, and to direct such amounts to the entity *[corporation]* in such manner as may be prescribed.

Instructions (for ensuring reg-making authority can capture what it needs to) how O. Reg. 429/04 would need to reflect (track separately) both the amounts related to GGRA funding and / or funded via refinancing (settlements with the new "Entity")

O. Reg. 429/04, s.1.1 - New "J" for Master Formula -- Reflecting the Re-Financing of GAM at the Regulation Level

-Define new element of master formula, "J", to track amounts funded through the new entity (e.g. the amount to be financed). Then ensure that the Master formula reflects either the "inclusion" of this amount

J is the net amount received or owed to *the entity under Part X of the Act* and which relates to the amounts:

1. Received by the IESO *[each month]* from the entity in accordance with *[the schedule approved by the Board]* under s.x; plus,
2. Payable to the Entity each month by the IESO in accordance with the schedule approved by the Board under s. x.

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[next, back up at the legislative level, could we next track this through to the reg. making authority in s.114(1.3)(f)]

Regarding whether we need to specify that adjustments under (c) may be made only with respect to certain classes of consumers, my current take is that I don't think so, and this is why:

- Both s. 25.33 (1) and (2) make clear in their opening flushes that the adjustments may be with respect to certain, but not all, market participants/consumers.
- S. 114 (1.3) (f) (i) provides authority to prescribe classes of market participants and consumers to whom adjustments will apply.
- S. 114 (1.3) (f) (ii) is a bit different, but still refers to classes of consumers/distributors/retailers in respect of which prescribed adjustments would be made.
- S. 114 (2) confirms that a regulation made under s. 114 (1) or (1.3) may be general or particular in its application.

Of course, we could be more express, but that would inevitably draw attention to the fact that the consumers who may receive the benefit of the adjustment and the consumers paying for the initiatives don't exactly line up. Just to keep it in mind, there are two sets of consumers we're talking about here…the ones who are funding the initiatives (ie, the "consumers" referred to in clause (c)), and the ones who would be within a class that would get the benefit of the adjustment that all consumers pay (the consumers who would be within the prescribed class). I think you're only prescribing the latter. Happy to discuss.

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Comment [JPR9]: Relates to the legacy GGRA funding of GAM work.

(3) Section 25.33 of the Regulation is amended by adding the following subsection:

Additional requirements

(9) The Lieutenant Governor in Council may, by regulation, require the IESO, a distributor, retailer, generator or any other licence holder to take the steps prescribed by the regulations in the manner and time prescribed by the regulations, in order to implement or facilitate the implementation of the adjustments for the amounts referred to in clauses (1) (c), (1)(d) and (1)(e), ~~and~~ (2) (c), (2)(d) and (2)(e).

1. Given the potential breadth of application of this provision, I thought it better to "surface" it into the provision itself, and not just deal with it in the reg-making provision. Again, my earlier caveats apply…it's hard to know in the abstract what this would and wouldn't authorize. Obviously not something that would conflict with the Act. Long story short, without specifics there's no guarantee that this'll let you do what you need it to do, at the end of the day.

2. The fact that this is specific to clauses (c) may attract comment, e.g., why would you need this for clauses (c) and not for clauses (a) or (b)?

Comment [JPR10]: Relates to the legacy GGRA funding of GAM work.

x. (1) Subclause 114 (1.3) (f) (ii) of the Regulation is amended by adding "under subsection 25.33 (2)" after "that must or may be made".

TBD whether s. 114 (1.3) (f) (i) and (ii) need further amendment, given the inclusion of the new clause (c) in s. 25.33 (1) and (2). I don't see anything at this point that would need changes. *[ntd-jpr: Thanks, OLC Counsel: – could we also consider s.114(1.3)(f) from the perspective of s.25.33(1)(d), (e) and (2)(d), (e).]*

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(2) Subsection 114 (1.3) of the Regulation is amended by adding the following clause:

(g.0.1) requiring the IESO, a distributor, retailer or generator or any other licence holder to take specified steps, including [...], in order to implement or facilitate the implementation of the adjustment of the amounts referred to in clauses 25.33 (1) (c) and (2) (c), and prescribing the manner in which and the timing by which the steps must be taken,

Please provide examples, if possible, so that we can consider, (a) whether this reg authority is sufficient, and (b) whether to refer to the examples expressly.

TBD whether s. 114 (1.3) (f) (xii) – (xv) are to be amended in any way. They provide authority to require that various actors provide information to various other actors "for the purposes of section 25.33 or a regulation made under this clause". If your clients are interested in a reporting requirement relating to the actual GHG reduction initiatives, then I think that if that authority doesn't already exist elsewhere, it could be added, but not here. As I read it, this is really reporting in respect of the adjustments, set-offs, credits, payments, etc.

- Just a flag, in case it matters, that a couple of these information-sharing subclauses are subject to s. 114 (6) of the Act, which deals with agreements to the contrary.

ONTARIO ENERGY BOARD ACT, 1998

x. Subsection 1 (1) of the *Ontario Energy Board Act, 1998* is amended by adding the following paragraph:

6. To facilitate the implementation of the policies of the Government of Ontario respecting climate change ~~mitigation~~ smoothingand greenhouse gas reduction.

7. To facilitate the implementation of the policies of the Government of Ontario respecting the smoothingof electricity prices.

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x. Section 2 of the Act is amended by adding the following paragraph:

7. To facilitate the implementation of the policies of the Government of Ontario respecting climate change ~~mitigation~~ smoothingand greenhouse gas reduction.

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x. Section 27.1 of the Act is amended by adding the following paragraph:

Hearings

(1.1) A directive may specify whether the Board is to hold a hearing, the circumstances under which a hearing may or may not be held and, if a hearing is to be held, the type of hearing to be held and the time within which it must be held.

The underlined is what makes this different from the other provisions in the Act that basically have the same wording. There are already a number of places in the Act where you have this type of hearings provision re directives (e.g., s. 27.2 (7)). If you basically want the same authority in each instance, then the wording should be consistent in each case. There are already some discrepancies between the current provisions (e.g., s. 27.2 (7) talks about types of hearings, whereas s. 28 (2) doesn't). Differences in wording will typically be presumed to be differences in meaning. So, the question is what you're intending to authorize in each case, and whether differences are intended. If you want the same thing everywhere, it should all be worded the same. Let me know.

x. The Act is amended by adding the following section:

Payments to the Entity, etc.

78.6 (1) The IESO shall make payments to the entity referred to in Part X of the *Electricity Act, 1998* with respect to amounts borrowed by that entity for the purposes of mitigating their electricity prices;

Interest, etc.

(2) The IESO shall make payments to the entity referred to in Part X of the *Electricity Act, 1998* with respect to any interest paid or payable by the entity in respect of the

Comment [JPR11]: This next section combines the IESO's authority (requirement) to make payments to the entity and to recover amounts from consumers in accordance with the OEB-supervised (approved) payments and cost recovery schedule. It's a light-handed way of putting the OEB in a supervisory role without licensing. The IESO has to annually report on the payments to / from the entity and amounts collected from consumers, including any month-to-month/year-to-year variances.

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amounts borrowed by that entity on behalf of consumers for the purposes of mitigating their electricity prices;

Amount and timing of payments,

(3) The amount and timing of the payments referred to in subsection (1) shall be
Clients: option 1: approved by the Board?
: option 2: prescribed by the Regulations?
: option 3: a function of the financial contracts and other arrangements referred to in s. 25.32.2(1) of the *Electricity Act, 1998 [A new provision we've just designed?]*

Debts of entity,

(3) The payments referred to in subsections (1) and (2) are deemed to be debts payable to or accounts receivable of the entity and not those of the IESO;

IESO to collect

(4) The IESO shall collect from consumers the amounts referred to in subsection (1) and (2) on behalf of the entity, and recover those amounts from consumers, on behalf of the entity, over time, in accordance with the regulations or any order of the Board ***[ntd-jpr: this allows the OEB to establish a repayment schedule and collection (cost-recovery) schedule.]***;

Variance accounts, etc.,

(5) For the purposes of this section, the IESO shall establish one or more variance or deferral accounts to separately track, administer and pay the amounts referred to in this section.

Board oversight

(6) At least once during each fiscal year and as often as the Board may require, the IESO shall submit to the Board and the Board shall review, a report detailing the payments and amounts that the IESO has paid or collected under this section:

(a) Payments made during the fiscal year to the entity;

(b) The amounts collected on behalf of the entity from consumers;

(c) The amounts which are reflected in any deferral or variance accounts *[ntd-jpr: which track or reflect the differences]*;

(d) Such other information as the regulations or the Board may from time to time require.

Commencement

xx. This Act comes into force on [insert commencement rule].

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What are the commencement instructions?

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List Paragraph, No bullets or numbering

Entity Mandate

- The Following table depicts either a prescriptive or flexible mandate for a new entity established to manage Global Adjustment (GA) smoothing.
- This mandate could be established through legislation or through a combination of legislation and the constating documents of the organization ~~(e.g. articles of incorporation, trust indenture) or a combination of both~~.
- The focus of the governance principles would be to reinforce the distance and independence the entity has from Government.
- OEB role (level of supervision) can be small or moderate depending upon need for oversight by an independent energy regulator versus risk perception of financiers.

Comment [DS1]: I assume this is not the place to discuss the nature of the entity itself, but rather its mandate? There are a number of additional points we could include about the nature of the entity if desired.

Element	Prescriptive Mandate	Flexible Mandate
Objective	- Smooth impacts of the Global Adjustment Mechanism (GAM) in order to allocate costs to ratepayers across a [25 / 30] year time horizon, in accordance with the following parameters - Legislated loan and interest repayment mechanism with recourse to rate-payers only (cost of capital and financing costs) - OEB oversight (annually) but no licensing or rate-order. - Could have OEB set overall cap for collection each year, allowing entity to recover according to prescribed rules within specified range.	- Smooth impacts of the Global Adjustment Mechanism (GAM) in order to allocate costs to ratepayers across a 25-35 year time horizon, guided by the following parameters - All decisions to balance the interests of current and future ratepayers, taking into account factors including but not limited to: o Current and expected future demand for electricity o Current and future expected number and composition of ratepayers o Total cost of electricity and expected future changes to the cost of electricity - Legislated loan and interest repayment mechanism with recourse to rate-payers only (cost of capital and financing costs) - OEB oversight (annually) but no licensing or rate-order. o Could have OEB set overall cap for collection each year, allowing entity to recover at will within specified range. o Could accommodate

		moderate role for OEB to manage/supervise entity's (and IESOs) collection schedule. o Ambit of OEB role could be constrained by reg. - Current and expected future interest expenses
Sources of Financing	- Borrow via the Ontario Financing Authority (OFA) under commercial terms	- Seek lowest cost of financing either from the OFA or 3rd party lenders in order to balance cost and risk to ratepayers - Develop and deploy borrowing strategies to minimize cost and mitigate risk to ratepayers, considering factors above
GAM Payment & Financing Approach	- In year 1 provide $X billion to finance the cost of GAM (hereafter known as "Annual Financed GAM Payment"), offset by a deferral account to be recovered from ratepayers - Over years 2 to x, reduce Annual Financed GAM Payment amounts, relative to the year 1 total ($x billion), such that the decrease is not greater than 2% of the total annual cost of GAM from the prior year - Starting in year 1, recover, on a monthly basis, interest expenses related to accumulated debt from electricity ratepayers - Reduce Annual Financed GAM Payment amounts to $0 or less (once less than $0, this becomes a charge to ratepayers) in 12 to 15 years - In years a to b, Recover accumulated debt via a charge to ratepayers over remaining 10 to 13 years (25 years total), provided that the annual increase in the charge to ratepayers is not greater than 2% of the total annual cost of GAM from the prior year	- In year 1 provide $X billion to finance the cost of GAM (hereafter known as "Annual Financed GAM Payment"), offset by a deferral account to be recovered from ratepayers - Each year, the New Entity will submit plans for approval to the OEB that propose a rolling [5 yr / 10 yr] declining Annual Financed GAM Payment schedule , such that the annual decrease is not greater than 3% of the total annual cost of GAM from the prior year. - Prescribe criteria OEB to apply in approving or requiring changes to such schedule. - Manage the recovery of interest expenses and administrative costs related to accumulated debt from electricity ratepayers - Manage the recovery of accumulated debt over a 25-35 year period - Financed Annual GAM Payment schedules and recovery of accumulated debt should take into account the interests of both current and future ratepayers, while ensuring long term financial stability for the

Comment [DS2]: It would also be possible to require the entity to seek lowest cost of financing from the OFA or 3rd party under the "Prescriptive Mandate".

Comment [DS3]: Any prudency test for admin costs?

		new entity.
Mechanism for Recovery from Ratepayers	- Legislation would provide the entity with the right to recover debt, interest and administrative costs from rate payers. - Prescriptive mandate: legislation prescribes who pays and in what proportions - Broad mandate: Board has discretion to determine recovery. **Amendments to Electricity Act, 1998** could specify: - Amendments to IESO mandate (objects) and GAM provisions to authorize IESO to receive and pay amounts from and to entity; - monthly amounts to be settled (separately) with IESO, distributors/retailers then collected from consumers and settle with IESO. IESO makes payments to entity. Separate reporting can be explicitly mandated. - IESO to report annually to OEB about these settlements separately. - Variance accounts established within entity, IESO, distributors to track payment flows and variances. OEB oversight of accounts (reporting only) - **Optional:** OEB could set overall cap for annual recovery and/or manage repayment schedule or could be prescribed. - **Amendments to OEBA:** "Rate mitigation" added to Board's objectives re electricity; - **Entity:** OEB could receive and review annual report from entity. - No OEB license or rate-order for entity (light touch) versus overseeing repayment schedule or even fixing / approving same (closer to rate-making). - IESO specifically required to make payments to entity: - Regulations prescribing criteria and rules re. payments as required. - **Optional:** Can further circumscribe OEB role re. setting cap or repayment schedule via reg. **or** - **OEB could fix entity's rate:** OEB's approval of internal/operating costs together with approval of schedule and setting hard cap.	**Formatted:** Font: Bold **Formatted:** Font: Bold **Formatted:** Font: Not Bold **Formatted:** Font: Bold **Formatted:** Font: Bold **Formatted:** Font: Bold
Ontario Energy Board Oversight	- New Entity to submit to the OEB on an [annual] basis its rolling 5 year declining Annual Financed GAM Payment schedule and / or charge ratepayers to demonstrate that the plan aligns with its mandate and maximizes benefit to both current and future ratepayers, while mitigating risks - New Entity to submit annual business plans to the OEB for review and approval. This review would exclude any pre-existing debt obligations and would ensure that all associated debt covenants are respected	**Comment [DS4]:** What do you mean by this?
Contract with IESO	- New Entity to enter into a commercial, contractual arrangement with IESO whereby IESO will collect a portion of GAM to service debt (see cost-recovery amendments above) - Once the GAM payment switches to a charge (as described in "GAM Payment & Financing Approach"), the New Entity will contract collection from ratepayers to the IESO, while retaining all rights and obligations associated with collection of this charge - The contract between the New Entity and IESO will establish an annual (monthly?) mechanism to reset payment and recovery amounts, as	**Comment [DS5]:** Why do we need this? We can wrap this up in the overall settlements work performed by the IESO, with leg/reg support as needed.

	established by through the Ontario Energy Board review process described above

Ontario

MINISTRY OF
ENERGY

Rate Mitigation Options for Class B Electricity Consumers

Working Draft

February 16, 2017

CONFIDENTIAL DRAFT

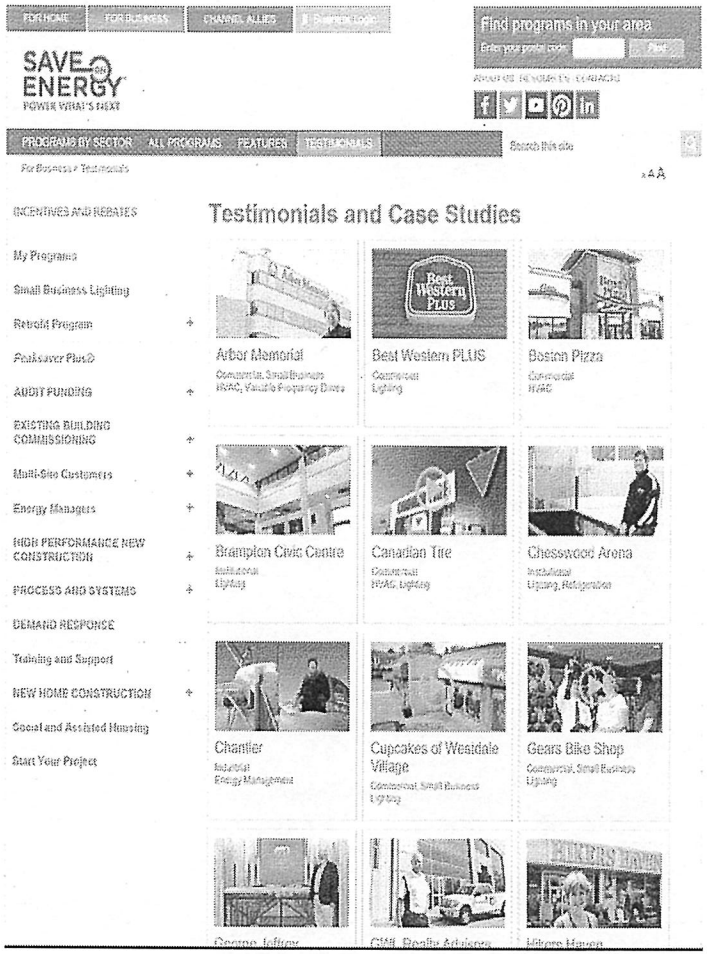
Context

- Class B electricity consumers comprise about 50,000 customers, including many mid-size manufacturers (i.e., automotive parts suppliers, plastics manufacturers), large commercial buildings (i.e., office blocks, mid-sized shopping malls) and broader public sector facilities (i.e., hospitals, college campuses).

- Through saveONenergy, many Class B consumers have already taken advantage of energy efficiency programs.

  - Although saveONenergy programs like Process and Systems Upgrade Incentive exist, these programs generally require significant investment on behalf of the customer in addition to the incentives and therefore may be difficult to take advantage of.

  - For Class B manufacturers whose electricity consumption is primarily based on process activities (e.g., injection moulding, welding, etc), traditional conservation measures like lighting and ventilation upgrades have limited benefit.



ALOC
ASSOCIATION OF LAW OFFICERS OF THE CROWN
ASSOCIATION DES AVOCATS DE LA COURONNE
DEFENDING INDEPENDENCE | DEFINING PROFESSIONALISM | EMPOWERING CROWN COUNSEL

Rate Mitigation Update — Feb 6/2017

- SoC - funding
- fiscal prep today

- GA option - more analysis - total 20% analysis
  - if only [illegible] at certain groups

Options on the table →
- moving social prog to tax bas
  - no cap - more surgical appl.
- expand OPESP
- FN rate in
- conservation funding side - a go
  - funding thing cap + trade

Q - GGRA funding - sending right through to customer parties
- could go through KSO
- how do we explain so

- way of isolating classes of contracts

Next Steps
- fiscal prep - Wednesday
- 65 minutes [illegible] - Thurs.
- Cabinet - Next Wednes

- pursuing out ICL over time
  - homme class A.
  - all volunteers all the time.

Jan 22/2017

- open up CES & FIT contracts

1. overall price difference

2. annual fees - all out of cap & trade

3. how much more will we pay to wind farms as a result of this initiative

- what prop. of energy electricity from contracts?

- evidence within contracts reduce GHG's

1) Is directive required
we aren't convinced

2) depending on service,
IESO will provide
a do they have
authority
to provide

② we have authority
to direct

③ payment mechanism
- how recover?
- does IESO have
a mechanism
to recover
payment

- If IESO paying people
are they recovering cost of

- line up
- Informal, strong arrangement w/ IESO
  & not that they would run website

- ① what is going on?
- talk to IESO.

- IESO, to do what?
  staff

- can tell you whether or not direct
  - IESO doing
  - what info provided

Electricity Rate Mitigat feb 1/2017

TBS - Nick Smooth
Paul Kaufman

- AR - brief decis
  - costs are rate base funded (by consumers for benefit of certain classes of consumer)

NS - If some preference

AR - Moving / replacing existing costs
  - expanding benefits
  - looking to tax base.

NS - out of general reference
  - anything gov't pres funcal assess - qualifies as taxable benefit - MOF avoided
  - prob. feds take comparable
  - 'tax expenditures' -

- refundable tax credit, deemed to have paid - calculated by reference to deem amount in different context to be ONT income taxes

CRA - deemed payment, overpd taxes never paid
- many benefit programs not be taxable

eg: education taxes - paid to have overpd - ont taxes

- if revenue going rise to deemed overpayment
- if what you spend $ on
- if ONT collects property tax
- then report payment as reduc of revenue deemed to be paid

- incapable of being banked or reduct.

JR - personal funding source would need to tap into
- wouldn't want to fix

NS - asking leg. to give up right to be permitted to spend $
- typically
① gov't has no practical way to avoid payment
② no one will deal w gov't.

- Cannot do thing need to do no one wind $.

③ legis satisfied legis has opport to stay out of what doing
S.12 FAA

ODSP
OHIP } all funded out of voted appropriation

① OCEBA
② ORelate for electricity concerns
→ Jan 1/2017

4(4) - $ appropriated by purposes
- that is a voted appropriated

Statutory approp. - statute authorizes crown to pay $ out of fund
- historical mechanism
do not intend to prove

① amt people paying
- is it revenue of Ontario?
- if HO - issue bc not consolidating

RRRP - TESO - don't consult market aspect
- do consult other sn

- deemed overpayment → tax policy
- need finance to agree
  owned to tax after issue
  to deemed overpayment
- if we report as TP →
  CRA
- done as refundable tax credit

Transfer payment → show up as expenditure → people getting $ pay tax

FEA - to no one thought about issue - we have created taxable

① transfer payment to people paying bill

② tax expenditures - FES under tax act

Pan V.8 Taxation Act
- refundable tax credit
- need to figure out what
pay in order to claim
refundable tax credit

3 - pay a grant to whatever
utility forcing them
to pay
- grant to IESO / HO to
subsidize - lower cost

Update Rate Ministry

- all items as presenting →
- entity bonus from OFA → Amount in ESO

↓

entity itself right to recover

- 3 decks
  - control considerations —
    - eg. if you + sets up no involvement in Bod.

- fiscal prep this week
- update on accounting / model flushout
- ~~Pr~~ securitization
  - won't move fund on it

RRRP —
S. Manlio →

JB - entity w/ active material impact on bill costs
- OEB regulated?
supervision?

DS - how does entity recover cost?

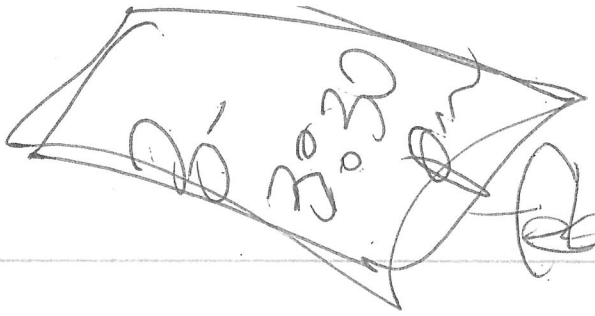
JB
CC - not licensed entity
- manager strict & defined - no authority for OEB to Δ.
- we quest. re-scope of mandate

DS - board could have sq. reg. marking authorities?

CC - contract piece for accounting treatment

CC - aims for accounting treatment
- very. making our treaty affects
our ability to [illegible]
- if we control directly
muddies water

- Certainty of financing on the
leader side.
- be very easier to Δ



Feb 1/2017

GA option
- continued elements
- slides 11-12

$
- say either 25% or 33% reduct. in bills.
-
- go back, work #'s to get to results
- what does borrowing look like,
- can GA borrow?

GA option.

RRRP / Delivery Charge
→ every licence to spend $600m.

→

Spent plan: GA + social proj + OPG + LDC consolidat.

- #'s in deck -

- Critiky
  - → Broad vs. Narrow Mandate
  - → where do they have decis. points
  - →

① GA opinion
  - ↳ CLOC?

  - ↳ CLB - if can argue - improve can low argument - they benefit to value of assets

② GGRA opinion
  - → needs to link back to options already considered for recycling
  - → want to know - not could you.
  - → will be questing how do we do it.

- take money - now put into system.
  - need to show how do this.

- revenues K paid for by GGRA → paid for by GA

↓

so minus x, y

AOC - hand new opinion replace old one
- have to speak to previous opinion

GA - includes renewables costs
- money goes to IESO - pays to generators
- so how do you pass options to ratepayer
- amt paid to generators who are doing renewable implicit to ratepayer

GGRA proceeds - reconcile in on the generator side.

- why do we have to be concerned whether concern paying prior some GHG ↓

- money comes in - goes to generators
- this is renewable - fact that ratepayer on other side is incidental
- paying generators, not ratepayers

- if can show $ flowing directly to generators - that would show generation benefit - GRGA law activities make that obv. recipient.

---

ray of hope another way to take costs out of system - but need to be clear -
if fails on implementation that will be critical.

Contrast

* Call w CLOC (Tom, Brent) (Jones, Jen) feb 1/2012

- Contrast opinion B
- last interaction - all hours
  ↳ off peak option - only assets
  non-ghg - engaged.

Now
- time of
- two option had nothing to do w assets
  - prob. w historic assets.
  other new ones

thing in GA -
- future oriented GHG
  red. initiatives
  ↳ funded through GA.
  →

- CLOC not in a good posit. to develop optim through GA

- assuming we have some idea how to find FIT contracts.
- could be host of other prob.
- how ECRIG other principles apply
- could work embeded on a mach
- go to meeting
- explain

JR - they will try to ejecute options - options before never isolated contracts

- too many options - see how not wholly distinct
- categories - don't think we writing some
- better dealt w in a meeting

- need to contrast advice vs. what recovery before.

whether more

- quite bit of work how $ gave

& has to be clear lubring
- can't downplay consu be ultimately

- option 3 - option itself based on assets only be engaged were premisers GHG ??
  - only if you find mechanism

- ~~[illegible]~~ better upfront - trying to observe the rebate problem
  - No point the Premier is out there
  - intention / quantity to lower prices
  - won't [illegible] people

Legal considerations

- *A province can lawfully impose levies for regulatory purposes (e.g. incenting behaviour modification) or to defray the cost of provision of a good or service, but if the purpose of a charge is to raise revenue for general purposes the levy may be struck as an unlawful tax. The jurisprudence is unclear on the degree of connection required of a charge (or component of a charge) to a regulatory purpose for it to be lawful, or on the extent of permissible use of fee revenue to subsidize some users.*

- **HST Rebate** (shift costs from rate-base to tax base by providing a rebate equal to the provincial portion of HST):
  - No legal risk has been identified.

- **Cap and Trade Proceeds Recycling** (reduce impact on rate base and tax base by directing cap and trade auction proceeds to industrial consumers):
  - To be characterized as a regulatory charge under the cap and trade program, proceeds recycling must be designed to alter behaviour. The linkage of expenditures to that objective (reduction of GHGs) should be as direct and obvious as possible.

- **ICI Expansion** (shift costs within rate-base by expanding eligibility for the ICI program to consumers of >1 MW):
  - Shifting costs to some consumers to lower rates for others carries moderate risk that the charge is not regulatory but to subsidize other ratepayers and therefore a tax. However there is also a good argument that the levy for ICI is a regulatory charge since suppressing peak demand provides overall system benefit.

- **RRRP Update** (shift costs within the rate-base by increasing the RRRP benefit paid to rural and remote customers):
  - Significantly increasing RRRP carries moderate risk that the charge is to raise revenue to subsidize a category of ratepayers and therefore a tax. However there is a good argument that a levy for RRRP is regulatory since it socializes some of the costs of distributing electricity to rural or remote parts of the province.

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Ontario Rebate for Electricity Consumers Act, 2016

EXPLANATORY NOTE

The *Ontario Rebate for Electricity Consumers Act, 2016* authorizes financial assistance for certain Ontario electricity consumers in respect of electricity costs. Consumers receive the financial assistance by means of an 8 per cent reduction in the amount payable under their electricity accounts for each billing period. The amount of financial assistance for a billing period is required to be shown on invoices issued to consumers for the billing period. The Act authorizes the making of regulations to limit the financial assistance to a maximum number of kilowatt hours of electricity per account per month or other period of time. The financial assistance is available with respect to invoices issued on or after January 1, 2017 and before such date as may be set by regulation.

The Act authorizes the making of regulations to reimburse electricity vendors for amounts credited to consumers' accounts under the Act. The Act authorizes the making of various other regulations, including to set out other ways for consumers to receive financial assistance, to alter the default rules in the Act for how to calculate the financial assistance and to limit or alter who is entitled to financial assistance.

The Act contains administrative and enforcement provisions, including requirements relating to record keeping by electricity vendors and authorization for inspections and inquiries with respect to amounts of financial assistance provided and reimbursements to electricity vendors. The *Ontario Energy Board Act, 1998* is amended so that provisions of the *Ontario Rebate for Electricity Consumers Act, 2016* and regulations made under it will be enforceable by the Ontario Energy Board.

An Act in respect of the cost of electricity

CONTENTS

1.	Definitions
2.	Base invoice amount
3.	Financial assistance
4.	Invoices
5.	Financial arrangements
6.	Cut-off dates for financial assistance, reimbursement
7.	Definition
8.	Records
9.	Inspections and inquiries
10.	Recovery of overpayments
11.	Confidentiality
12.	Offences
13.	Limitation period
14.	Payment of fines
15.	Regulations
16.	Ontario Energy Board Act, 1998
17.	Repeal
18.	Commencement
19.	Short title

Definitions

1. (1) In this Act,

"billing period" means a period of time that is wholly or partly in the eligible period and for which an invoice in respect of an eligible account is issued; ("période de facturation")

"Board" means the Ontario Energy Board; ("Commission")

"consumer" means a person,

(a) to whom an invoice is issued in respect of an eligible account for a billing period, or

(b) who is prescribed by the regulations or who satisfies such conditions as may be prescribed by the regulations; ("consommateur")

"distribution system" has the same meaning as in section 3 of the *Ontario Energy Board Act, 1998*; ("réseau de distribution")

"electricity vendor" means the IESO, a licensed distributor, a licensed retailer or a person prescribed by the regulations; ("vendeur d'électricité")

"eligible account" means, in respect of a consumer, an account with an electricity vendor, or with a person prescribed by the regulations, for the provision of electricity in Ontario if,

(a) the consumer has a demand for electricity of 50 kilowatts or less, or such other amount of demand for electricity as may be prescribed;

(b) the consumer annually uses not more than 250,000 kilowatt hours of electricity, or such other amount of use of electricity as may be prescribed,

(c) the consumer,

(i) carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and

(ii) holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act,

(d) the account 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,

(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*, or

(e) the consumer or the account satisfies such conditions as may be prescribed by the regulations; ("compte admissible")

"eligible period" means the period commencing January 1, 2017 and ending on such date as may be prescribed; ("période admissible")

"IESO" has the same meaning as in subsection 2 (1) of the *Electricity Act, 1998*; ("SIERE")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("distributeur titulaire d'un permis")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("détaillant titulaire d'un permis")

"market rules" means the market rules made under section 32 of the *Electricity Act, 1998*; (règles du marché")

"regulations" means the regulations made under this Act; ("règlement")

"retail" has the same meaning as in section 56 of the *Ontario Energy Board Act, 1998*; ("vendre au détail")

"unit sub-metering" means activities that are unit sub-metering for the purposes of the *Ontario Energy Board Act, 1998*; ("activités liées aux compteurs divisionnaires d'unité")

"unit sub-meter provider" means a person who is licensed to engage in unit sub-metering by the Board under Part V of the *Ontario Energy Board Act, 1998*. ("fournisseur de compteurs divisionnaires d'unité")

Eligible account

(2) For the purposes of this Act, if a consumer would, but for this subsection, have an eligible account with a licensed retailer and with a licensed distributor, but only one of them issues an invoice to the consumer for a billing period for all amounts payable by the consumer to them for the billing period,

(a) the consumer is deemed to have an eligible account for the billing period only with whichever of them issues the invoice for the billing period; and

(b) the licensed distributor or licensed retailer who issues the invoice for the billing period is deemed to be imposing all charges and other amounts payable under the invoice for the purposes of determining the amount of financial assistance to which the consumer is entitled.

Base invoice amount

2. (1) For the purposes of this Act, the base invoice amount for a billing period in respect of an eligible account is determined in accordance with the regulations and,

unless otherwise prescribed by the regulations, includes, if the invoice is issued by a licensed distributor or a licensed retailer, amounts in respect of,

(a) the commodity price of the electricity;

(b) 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* that are not required under subsection (2) or the regulations to be excluded;

[(c) any charges related to an assessment under section 26.1 of the *Ontario Energy Board Act, 1998*;]

(d) any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*;

(e) any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*; and

(f) anything else prescribed by the regulations.

Exclusions

(2) Except as otherwise prescribed by the regulations, the base invoice amount for a billing period must exclude,

(a) the balance of any amounts carried forward from previous invoices;

(b) all penalties and interest;

(c) any charges that do not relate to the consumption of electricity;

(d) the fixed monthly service charge payable by a generation facility, within the meaning of section 56 of the *Ontario Energy Board Act, 1998*, that is classified as "microFIT" in a rate order issued by the Board under subsection 78 (3) of that Act;

(e) charges labelled as "specific service charges" or "retail service charges" in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*;

(f) the amount of any harmonized sales tax payable under Part IX of the *Excise Tax Act* (Canada); and

(g) any other amounts prescribed by the regulations.

Financial assistance

3. (1) Subject to subsection (2), a consumer who has an eligible account during a billing period is entitled to receive financial assistance in respect of the cost of electricity during the billing period in an amount equal to 8 per cent of the base invoice amount for the billing period in respect of the eligible account.

Maximums

(2) A consumer is entitled to receive financial assistance in respect of the cost of a prescribed maximum number of kilowatt hours of electricity per eligible account per month, billing period or other prescribed period, subject to prescribed exemptions and determined in accordance with the regulations.

Effective date

(3) The maximums described in subsection (2) shall be in effect as of such date or during such period as may be prescribed.

Exception

(4) Despite subsection (1), a consumer is not entitled to receive financial assistance under this Act,

(a) in respect of electricity consumed in generation station service;

(b) in such circumstances as may be prescribed by the regulations; or

(c) if the regulations prescribe that they are excluded from financial assistance.

Payment of financial assistance

(5) The financial assistance to which a consumer is entitled under this Act shall be paid,

(a) by crediting the consumer's eligible account; or

(b) in such other manner as may be prescribed by the regulations.

Money appropriated by the Legislature

(6) The money required for the purposes of this Act shall be paid out of the money appropriated for those purposes by the Legislature.

No assignment of financial assistance

(7) An assignment by a consumer to another person or entity, including a licensed retailer, of the consumer's entitlement to any payment, rebate or credit does not apply to

any financial assistance to which the consumer is entitled under this Act, whether the assignment was made before or after this subsection comes into force.

Same

(8) Subsection (9) applies if,

(a) a consumer provides to another person electricity in respect of which the consumer is entitled to financial assistance under subsection (1); and

(b) an invoice for the electricity is issued to the person by the consumer, by an agent of the consumer or by a unit sub-meter provider providing unit sub-metering for the consumer.

Requirement to pass on benefit

(9) Despite subsections (1) and (7), the consumer and every unit sub-meter provider providing unit sub-metering for the consumer shall ensure that each person who is liable to pay an invoice referred to in clause (8) (b) receives a credit, determined in the manner prescribed by the regulations, in respect of the financial assistance to which the consumer is entitled with respect to electricity the consumer provides to the person.

Invoices

4. (1) Subject to the regulations, every electricity vendor who issues an invoice for a billing period to a consumer in respect of an eligible account shall clearly show on the invoice,

(a) a credit equal to the amount of the financial assistance provided to the consumer for the billing period; and

(b) the net amount of the invoice after the credit.

Invoice issued by consumer, etc.

(2) An invoice that is issued by a consumer, an agent of a consumer, a unit sub-meter provider or another person prescribed by the regulations must be in the form required by the regulations and contain or be accompanied by the information required by the regulations.

Transitional

(3) If, for technical or operational reasons, an electricity vendor or a person referred to in subsection (2) is unable to adapt its invoices to comply with this Act and the regulations by the time it issues its first invoice for electricity consumed in 2017 in respect of an eligible account,

(a) the electricity vendor or person shall adapt its invoices as soon as possible and, in any event, no later than July 1, 2017; and

(b) consumers continue to be entitled to receive the financial assistance to which they are entitled under this Act and may receive it as a lump sum credit on the invoice for the first billing period after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Financial arrangements

Purposes

5. (1) The purposes of this section are,

(a) to ensure that financial assistance under this Act and the regulations is provided to those persons entitled to receive it; and

(b) to authorize the making of financial arrangements to reimburse electricity vendors, and other persons prescribed by the regulations, for financial assistance provided under this Act and the regulations.

Regulations

(2) The Lieutenant Governor in Council may, for the purpose of this section, make regulations,

(a) authorizing the Minister of Energy to make payments to persons who are electricity vendors or persons prescribed by the regulations in respect of the amount of financial assistance to which consumers are entitled under this Act and prescribing methods for determining the amounts payable;

(b) requiring the IESO to make payments to licensed distributors, or to persons prescribed by the regulations, in respect of financial assistance provided under this Act or the regulations and prescribing methods for determining the amounts payable;

(c) requiring a licensed distributor to make payments to other licensed distributors or licensed retailers in respect of financial assistance under this Act and prescribing methods for determining the amounts payable;

(d) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments in respect of financial assistance to consumers or other persons entitled to receive the financial assistance and prescribing the circumstances in which such payments are to be made and methods for determining the amounts payable;

(e) authorizing the Minister of Energy to make payments of financial assistance directly to consumers and prescribing the circumstances when such payments are to be made;

(f) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments to the Minister of Finance in respect of amounts received by them or in circumstances prescribed by the regulations and prescribing methods for determining the amounts payable;

(g) authorizing payments referred to in clause (a), (b), (c), (d) or (f) to be made by way of set-offs and credits and prescribing conditions entitling or requiring amounts to be set off or credited;

(h) governing the payments required under clause (a), (b), (c), (d) or (f), including methods for paying the amounts payable and when the payments must be made, and governing methods for determining amounts to be set off or credited, including the times within which amounts must or may be set off or credited;

(i) for the purposes of this Act and the regulations, requiring persons who are electricity vendors or persons prescribed by the regulations to provide information to the Minister of Energy, the Minister of Finance, the IESO, the Board or licensed distributors and prescribing the information to be provided and when it must be provided;

(j) governing the establishment and maintenance of variance accounts required for the purposes of this Act.

Conflict with market rules

(3) In the event of a conflict, a regulation made under subsection (2) prevails over the market rules to the extent of the conflict.

Provision of information

(4) A person may do anything required by a regulation made under clause (2) (i) despite any agreement to the contrary and, if the person does so,

(a) the person is not liable for doing the thing in contravention of any agreement to the contrary; and

(b) doing the thing is deemed not to constitute a breach, termination, repudiation or frustration of any contract.

Cut-off dates for financial assistance, reimbursement
Financial assistance

6. (1) Despite any entitlement of consumers to financial assistance under this Act, no financial assistance is payable to a consumer after a date or period of time prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after a date or period of time prescribed by the regulations in respect of the electricity vendor or other person, other than in such circumstances as may be prescribed by the regulations.

Definition

7. In sections 8, 9 and 10,

"Minister" means the Minister of Finance or such other member of the Executive Council to whom the administration of those sections is assigned under the *Executive Council Act*.

Records

8. (1) Every electricity vendor and every person prescribed by the regulations shall keep at a location in Ontario such records as are necessary to determine and verify compliance with this Act and the regulations and any records required by the regulations to be kept.

Electronic records

(2) If a person keeps records in an electronic form, the person shall ensure that, from the time the records are first made and for as long as they are required to be retained,

(a) they remain complete and unaltered, apart from any changes or additions made in the normal course of communication, storage or display; and

(b) they are capable of being printed and of being produced in electronically readable format for inspection, examination or audit.

Retention of records

(3) Records required to be kept under subsection (1) shall not be destroyed unless authorization has been given in writing by the Minister.

Offence

(4) Every person who fails to keep records in accordance with this section is guilty of an offence and, on conviction, is liable to a fine of not less than $50 and not more than $5,000.

Inspections and inquiries

9. (1) The Minister may appoint one or more inspectors who are authorized to exercise any of the powers and perform any of the duties of a person authorized by the Minister under subsection 31 (1) of the *Retail Sales Tax Act* for any purpose related to the administration and enforcement of this Act.

Same

(2) Subsections 31 (1), (2), (2.1) and (2.2) of the *Retail Sales Tax Act* apply, with necessary modifications, with respect to the administration and enforcement of this Act.

Admission of evidence

(3) The Minister, or a person authorized by the Minister, may, for any purpose related to the administration of this Act or the regulations, reproduce from original data stored electronically any information previously submitted as required under this Act or the regulations in any form by any person, and the electronically reproduced document shall be admissible in evidence and shall have the same probative force as the original document would have had if it had been proved in the ordinary way.

Inquiry

(4) The Minister may, for any purpose related to the administration of this Act or the regulations, authorize any person, whether or not the person is an employee in the Ministry of the Minister, to make such inquiry as the Minister considers necessary with reference to anything relating to the administration of this Act or the regulations.

Copies

(5) If a book, record or other document is examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry may make, or cause to be made, one or more copies of it, and a document purporting to be certified by the person to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if proved in the ordinary way.

Compliance

(6) No person shall hinder or molest or interfere with any person doing anything that the person is authorized by this section to do or prevent or attempt to prevent any person doing any such thing.

Same

(7) Despite any other law to the contrary, every person shall, unless the person is unable to do so, do everything he, she or it is required by this section to do.

Administration of oaths

(8) Declarations or affidavits in connection with statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee for doing so.

Application of Public Inquiries Act, 2009

(9) Section 33 of the *Public Inquiries Act, 2009* applies to an inquiry under subsection (4).

Recovery of overpayments

Definitions

10. (1) In this section,

"inspector" means an inspector referred to in section 9; ("inspecteur")

"overpayment" means an amount received by a person in excess of any reimbursement to which the person is entitled under this Act and the regulations. ("trop-perçu")

Notice of overpayment

(2) If it appears to an inspector that a person has received an overpayment, the Minister may send a written notice to the person advising the person of the following:

1. That the person has received an overpayment.

2. The amount of the overpayment and how it was calculated.

3. The required steps to be taken by the person with respect to the overpayment.

4. The date, not more than six months after the date of the notice, by which these steps must be completed.

5. That the Minister has the authority to assess the person for the amount of the overpayment, plus interest, if the person fails to complete the required steps by the specified date.

Calculation of amount of overpayment

(3) For the purposes of this section, an inspector shall calculate an overpayment or the outstanding balance of an overpayment in the manner and form and using such procedures as the Minister considers adequate and expedient.

Assessment

(4) If a person fails to complete the steps required in a notice under subsection (2) within the time specified in the notice, and any additional time requested by the person and permitted by the Minister, the Minister may assess or reassess the amount of the overpayment, or the outstanding balance of the overpayment, based on the inspector's calculation described in subsection (3).

Penalty

(5) If the Minister makes an assessment or reassessment under subsection (4) and is satisfied that the person's non-compliance with the required steps in the notice was attributable to neglect, carelessness, wilful default or fraud, the Minister may assess a penalty against the person equal to the outstanding balance of the overpayment when the penalty is assessed.

Time limit

(6) The Minister shall not assess or reassess under subsection (4) more than 48 months after the end of the month in which the person received the overpayment.

Exception, where misrepresentation, etc.

(7) Subsection (6) does not apply if the Minister establishes that the person has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in supplying information under this Act or the regulations or in omitting to disclose information.

Deemed debt retirement charge

(8) An amount assessed or reassessed by the Minister under this section is deemed for the purposes of the administration and enforcement of this Act to be a debt retirement charge, as defined in subsection 85 (1) of the *Electricity Act, 1998*, that has been collected, on the last day of the month in which the person received the overpayment, by the person as a collector appointed under subsection 85.3 (1) of the *Electricity Act, 1998* and, for those purposes,

(a) sections 85.11, 85.12, 85.14, 85.17 and 85.30 of that Act apply with necessary modifications;

(b) in the application of sections 85.11 and 85.14 of that Act and without limiting the generality of clause (a), references to the Financial Corporation are read as

references to the Minister of Finance and references to the Minister of Finance are read as references to the Minister as defined in section 7 of this Act;

(c) the regulations made under that Act for the purposes of calculating the rate or rates of interest payable under section 85.11 of that Act and the manner of calculating the amount of interest apply with necessary modifications; and

(d) sections 23 and 36, subsections 37 (1), (1.1) and (2) and sections 37.1, 38 and 39 of the *Retail Sales Tax Act* apply with necessary modifications.

Disposition of repaid amounts

(9) If all or part of an overpayment is repaid to the Minister of Finance, the Minister of Energy shall make such financial arrangements and payments as may be necessary to ensure that any electricity vendor or other person entitled to all or part of the overpayment receives the appropriate amount.

Confidentiality

11. (1) Except as authorized by this section, no person employed by the Government of Ontario shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister of Energy or the Minister of Finance for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Testimony

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

(a) to give evidence relating to any information obtained by or on behalf of the Minister of Energy or Minister of Finance for the purposes of this Act; or

(b) to produce any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Exception

(3) Subsections (1) and (2) do not apply in respect of,

(a) criminal proceedings under any Act of the Parliament of Canada;

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

(c) proceedings relating to the administration or enforcement of this Act or Part V.1 or VI of the *Electricity Act, 1998*.

Communication

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,

(a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law or to an employee of the Board information obtained by or on behalf of either Minister for the purposes of this Act; and

(b) allow another person employed by the Government of Ontario in the administration or enforcement of any law or an employee of the Board to inspect or have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Reciprocal communication

(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to that Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of information

(6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

Same

(7) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to,

(a) the person from whom the information, record or thing was obtained;

(b) any person by whom an amount is payable or has been paid under this Act; or

(c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.

Information

(8) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to any person employed by any government if,

(a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and

(b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

Offence

(9) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than $2,000.

Offences

False statements, etc., and fraud

12. (1) Every person who engages in any of the following acts or omissions is guilty of an offence:

1. Making, participating in, assenting to or acquiescing in the making of a false or deceptive statement in any document or answer required or submitted under this Act or the regulations.

2. Destroying, altering, mutilating, hiding or otherwise disposing of information or records of an electricity vendor or other person, for the purpose of evading compliance with this Act or the regulations.

3. Making, assenting to or acquiescing in the making of a false or deceptive entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

4. Omitting to make or assenting to or acquiescing in the omission of an entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

5. Wilfully evading or attempting to evade, in any manner, compliance with an obligation under this Act or the regulations.

Penalty upon conviction

(2) A person convicted of an offence under subsection (1) is liable to either or both of the following penalties in addition to any other penalty assessed under this Act:

1. A fine in an amount that is not less than $1,000 and not more than $10,000.

2. Imprisonment for a term of not more than two years.

General offence

(3) Every person who contravenes, by any act or omission, a requirement imposed under this Act is guilty of an offence and, on conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than $50 and not more than $5,000.

Limitation period

13. A proceeding to prosecute an offence under this Act must be commenced within six years after the date on which the matter of the offence arose.

Payment of fines

14. Fines imposed on conviction of an offence under this Act are payable to the Minister of Finance on behalf of the Crown in right of Ontario.

Regulations

15. (1) The Lieutenant Governor in Council may make regulations,

Note from the Office of Legislative Counsel: Under s. 82 of the *Legislation Act, 2006*, a power to make a regulation includes the power to create classes and create different rules for different classes. For example, the power to cap financial assistance includes the power to impose different caps on different classes of consumers.

Also, regulations can be made in respect of multiple periods of time.

A question was asked about a general regulation-making power to exempt anyone from any provision of the Act. Although some Ontario statutes do have such a provision, it is not recommended. On its face, it is a sweeping power to negate the will of the Legislature. This is sometimes called a "Henry VIII clause". If an exemption power may be needed, it is better to identify which provisions may be affected and then provide in those provisions that the rule is subject to exceptions set out in regulation (as in s. 3 (2) of this draft), rather than by a more sweeping power.

It is also important to note that regulations are only authorized to the extent that they are consistent with the purposes of the Act. Therefore, a general power to grant an exemption may be less useful than it seems: a regulation made under a sweeping general power may seem less consistent with the purposes of the Act than a regulation made under a specific power contemplated in the substantive provisions of the Act.

(a) prescribing anything required to be or referred to in this Act as being prescribed by the regulations;

(b) defining any word or expression used in this Act that is not already expressly defined in this Act;

(c) requiring any person to take such action or refrain from taking such action as may be necessary for the purposes of or in connection with any regulation made under this Act;

(d) prescribing information that must or may be included on invoices issued to consumers or that must or may accompany invoices issued to consumers or payments of financial assistance under this Act;

(e) governing the presentation of financial assistance under this Act on invoices issued to consumers;

(f) governing information that must or may be provided to consumers concerning this Act and eligibility for financial assistance under it;

(g) governing the determination of the base invoice amount for a billing period with respect to a class of electricity vendors or a class of consumers;

(h) governing the determination of the maximum financial assistance to which a consumer is entitled under subsection 3 (2) in respect of a month, billing period or other specified period, including,

(i) prescribing what constitutes a month or other specified period for the purposes of the maximum,

(ii) prescribing the method for determining the number of kilowatt hours of electricity consumed per month, billing period or other specified period, and

(iii) prescribing exemptions for the purposes of that subsection;

(i) prescribing a method of paying or crediting to a consumer an amount of financial assistance to which the consumer is entitled under this Act and the circumstances in which the method applies;

(j) requiring a unit sub-meter provider to provide financial assistance in respect of the cost of electricity and prescribing,

(i) the circumstances in which the financial assistance is to be provided,

(ii) the person or class of persons entitled to receive the financial assistance,

(iii) the method of determining the amount of the financial assistance to be provided,

(iv) the manner for paying or otherwise providing the financial assistance;

(k) setting out one or more dates for the purposes of subsection 6 (1) or (2), and governing the circumstances in which that subsection does not apply;

(l) respecting records to be kept by electricity vendors or by persons prescribed by the regulations;

(m) providing for matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of this Act and the regulations.

Retroactive regulations

(2) A regulation made under this Act is, if it so provides, effective with reference to a period before it is filed.

Subdelegation

(3) A regulation under this Act may authorize a person to require, authorize, prescribe or otherwise determine any matter that may be required, authorized, prescribed or otherwise determined by the Lieutenant Governor in Council under this Act.

Ontario Energy Board Act, 1998

16. (1) The definition of "enforceable provision" in section 3 of the *Ontario Clean Energy Board Act, 1998* is amended by adding the following clause:

(c.2) a provision of the *Ontario Rebate for Electricity Consumers Act, 2016* or the regulations made under it,

(2) Section 70 of the Act is amended by adding the following subsection:

Deemed condition of licences, unit sub-meter provider, *Ontario Rebate for Electricity Consumers Act, 2016*

(2.3) Every licence issued to a unit sub-meter provider is deemed to contain the condition that the unit sub-meter provider is required to comply with the *Ontario Rebate for Electricity Consumers Act, 2016* and the regulations made under it.

Repeal

17. This Act is repealed on a day to be named by proclamation of the Lieutenant Governor.

Commencement

18. This Act comes into force on the later of January 1, 2017 and the day it receives Royal Assent.

Short title

19. The short title of this Act is the *Ontario Rebate for Electricity Consumers Act, 2016*.

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ONTARIO REGULATION

made under the

ONTARIO REBATE FOR ELECTRICITY CONSUMERS ACT, 2016

(GENERAL)

PART I
ELECTRICITY VENDORS

Definitions and interpretation

1. (1) In this Regulation,

"distribution system" has the same meaning as in section 3 of the *Ontario Energy Board Act, 1998*;

"distributor" means a person who owns or operates a distribution system;

"financial assistance" means an amount credited to an eligible account or paid to a person as financial assistance under the Act or this Regulation and includes an amount credited or paid as financial assistance in circumstances in which the person benefiting from the credit or payment is not entitled to all or part of the amount;

"host distributor" means a licensed distributor who is a market participant and who distributes electricity to a wholly-embedded distributor;

"IESO-controlled grid" means the transmission systems with respect to which, pursuant to agreements, the IESO has authority to direct operations;

"market participant" means a person who is authorized by the market rules,

(a) to participate in the markets established by the market rules, or

(b) to cause or permit electricity to be conveyed into, through or out of the IESO-controlled grid;

"Minister" means the Minister of Energy;

"Ministry" means the Ministry of Energy;

"transmission system" means a system for transmitting electricity and includes any structures, equipment or other things used for that purpose;

"wholly-embedded distributor" means a licensed distributor who is not a market participant and to whom a host distributor distributes electricity.

(2) For the purposes of the Act and this Regulation, the commodity price of electricity includes the "Final RPP Variance Settlement Amount", if any, required by the Standard Supply Service Code issued by the Board.

(3) For the purposes of this Regulation,

(a) Hydro One Remote Communities Inc. is deemed to be a wholly-embedded distributor and Hydro One Networks Inc. is deemed to be its host distributor; and

(b) Cornwall Street Railway Light and Power Company Limited is deemed to be a wholly-embedded distributor and Canadian Niagara Power Inc. is deemed to be its host distributor.

[Energy Policy to confirm that this is still correct. This provision is taken from the OCEBA general reg. 495/10]

(4) Payments required under this Regulation are in addition to any payments that may be required by the market rules or by the Retail Settlement Code issued by the Board under the *Ontario Energy Board Act, 1998*.

Base invoice amount

2. (1) Subject to subsection (2), the base invoice amount for a billing period in respect of an eligible account is determined as follows:

[Energy Policy to confirm that these provisions are correct as written. The provisions were taken from 495/10]

1. If the invoice is issued by a licensed distributor, other than Cornwall Street Railway Light and Power Company Limited or Dubreuil Lumber Inc., or is issued by a licensed retailer, the base invoice amount for a billing period includes the amounts for the billing period listed in subsection 2 (1) of the Act, other than anything required by

subsection 2 (2) of the Act to be excluded in determining the base invoice amount for the billing period.

2. If the invoice is issued by the IESO to a market participant who is a consumer, the base invoice amount for a billing period,

    i. includes,

        A. the commodity price of the electricity,

        B. all settlement amounts appearing on the invoice in accordance with Chapter 9 of the market rules,

        C. any fees and charges payable by the market participant under section 25.20 of the *Electricity Act, 1998*,

        D. amounts payable by the market participant under subsection 79.1 (3) of the *Ontario Energy Board Act, 1998*,

        E. **[Energy Policy to advise whether we should refer to the DRC here. Note that the DRC was not referenced in the corresponding provision in 495/10, but I was not able to find an exemption for market participants (other than in connection with residential consumption)]**, and

        F. any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*, and

    ii. excludes anything required by subsection 2 (2) of the Act to be excluded.

3. If the invoice is issued by Cornwall Street Railway Light and Power Company Limited, the base invoice amount for a billing period,

    i. includes,

        A. the cost of electricity supplied, including any delivery charges and regulatory charges, and

        B. any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*, and

    ii. excludes,

A. any charges for services that are not included in the cost of the electricity supplied, the delivery charges or the regulatory charges referred to in sub-subparagraph i A, and

B. anything required by subsection 2 (2) of the Act to be excluded.

4. If the invoice is issued by Dubreuil Lumber Inc., the base invoice amount for a billing period,

i. includes,

A. the commodity price of the electricity,

B. delivery charges, other than a charge required to be excluded under subparagraph ii,

C. any regulatory charges,

D. any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*,

E. any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*, and

ii. excludes,

A. a charge for reconnecting the consumer at a meter or pole, and

B. anything required by subsection 2 (2) of the Act to be excluded.

(2) An electricity vendor shall include in the base invoice amount for a billing period only those amounts or portions of amounts appearing on the invoice for the billing period that relate to electricity consumption in the eligible period.

[Drafting note for Energy Policy: Bill 13 would allow the rebate to be applied to all electricity consumed on transitional bills (i.e. bills for electricity consumed both in 2016 and 2017). This ss. 3(2) would restrict the application of the rebate to the portion of transition bills covering electricity consumed in 2017. Ss. 3(3) below addresses the practicalities of dealing with transition bills esp. where the consumption is not smart metered. Please confirm that this is the approach you want to take.]

(3) An electricity vendor may make a reasonable estimate of,

(a) the volume of electricity used by a consumer during a portion of a billing period; and

(b) the portion of an amount that relates to electricity consumption during a portion of a billing period.

Flow through of financial assistance

4. (1) This section applies to,

(a) a consumer to whom subsection 3 (7) of the Act applies; and

(b) a person who is entitled to receive a credit under subsection 3 (7) of the Act on an invoice issued by the consumer, an agent of the consumer or a unit sub-meter provider providing unit sub-metering for the consumer.

(2) The credit that the person is entitled to receive under subsection 3 (7) of the Act and the consumer or unit sub-meter provider is required to provide is equal to the amount of the financial assistance to which the consumer is entitled for a billing period in respect of the eligible account, multiplied by the ratio of the portion of the amount of the invoice for the billing period that is payable by the person to the total amount of the invoice for the billing period payable by the consumer.

Financial assistance re fees and charges imposed by unit sub-meter providers

5. (1) The section applies to,

(a) every unit sub-meter provider who provides unit sub-metering for a consumer to whom subsection 3 (7) of the Act applies; and

(b) every person to whom the unit sub-meter provider issues an invoice for electricity in respect of which a consumer is entitled to receive financial assistance under section 3 of the Act.

(2) In this section,

"fees and charges" means any fees and charges for unit sub-metering that appear on an invoice issued by a unit sub-meter provider;

[Explanatory note for Energy Policy: This definition restricts "fees and charges" to those related to "unit sub-metering" which is defined in Bill 13 by reference to the OEBA (which cross-references to the ECPA). Ultimately this relates only to metering electricity consumption. As such, the fees and charges should only relate to electricity and not to other activities of USMPs such as metering water consumption.]

"invoice period" means, in respect of an invoice for electricity issued to a person by a unit sub-meter provider, the period of time to which the invoice applies.

(3) A person to whom an invoice is issued for an invoice period by a unit sub-meter provider is entitled to receive financial assistance equal to eight per cent of the sum of the amount of fees and charges for the invoice period or, if the invoice period is not wholly in the eligible period, for the portion of the invoice period that is in the eligible period.
[Energy Policy to confirm treatment of transitional bills. This includes treatment of USMP fees and charges on transitional bills (see s. 5(4) below).]

(4) If an invoice period is not wholly within the eligible period, the amount of fees and charges for the portion of the invoice period that is in the eligible period is determined by multiplying the amount of the fees and charges for the invoice period by the ratio of the number of days in the invoice period that are in the eligible period to the total number of days in the invoice period.

Explanation of calculation of credit

6. (1) The issuer of an invoice that includes a credit for financial assistance shall, if requested by the person liable to pay the invoice, explain how the amount of the financial assistance on the invoice has been calculated.

(2) If an invoice issued by an electricity vendor or unit sub-meter provider contains a credit for more than one billing period or invoice period, the issuer of the invoice shall provide, if requested by the person liable to pay the invoice, a break-down of the amount of the credit between periods.
[Energy Policy to confirm treatment of carry-over credits]

Payments directly to consumers

7. (1) In this section,

"issuer" means an electricity vendor, consumer, agent of a consumer or a unit sub-meter provider who issues an invoice to a person who is entitled to,

(a) financial assistance, or

(b) a credit under subsection 3 (7) of the Act.

(2) This section applies to an issuer if,

(a) subsection 4 (3) of the Act applies to,

(i) the issuer,

(ii) an electricity vendor who issues invoices to the issuer or to a consumer for whom the issuer is an agent, or

(iii) an electricity vendor who issues invoices to a consumer for whom the issuer provides unit sub-metering; and

(b) the person entitled to the financial assistance or credit ceases to have an account with the issuer before receiving all or part of the financial assistance or credit to which he or she is entitled.

(3) If the amount the person is entitled to receive from an issuer but has not received is at least $10, the issuer shall, no later than September 30, 2017, mail or deliver by hand the unpaid amount to the person's most recent address known to the issuer.
[Energy Policy to confirm $ threshold – also applies in ss. 7(5) below]
[Energy Policy to confirm date]

(4) If a cheque mailed or delivered by hand in accordance with subsection (3) has not been cashed despite the best efforts of the issuer to deliver it, and the cheque has ceased to be negotiable through the passage of time, the person ceases to be entitled to receive the amount of financial assistance or credit represented by the cheque.

(5) Every electricity vendor and unit sub-meter provider shall pay to the Minister of Finance all amounts of less than $10 that are not paid by the electricity vendor or unit sub-meter provider and all amounts not received by a person and to which the person has ceased under this section to be entitled to receive.

(6) If a consumer referred to in subsection 3 (7) of the Act is unable for reasons beyond his or her control to provide a credit to a person, to have the credit provided to the person by an agent or unit sub-meter provider or to pay the amount of the credit to the person under subsection (3), the consumer shall pay to the Minister of Finance the amount that should have been credited or paid to the person and the person ceases to be entitled to the credit.

Duty to provide information

8. Every electricity vendor and every person specified by the Minister shall, upon receipt of a request from the Minister or the Board, provide the information relating to the Act and this Regulation specified in the request within the time period specified in the request.
[As you know, this was our Office's advice about this section: The problem with s. 8 is that, on its face, it allows the Minister to require anyone to provide any information relating to the Act or regulation. This is a broad power, and a search power that infringes on rights. A court would expect to see clear authority. The general regulation-making powers in s. 15 (1) (c) and (j) are not sufficient.

It is possible to imagine a more limited version of this provision being authorized, if the provision were
(i) specifically about information required for financial assistance and financial arrangements for reimbursement for financial assistance, and

(ii) about requiring information only from a clear class of persons who one would expect to see affected by s. 5, such as electricity vendors and others who provide financial assistance under the Act, and
(iii) limited to information the Minister considers necessary to ensure that financial assistance is provided to those entitled to receive it and to accurately reimburse the financial assistance providers.
This could be authorized under the regulation-making power in s. 5 (2) (j) (which must be read as modified by the opening flush of s. 5 (2), which limits it to the purpose of s. 5).]

Records

9. Every unit sub-meter provider is prescribed for the purposes of section 8 of the Act as a person required to keep records in accordance with that section.

Requirement to provide information for reimbursement purposes

10. (1) An electricity vendor listed in Column 2 in the Table to this subsection, other than a remote unlicensed distributor, shall provide to the person listed in Column 3 in the same row of the Table the information set out in Column 4 in the same row, in the format and at the times specified by the person to whom the information is to be provided, in respect of the last month ending before the day the information is to be provided.

TABLE

[Energy Policy to confirm table specifics. Note that we need to address retail-consolidated billing even if there are no retailers using that form of billing currently, since that option is still currently available to them]

Column 1 Item	Column 2 Electricity vendor	Column 3 Person to whom information must be provided	Column 4 Information in respect of the last month ending before the day the information is provided
1.	A licensed retailer who uses retailer-consolidated billing	The licensed distributor in whose service area the licensed retailer has contracts with consumers	The amount of financial assistance to which consumers who have eligible accounts with the licensed retailer are entitled for the month and any adjustments to be made in respect of earlier months.
2.	A wholly-embedded distributor	The host distributor of the wholly-embedded distributor	The amount of, (a) financial assistance to which consumers who have eligible accounts with the wholly-embedded distributor are entitled for the month and any adjustments to be made in respect of earlier months; and (b) financial assistance to which consumers who have eligible accounts with licensed retailers are entitled for the month, if the licensed retailers use retailer-consolidated billing and the consumers are in the wholly-embedded distributor's service area, and any adjustments to be made in respect of earlier months.
3.	A licensed distributor who is a market participant	The IESO	The amount of, (a) financial assistance to which consumers who have eligible accounts with the licensed distributor are entitled for the month and any adjustments to be made in respect of earlier months; (b) financial assistance to which consumers who have eligible accounts with licensed retailers are entitled for the month, if the

			licensed retailers use retailer-consolidated billing and the consumers are in the licensed distributor's service area, and any adjustments to be made in respect of earlier months; (c) financial assistance to which consumers who have eligible accounts with wholly-embedded distributors are entitled for the month, if the licensed distributor is the host distributor of the embedded distributors, and any adjustments to be made in respect of earlier months; and (d) financial assistance to which consumers who have eligible accounts with licensed retailers are entitled for the month, if the licensed retailers use retailer-consolidated billing and the consumers are in service areas of wholly-embedded distributors of which the licensed distributor is the host distributor, and any adjustments to be made in respect of earlier months.

(2) The IESO shall provide to the Minister the information specified by the Minister relating to the following matters, in the format and at the times specified by the Minister:

1. The amount of financial assistance the IESO is required by the Act to provide for a month to consumers who are market participants and any adjustments to be made in respect of earlier months.

2. The amount of financial assistance to which consumers who have eligible accounts with licensed distributors who are market participants are entitled for the month and any adjustments to be made in respect of earlier months.

3. The amount of financial assistance to which consumers who have eligible accounts with wholly-embedded distributors are entitled for the month and any adjustments to be made in respect of earlier months.

4. The amount of financial assistance to which consumers who have eligible accounts with licensed retailers who use retailer-consolidated billing are entitled for the month and any adjustments to be made in respect of earlier months.

(3) For the purposes of this section, a licensed distributor or licensed retailer may estimate the amount of financial assistance to which consumers who have eligible accounts are entitled for a month.

(4) If a licensed distributor or licensed retailer estimates the amount of financial assistance under subsection (3), it must include an adjustment for the difference between the estimate and the actual amount that consumers were entitled to with the information required under subsection (1) as soon as possible after the actual amount becomes known.

Reimbursement to electricity vendors

11. (1) In this section,

"specified electricity vendor" means an electricity vendor other than a remote unlicensed distributor.

(2) The Minister shall reimburse specified electricity vendors for financial assistance provided by them to consumers entitled under the Act to receive the financial assistance.

(3) Based on the information provided by specified electricity vendors under section 10,

(a) the Minister shall pay to the IESO, at such times as the Minister considers appropriate, sufficient amounts to reimburse specified electricity vendors for financial assistance to which consumers are entitled for a month, subject to any adjustments to be made in respect of earlier months;

(b) the IESO shall, after receiving the information required for a month from a licensed distributor who is a market participant, pay to the licensed distributor a sufficient amount to reimburse,

(i) the licensed distributor for the financial assistance to which consumers who have eligible accounts with the licensed distributor are entitled for the month, subject to any adjustments to be made in respect of earlier months,

(ii) wholly-embedded distributors of which the licensed distributor is the host distributor for financial assistance to which consumers who have eligible accounts with the wholly-embedded distributors are entitled for the month, subject to any adjustments to be made in respect of earlier months, and

(iii) licensed retailers who use retailer-consolidated billing for financial assistance to which consumers who have eligible accounts with the licensed retailers, and are in the service area of the licensed distributor or of a wholly-embedded distributor of which the licensed distributor is the host distributor, are entitled for the month, subject to any adjustments to be made in respect of earlier months;

(c) a host distributor shall, before the day specified by the Board, pay to every wholly-embedded distributor of which it is a host distributor a sufficient amount to reimburse,

(i) the wholly-embedded distributor for financial assistance to which consumers who have eligible accounts with the wholly-embedded distributor are entitled for a month, subject to any adjustments to be made in respect of earlier months, and

(ii) licensed retailers who use retailer-consolidated billing for financial assistance to which consumers who have eligible accounts with the licensed retailers, and are in the service area of the wholly-embedded distributor, are entitled for a month, subject to any adjustments to be made in respect of earlier months; and

(d) a licensed distributor shall, before the day specified by the Board, pay a sufficient amount to each licensed retailer who uses retailer-consolidated billing to reimburse the licensed retailer for financial assistance to which consumers who have eligible accounts with the licensed retailer, and who are in the licensed distributor's service area, are entitled for a month, subject to any adjustments to be made in respect of earlier months.

(4) Despite subsection (3), the amount of reimbursement to which an electricity vendor is entitled is subject to such subsequent adjustments as may be required by reason of,

(a) the provision to the Minister or an electricity vendor of additional information;

(b) a determination made by an inspector who conducts an inspection or inquiry under section 9 of the Act that relates to the electricity vendor or to another electricity vendor;

(c) a requirement under subsection 7 (5) to pay an amount to the Minister of Finance; or

(d) a requirement to pay an amount referred to in clause 15 (2) (a) to the Minister of Finance.

(5) Despite subsections (2) and (3), no amount is payable as a reimbursement to a specified electricity vendor who fails without reasonable cause to provide any information required to be provided under this Regulation within the time it is required to be provided.

(6) Payments required under this section by the IESO to a licensed distributor who is a market participant and any subsequent adjustments may be made at the option of the IESO by way of set-off in the accounts maintained by the IESO.

(7) Payments required under this section by a host distributor to a wholly-embedded distributor and any subsequent adjustments may be made at the option of the host distributor by way of set-off in the accounts maintained by the host distributor.

(8) Payments required under this section by a licensed distributor to a licensed retailer who uses retailer-consolidated billing and any subsequent adjustments may be made at the option of the licensed distributor by way of set-off in the accounts maintained by the licensed distributor.

Reimbursement to unit sub-meter providers

12. (1) A unit sub-meter provider shall provide to the IESO, in the format and at the time specified by the IESO, information about the amount of financial assistance provided by the unit sub-meter provider in accordance with section 5 in respect of the last month ending before the day the information is required to be provided and any adjustments to be made in respect of earlier months.

(2) The IESO shall provide to the Minister, in the format and at the times specified by the Minister, the information specified by the Minister relating to the amount of financial assistance provided in accordance with section 5 by unit sub-meter providers for a month and any adjustments to be made in respect of earlier months.

(3) Based on the information provided by unit sub-meter providers to the IESO,

(a) the Minister shall pay to the IESO, at such time as the Minister considers appropriate, sufficient amounts to reimburse unit sub-meter providers for financial assistance provided in accordance with section 5 for a month, subject to any adjustments to be made in respect of earlier months; and

(b) the IESO shall, after receiving the information required for a month from a unit sub-meter provider, pay to the unit sub-meter provider a sufficient amount to reimburse the unit sub-meter provider for the financial assistance provided in accordance with section 5 for a month, subject to any adjustments to be made in respect of earlier months.

(4) Despite subsection (3), the amount of reimbursement to which a unit sub-meter provider is entitled is subject to such subsequent adjustments as may be required by reason of,

(a) the provision to the Minister or the IESO of additional information;

(b) a determination made by an inspector who conducts an inspection or inquiry under section 9 of the Act; or

(c) a requirement under subsection 7 (5) to pay an amount to the Minister of Finance.

(5) Despite subsection (3), no amount is payable as a reimbursement to a unit sub-meter provider who fails without reasonable cause,

(a) to provide any information required to be provided under this Regulation within the time it is required to be provided; or

(b) to comply with any requirement specified by the IESO.

(6) Payments required under this section by the IESO to a unit sub-meter provider and any subsequent adjustments may be made at the option of the IESO by way of set-off in the accounts maintained by the IESO.

Reliance on information

13. (1) For the purposes of the reimbursements and any repayments required under this Regulation, the Minister and electricity vendors shall rely on the information provided to them as required under this Regulation and any additional information requested under section 8.

(2) A licensed retailer and licensed distributor may rely on information provided to each other in determining if a person is entitled to financial assistance under the Act and the amount of the financial assistance.

Variance accounts

14. With the approval of and subject to any direction from the Board, licensed distributors, other than Cornwall Street Railway Light and Power Company Limited and Dubreuil Lumber Inc., shall establish and maintain such variance accounts as may be necessary or desirable for the purposes of the Act and this Regulation.

If retail contract is deemed to be void

15. (1) This section applies if,

(a) a consumer has received financial assistance under the Act in respect of the cost of electricity retailed to the consumer by a licensed retailer pursuant to a contract with the consumer;

(b) the financial assistance was provided to the consumer by means of a credit deducted from the amount otherwise payable by the consumer to a licensed distributor or the licensed retailer in respect of the electricity; and

(c) the contract is deemed to be void under section 16 of the *Energy Consumer Protection Act, 2010* and, pursuant to subsection 16 (3) of that Act, the licensed retailer is required to refund to the consumer the money paid by the consumer under the contract.

(2) The retailer shall,

(a) if the licensed retailer uses retailer-consolidated billing, pay to the Minister of Finance the amount of all reimbursements the licensed retailer received under clause 11 (3) (d) in respect of the eligible account to which the contract related; or

(b) if the licensed retailer uses distributor-consolidated billing, pay to the Minister of Finance an amount equal to the total amount of all financial assistance the consumer received in respect of the commodity price of the electricity under the contract.

[Drafting note for Energy Policy: Do you want to prescribe a limitation period for making retroactive claims for rebate amounts to which a consumer was entitled but did not receive? And similarly, do you want to prescribe a limitation period

for claiming reimbursement for rebate amounts provided? If so, what limitation periods do you want?]

PART II
REMOTE UNLICENSED DISTRIBUTORS

Remote unlicensed distributors

16. (1) A remote unlicensed distributor is a person, corporation or organization that,

(a) distributes electricity in a remote community listed in Schedule 1;

(b) issues invoices for electricity distributed to electricity customers who are eligible to receive financial assistance under the Act; and

(c) is willing to provide financial to those customers as an agent of the Minister.

(2) Every remote unlicensed distributor meeting the requirements set out in section 17 is prescribed as an electricity vendor for the purposes of the Act.

(3) Sections 2 and 7 do not apply to remote unlicensed distributors or to consumers who have eligible accounts with them.

(4) Despite section 21, no amount is payable as a reimbursement to a remote unlicensed distributor who fails without reasonable cause to provide any information required by the Minister within the time it is required to be provided.

Enrolment of remote unlicensed distributors

17. (1) In order to take part in the Ontario rebate for electricity consumers program, a remote unlicensed distributor must first submit a completed form entitled "Enrolment Application", available from the Ministry, to the contact person at the Ministry listed on the form.

[the "program" kind of comes out of nowhere -- I think we at least need a definition, if not something more substantive]

[Energy Policy to confirm - use of this form with this title, and that it will be available from the Ministry. Are there any "lessons learned" from the OCEB that we should address in this reg.?]

(2) The distributor must submit with the Enrolment Application,

(a) information on the distributor's electricity pricing structure;

(b) information on the distributor's consumer rate classes, if any, including the number of customers within each consumer rate class; and

(c) a sample of an invoice it intends to issue to its electricity customers that shows the amount of financial assistance the customer is entitled to with respect to the time period specified on the application.

(3) The Ministry may request, at any time and from time to time, and the distributor shall provide any additional information or documents the Ministry requires in order to confirm that the distributor is a remote unlicensed distributor during the eligible period and to determine if there are consumers who have eligible accounts with the distributor during the eligible period.

Who is eligible to receive financial assistance from a remote unlicensed distributor

18. A person is eligible to receive financial assistance from a remote unlicensed distributor who meets the requirements set out in section 17 if the person is a consumer in a remote community listed in Schedule 1 who has an eligible account with the remote unlicensed distributor based on at least one of the following conditions set out in the definition of "eligible account" in subsection 1 (1) of the Act:

[Drafting note for Energy Policy: 365/11 uses the term "Ontario clean energy benefit" (which is not defined) rather than "financial assistance" (which is defined). It looks like both are intended to refer to the same thing. Would you please confirm? Is there a policy reason you would like to use something like "Ontario electricity rebate" in these IPA sections rather than "financial assistance" (e.g. for readability by IPAs)?]

1. The consumer has a demand for electricity of 50 kilowatts or less.

2. The consumer annually uses not more than 250, 000 kilowatt hours of electricity.

3. The consumer,

    i. carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and

    ii. holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act.

[Drafting note for Energy Policy: Being a farm is one of the ways specified in the Act for a consumer to have an "eligible account". However, this was not included as a qualifying condition for IPA consumers in the Minister's reg. (365/11). Do you want to include farms served by IPAs (assuming there are any)?]

4. The account 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,

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*.

Calculating the financial assistance: base invoice amount

19. (1) The purpose of this section is to determine the amount of a consumer's base invoice amount for a billing period for which an invoice for electricity is issued. A consumer's financial assistance for a billing period is eight per cent of the base invoice amount for the billing period or, if the billing period is partly outside the eligible period, for that portion of the billing period that is within the eligible period.

(2) The base invoice amount for a billing period includes the cost of the electricity billed to the consumer for the billing period, including the variable and fixed charges relating to the production and delivery of the electricity, but only for electricity consumed in the eligible period.

(3) The base invoice amount for a billing period for a consumer must exclude,

(a) any unpaid amounts that have already been billed for a previous billing period;

(b) all penalties, interest and any other charges not relating to the production and delivery of electricity to the consumer during the billing period;

(c) any charges relating to electricity supplied to the consumer before the eligible period; and

(d) the amount of any harmonized sales tax (HST) payable under Part IX of the *Excise Tax Act* (Canada).

[Drafting note for Energy Policy: The reference to the HST in s. 6(3)(d) of 365/11 is less formal that the reference here (and elsewhere in this reg. and in Bill 13). Do you want the IPA provisions to be drafted less formally (to the extent leg counsel is comfortable, and the language used still works)?]

(4) If an invoice issued to a consumer for a billing period includes any charges for electricity consumed before the eligible period, the remote unlicensed distributor may make a reasonable estimate of the portion of the electricity consumed during the eligible period and the electricity charges relating to that electricity in order to determine the base invoice amount for that billing period.

How the distributor provides the financial assistance to a consumer

20. If a consumer's eligible account for electricity with a remote unlicensed distributor is closed before the consumer receives all or part of his or her financial assistance from the distributor, the following rules apply:

1. The distributor may apply the amount of the financial assistance the consumer is entitled to receive but has not yet received to any outstanding balance owing by the consumer to the distributor.

2. If the amount then remaining that the consumer is entitled to receive but has not yet received is at least $10, the distributor must mail or deliver by hand that unpaid amount to the consumer's most recent address known to the distributor.

3. If a cheque mailed or delivered by hand in accordance with paragraph 2 has not been cashed despite the best efforts of the distributor to deliver it, and the cheque has ceased to be negotiable through the passage of time, the distributor is no longer liable to pay the benefits to the consumer and must ensure that the amount is repaid or credited to the Minister of Finance.

4. The distributor shall pay or credit to the Minister of Finance all amounts of less than $10 that are not paid by the distributor and all amounts referred to in paragraph 3,

    i. by reporting the total amount in the next Energy Report form, required under section 21, as a deduction from the amount of any reimbursement payable to the distributor, or

    ii. by remitting the total amount to the Ministry of Energy (but payable to the Minister of Finance).

Reimbursement of benefits provided to consumers

21. (1) To receive a reimbursement for financial assistance provided to its consumers, a remote unlicensed distributor must complete a form entitled "Energy Report", available from the Ministry, for each billing period for which the distributor provided financial assistance to a consumer, and must submit it to the Ministry in accordance with the directions on the form.

(2) The Ministry may at any time request, and the distributor shall provide, within the time specified in the request, any additional information or documents the Ministry considers necessary to determine the amount of the reimbursement to be made to the distributor. No reimbursement for a billing period may be made until the Ministry has received the Energy Report for the billing period and any additional information or documents it has requested to verify the amount to be reimbursed.

(3) Based on the information provided in an Energy Report and any additional information and documents provided by the distributor, the Minister shall reimburse the distributor for the

amount of financial assistance provided to consumers. The reimbursement shall be made in the manner set out in the Enrolment Application submitted by the distributor or in another manner agreed to by the distributor and the Ministry.

(4) The amount of a reimbursement may be subsequently adjusted by way of a reduction or increase in the amount of a subsequent reimbursement if it is subsequently determined by an inspector under section 9 of the Act or by the Ministry that the amount of the reimbursement was inaccurate.

[Drafting note for Energy Policy: Do you want to prescribe a limitation period on retroactive claims for rebate amounts and/or reimbursement for rebate amounts provided? If so, what limitation periods do you want?]

Commencement

22. This Regulation comes into force on January 1, 2017.

SCHEDULE 1

1. Fort Hope No. 64.
2. Keewaywin.
3. North Spirit Lake.
4. Winisk Indian Settlement.
5. Pikangikum No. 14.
6. Poplar Hill.
7. Summer Beaver Settlement.
8. Wunnumin No.1.
9. Muskrat Dam Lake.
10. Wawakapewin.

SCHEDULE __
ONTARIO REBATE FOR ELECTRICITY CONSUMERS ACT, 2016

The proposed *Ontario Rebate for Electricity Consumers Act, 2016* would assist eligible consumers with increases in their electricity bills resulting from Ontario's commitment to a more reliable and cleaner electricity system. The proposed Act will, subject to the approval of the Legislature, authorize financial assistance equivalent to the provincial portion of the harmonized sales tax (HST) for Ontario electricity consumers in respect of electricity costs relating to homes, farms, eligible multi-unit residential buildings and eligible businesses.

Financial assistance would be limited to electricity consumers whose monthly demand for electricity is not more than 50 kilowatts or whose annual electricity consumption does not exceed 250,000 kilowatt hours, or who are in eligible multi-unit residential buildings.

Most consumers would receive the financial assistance by means of an 8 per cent ~~credit to the~~ charges for electricity on their electricity accounts for each billing period. The financial assistance would be available and appear on invoices issued on or after January 1, 2017. Certain amounts that may be included on a consumer's invoice, such as a late payment fee or interest charge, would not be considered electricity costs for the purposes of determining the amount of the consumer's financial assistance.

The proposed Act would authorize the making of regulations to reimburse electricity vendors for amounts credited to consumers' accounts under the Act. It would contain other administrative and enforcement provisions, including requirements relating to record keeping by electricity vendors and authorization for inspections and inquiries with respect to amounts of financial assistance provided and reimbursements to electricity vendors.

It is also proposed that the *Ontario Clean Energy Benefit Act, 2010* be amended to authorize regulations to end any further payments under the former financial assistance program on a date to be prescribed. The proposed Act would also amend the *Ontario Energy Board Act, 1998* so that the provisions of the proposed *Ontario Rebate for Electricity Consumers Act, 2016* and regulations made thereunder are enforceable by the Ontario Energy Board.

Ontario Rebate for Electricity Consumers Act, 2016

ONTARIO REGULATION [ ]

GENERAL

Comment [DS1]: Note for leg counsel: This will be an LGIC regulation made under s. 15(1) of the Act.

This reg. is based largely on portions of 495/10 and 365/11 made under the OCEBA.

PART I
ELECTRICITY VENDORS

Comment [DS2]: Note for leg counsel: I think we should consider having two Parts to this reg., since there are a number of provisions that will apply only to IPAs (i.e. remote unlicensed distributors).

Comment [DS3]: Note for leg counsel: This would include IPAs if we retain ss. 16(2) below, but Part II would ONLY apply to IPAs.

Definitions and interpretation

1. (1) In this Regulation,

"distribution system" has the same meaning as in section 3 of the *Ontario Energy Board Act, 1998*;

"distributor" means a person who owns or operates a distribution system;

"financial assistance" means an amount credited to an eligible account or paid to a person as financial assistance under the Act or this Regulation and includes an amount credited or paid as financial assistance in circumstances in which the person benefiting from the credit or payment is not entitled to all or part of the amount;

"host distributor" means a licensed distributor who is a market participant and who distributes electricity to a wholly-embedded distributor;

"IESO-controlled grid" means the transmission systems with respect to which, pursuant to agreements, the IESO has authority to direct operations;

"market participant" means a person who is authorized by the market rules,

(a) to participate in the markets established by the market rules, or

(b) to cause or permit electricity to be conveyed into, through or out of the IESO-controlled grid;

"Minister" means the Minister of Energy;

"Ministry" means the Ministry of Energy;

"transmission system" means a system for transmitting electricity and includes any structures, equipment or other things used for that purpose;

"wholly-embedded distributor" means a licensed distributor who is not a market participant and to whom a host distributor distributes electricity.

(2) For the purposes of the Act and this Regulation, the commodity price of electricity includes the "Final RPP Variance Settlement Amount", if any, required by the Standard Supply Service Code issued by the Board.

(3) For the purposes of this Regulation,

(a) Hydro One Remote Communities Inc. is deemed to be a wholly-embedded distributor and Hydro One Networks Inc. is deemed to be its host distributor; and **[Confirm with Charlotte/James]**

(b) Cornwall Street Railway Light and Power Company Limited is deemed to be a wholly-embedded distributor and Canadian Niagara Power Inc. is deemed to be its host distributor. **[Energy Policy to confirm that this is still correct. This provision is taken from the OCEBA general reg. 495/10]**

(4) Payments required under this Regulation are in addition to any payments that may be required by the market rules or by the Retail Settlement Code issued by the Board under the *Ontario Energy Board Act, 1998*.

Base invoice amount

2. (1) Subject to subsection (2), the base invoice amount for a billing period in respect of an eligible account is determined as follows: **[Energy Policy to confirm that these provisions are correct as written. The provisions were taken from 495/10]**

1. If the invoice is issued by a licensed distributor, other than Cornwall Street Railway Light and Power Company Limited or Dubreuil Lumber Inc., or is issued by a licensed retailer, the base invoice amount for a billing period includes the amounts for the billing period listed in subsection 2 (1) of the Act, other than anything required by subsection 2 (2) of the Act to be excluded in determining the base invoice amount for the billing period.
2. If the invoice is issued by the IESO to a market participant who is a consumer, the base invoice amount for a billing period,
   i. includes,
      A. the commodity price of the electricity,
      B. all settlement amounts appearing on the invoice in accordance with Chapter 9 of the market rules,
      C. any fees and charges payable by the market participant under section 25.20 of the *Electricity Act, 1998*,
      D. amounts payable by the market participant under subsection 79.1 (3) of the *Ontario Energy Board Act, 1998*,
      E. **[Energy Policy to advise whether we should refer to the DRC here. Note that the DRC was not referenced in the corresponding provision in 495/10, but I was not able to find an exemption for market participants (other than in connection with residential consumption)]**, and
      F. any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*, and
   ii. excludes anything required by subsection 2 (2) of the Act to be excluded.
3. If the invoice is issued by Cornwall Street Railway Light and Power Company Limited, the base invoice amount for a billing period,
   i. includes,
      A. the cost of electricity supplied, including any delivery charges and regulatory charges, and
      B. any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*, and
   ii. excludes,
      A. any charges for services that are not included in the cost of the electricity supplied, the delivery charges or the regulatory charges referred to in sub-subparagraph i A, and
      B. anything required by subsection 2 (2) of the Act to be excluded.
4. If the invoice is issued by Dubreuil Lumber Inc., the base invoice amount for a billing period,
   i. includes,
      A. the commodity price of the electricity,
      B. delivery charges, other than a charge required to be excluded under subparagraph ii,
      C. any regulatory charges,
      D. any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*,
      E. any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*, and
   ii. excludes,
      A. a charge for reconnecting the consumer at a meter or pole, and

B. anything required by subsection 2 (2) of the Act to be excluded.

(2) An electricity vendor shall include in the base invoice amount for a billing period only those amounts or portions of amounts appearing on the invoice for the billing period that relate to electricity consumption in the eligible period. **[Drafting note for Energy Policy: Bill 13 would allow the rebate to be applied to all electricity consumed on transitional bills (i.e. bills for electricity consumed both in 2016 and 2017). This ss. 3(2) would restrict the application of the rebate to the portion of transition bills covering electricity consumed in 2017. Ss. 3(3) below addresses the practicalities of dealing with transition bills esp. where the consumption is not smart metered. Please confirm that this is the approach you want to take.]**

(3) An electricity vendor may make a reasonable estimate of,

(a) the volume of electricity used by a consumer during a portion of a billing period; and

(b) the portion of an amount that relates to electricity consumption during a portion of a billing period.

Flow through of financial assistance

4. (1) This section applies to,

(a) a consumer to whom subsection 3 (7) of the Act applies; and

(b) a person who is entitled to receive a credit under subsection 3 (7) of the Act on an invoice issued by the consumer, an agent of the consumer or a unit sub-meter provider providing unit sub-metering for the consumer.

(2) The credit that the person is entitled to receive under subsection 3 (7) of the Act and the consumer or unit sub-meter provider is required to provide is equal to the amount of the financial assistance to which the consumer is entitled for a billing period in respect of the eligible account, multiplied by the ratio of the portion of the amount of the invoice for the billing period that is payable by the person to the total amount of the invoice for the billing period payable by the consumer.

Financial assistance re fees and charges imposed by unit sub-meter providers

5. (1) The section applies to,

(a) every unit sub-meter provider who provides unit sub-metering for a consumer to whom subsection 3 (7) of the Act applies; and

(b) every person to whom the unit sub-meter provider issues an invoice for electricity in respect of which a consumer is entitled to receive financial assistance under section 3 of the Act.

(2) In this section,

"fees and charges" means any fees and charges for unit sub-metering that appear on an invoice issued by a unit sub-meter provider; **[Explanatory note for Energy Policy: This definition restricts "fees and charges" to those related to "unit sub-metering" which is defined in Bill 13 by reference to the OEBA (which cross-references to the ECPA). Ultimately this relates only to metering electricity consumption. As such, the fees and charges should only relate to electricity and not to other activities of USMPs such as metering water consumption.]**

"invoice period" means, in respect of an invoice for electricity issued to a person by a unit sub-meter provider, the period of time to which the invoice applies.

(3) A person to whom an invoice is issued for an invoice period by a unit sub-meter provider is entitled to receive financial assistance equal to eight per cent of the sum of the amount of fees and charges for the invoice period or, if the invoice period is not wholly in the eligible period, for the portion of the invoice period that is in the eligible period. **[Energy Policy to confirm treatment of transitional bills. This includes treatment of USMP fees and charges on transitional bills (see s. 5(4) below).]**

(4) If an invoice period is not wholly within the eligible period, the amount of fees and charges for the portion of the invoice period that is in the eligible period is determined by multiplying the amount of the fees and charges for the invoice period by the ratio of the number of days in the invoice period that are in the eligible period to the total number of days in the invoice period.

Explanation of calculation of credit

6. (1) The issuer of an invoice that includes a credit for financial assistance shall, if requested by the person liable to pay the invoice, explain how the amount of the financial assistance on the invoice has been calculated.

Break-down of credit between periods

(2) If an invoice issued by an electricity vendor or unit sub-meter provider contains a credit for more than one billing period or invoice period, the issuer of the invoice shall provide, if requested by the person liable to pay the invoice, a break-down of the amount of the credit between periods. **[Energy Policy to confirm treatment of carry-over credits]**

Payments directly to consumers

7. (1) In this section,

"issuer" means an electricity vendor, consumer, agent of a consumer or a unit sub-meter provider who issues an invoice to a person who is entitled to,

(a) financial assistance, or

(b) a credit under subsection 3 (7) of the Act.

(2) This section applies to an issuer if,

(a) subsection 4 (3) of the Act applies to,

(i) the issuer,

(ii) an electricity vendor who issues invoices to the issuer or to a consumer for whom the issuer is an agent, **[or?]**

(iii) an electricity vendor who issues invoices to a consumer for whom the issuer provides unit sub-metering; and

(b) the person entitled to the financial assistance or credit ceases to have an account with the issuer before receiving all or part of the financial assistance or credit to which he or she is entitled.

Comment [DS4]: Note for leg counsel: This is taken from s. 7(2)(a) of 495/10. In that section, there is no "or" where I have bolded and square bracketed that word here. Is "or" automatically implied here, such that it would be redundant to include it?

(3) If the amount the person is entitled to receive from an issuer but has not received is at least $10 **[Energy Policy to confirm $ threshold – also applies in ss. 7(5) below]**, the issuer shall, no later than September 30, 2017 **[Energy Policy to confirm date]**, mail or deliver by hand the unpaid amount to the person's most recent address known to the issuer.

(4) If a cheque mailed or delivered by hand in accordance with subsection (3) has not been cashed despite the best efforts of the issuer to deliver it, and the cheque has ceased to be negotiable through the passage of time, the person ceases to be entitled to receive the amount of financial assistance or credit represented by the cheque.

(5) Every electricity vendor and unit sub-meter provider shall pay to the Minister of Finance all amounts of less than $10 that are not paid by the electricity vendor or unit sub-meter provider and all amounts not received by a person and to which the person has ceased under this section to be entitled to receive.

(6) If a consumer referred to in subsection 3 (7) of the Act is unable for reasons beyond his or her control to provide a credit to a person, to have the credit provided to the person by an agent or unit sub-meter provider or to pay the amount of the credit to the person under subsection (3), the consumer shall pay to the Minister of Finance the amount that should have been credited or paid to the person and the person ceases to be entitled to the credit.

Duty to provide information

8. Every electricity vendor and every person specified by the Minister shall, upon receipt of a request from the Minister or the Board, provide the information relating to the Act and this Regulation specified in the request within the time period specified in the request.

Comment [DS5]: Note for leg counsel: This is taken from 495/10. Is there sufficient authority in Bill 13 to impose these requirements?

Records

9. Every unit sub-meter provider is prescribed for the purposes of section 8 of the Act as a person required to keep records in accordance with that section.

Requirement to provide information for reimbursement purposes

10. (1) An electricity vendor listed in Column 2 in the Table to this subsection, other than a remote unlicensed distributor, shall provide to the person listed in Column 3 in the same row of the Table the information set out in Column 4 in the same row, in the format and at the times specified by the person to whom the information is to be provided, in respect of the last month ending before the day the information is to be provided.

Comment [DS6]: Note for leg counsel: This comes from 495/10. Is there sufficient authority to impose these requirements?

TABLE

[Energy Policy to confirm table specifics. Note that we need to address retail-consolidated billing even if there are no retailers using that form of billing currently, since that option is still currently available to them]

Column 1	*Column 2*	*Column 3*	*Column 4*
Item	Electricity vendor	Person to whom information must be provided	Information in respect of the last month ending before the day the information is provided
1.	A licensed retailer who uses retailer-consolidated billing	The licensed distributor in whose service area the licensed retailer has contracts with consumers	The amount of financial assistance to which consumers who have eligible accounts with the licensed retailer are entitled for the month and any adjustments to be made in respect of earlier months.
2.	A wholly-embedded distributor	The host distributor of the wholly-embedded distributor	The amount of, (a) financial assistance to which consumers who have eligible accounts with the wholly-embedded distributor are entitled for the month and any adjustments to be made in respect of earlier months; and (b) financial assistance to which consumers who have eligible accounts with licensed retailers are entitled for the month, if the licensed retailers use retailer-consolidated billing and the consumers are in the wholly-embedded distributor's service area, and any adjustments to be made in respect of earlier months.
3.	A licensed distributor who is a market participant	The IESO	The amount of, (a) financial assistance to which consumers who have eligible accounts with the licensed distributor are entitled for the month and any adjustments to be made in respect of earlier months; (b) financial assistance to which consumers who have eligible accounts with licensed retailers are entitled for the month, if the licensed retailers use retailer-consolidated billing and the consumers are in the licensed distributor's service area, and any adjustments to be made in respect of earlier months; (c) financial assistance to which consumers who have eligible accounts with wholly-embedded distributors are entitled for the month, if the licensed distributor is the host distributor of the embedded distributors, and any adjustments to be made in respect of earlier months; and (d) financial assistance to which consumers who have eligible accounts with licensed retailers are entitled for the month, if the licensed retailers use retailer-consolidated billing and the consumers are in service areas of wholly-embedded distributors of which the licensed distributor is the host distributor, and any adjustments to be made in respect of earlier months.

(2) The IESO shall provide to the Minister the information specified by the Minister relating to the following matters, in the format and at the times specified by the Minister:

1. The amount of financial assistance the IESO is required by the Act to provide for a month to consumers who are market participants and any adjustments to be made in respect of earlier months.
2. The amount of financial assistance to which consumers who have eligible accounts with licensed distributors who are market participants are entitled for the month and any adjustments to be made in respect of earlier months.
3. The amount of financial assistance to which consumers who have eligible accounts with wholly-embedded distributors are entitled for the month and any adjustments to be made in respect of earlier months.

Comment [DS7]: Note for leg counsel: I am not sure whether this Table meets the new accessibility requirements. If it does not, then please present the requirements in whatever accessible format you think is appropriate.

Comment [DS8]: Note for leg counsel: Is there sufficient authority to impose these requirements?

4. The amount of financial assistance to which consumers who have eligible accounts with licensed retailers who use retailer-consolidated billing are entitled for the month and any adjustments to be made in respect of earlier months.

(3) For the purposes of this section, a licensed distributor or licensed retailer may estimate the amount of financial assistance to which consumers who have eligible accounts are entitled for a month.

(4) If a licensed distributor or licensed retailer estimates the amount of financial assistance under subsection (3), it must include an adjustment for the difference between the estimate and the actual amount that consumers were entitled to with the information required under subsection (1) as soon as possible after the actual amount becomes known.

Reimbursement to electricity vendors

11. (1) In this section,

"specified electricity vendor" means an electricity vendor other than a remote unlicensed distributor.

(2) The Minister shall reimburse specified electricity vendors for financial assistance provided by them to consumers entitled under the Act to receive the financial assistance.

(3) Based on the information provided by specified electricity vendors under section 10,

(a) the Minister shall pay to the IESO, at such times as the Minister considers appropriate, sufficient amounts to reimburse specified electricity vendors for financial assistance to which consumers are entitled for a month, subject to any adjustments to be made in respect of earlier months;

(b) the IESO shall, after receiving the information required for a month from a licensed distributor who is a market participant, pay to the licensed distributor a sufficient amount to reimburse,

(i) the licensed distributor for the financial assistance to which consumers who have eligible accounts with the licensed distributor are entitled for the month, subject to any adjustments to be made in respect of earlier months,

(ii) wholly-embedded distributors of which the licensed distributor is the host distributor for financial assistance to which consumers who have eligible accounts with the wholly-embedded distributors are entitled for the month, subject to any adjustments to be made in respect of earlier months, and

(iii) licensed retailers who use retailer-consolidated billing for financial assistance to which consumers who have eligible accounts with the licensed retailers, and are in the service area of the licensed distributor or of a wholly-embedded distributor of which the licensed distributor is the host distributor, are entitled for the month, subject to any adjustments to be made in respect of earlier months;

(c) a host distributor shall, before the day specified by the Board, pay to every wholly-embedded distributor of which it is a host distributor a sufficient amount to reimburse,

(i) the wholly-embedded distributor for financial assistance to which consumers who have eligible accounts with the wholly-embedded distributor are entitled for a month, subject to any adjustments to be made in respect of earlier months, and

(ii) licensed retailers who use retailer-consolidated billing for financial assistance to which consumers who have eligible accounts with the licensed retailers, and are in the service area of the wholly-embedded distributor, are entitled for a month, subject to any adjustments to be made in respect of earlier months; and

(d) a licensed distributor shall, before the day specified by the Board, pay a sufficient amount to each licensed retailer who uses retailer-consolidated billing to reimburse the licensed retailer for financial assistance to which consumers who have eligible accounts with the licensed retailer, and who are in the licensed distributor's service area, are entitled for a month, subject to any adjustments to be made in respect of earlier months.

(4) Despite subsection (3), the amount of reimbursement to which an electricity vendor is entitled is subject to such subsequent adjustments as may be required by reason of,

(a) the provision to the Minister or an electricity vendor of additional information;

(b) a determination made by an inspector who conducts an inspection or inquiry under section 9 of the Act that relates to the electricity vendor or to another electricity vendor;

Comment [DS9]: Note for leg counsel: This section will not apply to IPAs (remote unlicensed distributors). The corresponding provisions for the IPAs is set out in s. 21 below.

(c) a requirement under subsection 7 (5) to pay an amount to the Minister of Finance; or

(d) a requirement to pay an amount referred to in clause 15 (2) (a) to the Minister of Finance.

(5) Despite subsections (2) and (3), no amount is payable as a reimbursement to a specified electricity vendor who fails without reasonable cause to provide any information required to be provided under this Regulation within the time it is required to be provided.

(6) Payments required under this section by the IESO to a licensed distributor who is a market participant and any subsequent adjustments may be made at the option of the IESO by way of set-off in the accounts maintained by the IESO.

(7) Payments required under this section by a host distributor to a wholly-embedded distributor and any subsequent adjustments may be made at the option of the host distributor by way of set-off in the accounts maintained by the host distributor.

(8) Payments required under this section by a licensed distributor to a licensed retailer who uses retailer-consolidated billing and any subsequent adjustments may be made at the option of the licensed distributor by way of set-off in the accounts maintained by the licensed distributor.

Reimbursement to unit sub-meter providers

12. (1) A unit sub-meter provider shall provide to the IESO, in the format and at the time specified by the IESO, information about the amount of financial assistance provided by the unit sub-meter provider in accordance with section 5 in respect of the last month ending before the day the information is required to be provided and any adjustments to be made in respect of earlier months.

(2) The IESO shall provide to the Minister, in the format and at the times specified by the Minister, the information specified by the Minister relating to the amount of financial assistance provided in accordance with section 5 by unit sub-meter providers for a month and any adjustments to be made in respect of earlier months.

(3) Based on the information provided by unit sub-meter providers to the IESO,

(a) the Minister shall pay to the IESO, at such time as the Minister considers appropriate, sufficient amounts to reimburse unit sub-meter providers for financial assistance provided in accordance with section 5 for a month, subject to any adjustments to be made in respect of earlier months; and

(b) the IESO shall, after receiving the information required for a month from a unit sub-meter provider, pay to the unit sub-meter provider a sufficient amount to reimburse the unit sub-meter provider for the financial assistance provided in accordance with section 5 for a month, subject to any adjustments to be made in respect of earlier months.

(4) Despite subsection (3), the amount of reimbursement to which a unit sub-meter provider is entitled is subject to such subsequent adjustments as may be required by reason of,

(a) the provision to the Minister or the IESO of additional information;

(b) a determination made by an inspector who conducts an inspection or inquiry under section 9 of the Act; or

(c) a requirement under subsection 7 (5) to pay an amount to the Minister of Finance.

(5) Despite subsection (3), no amount is payable as a reimbursement to a unit sub-meter provider who fails without reasonable cause,

(a) to provide any information required to be provided under this Regulation within the time it is required to be provided; or

(b) to comply with any requirement specified by the IESO.

(6) Payments required under this section by the IESO to a unit sub-meter provider and any subsequent adjustments may be made at the option of the IESO by way of set-off in the accounts maintained by the IESO.

Reliance on information

13. (1) For the purposes of the reimbursements and any repayments required under this Regulation, the Minister and electricity vendors shall rely on the information provided to them as required under this Regulation and any additional information requested under section 8.

(2) A licensed retailer and licensed distributor may rely on information provided to each other in determining if a person is entitled to financial assistance under the Act and the amount of the financial assistance.

Variance accounts

14. With the approval of and subject to any direction from the Board, licensed distributors, other than Cornwall Street Railway Light and Power Company Limited and Dubreuil Lumber Inc., shall establish and maintain such variance accounts as may be necessary or desirable for the purposes of the Act and this Regulation.

If retail contract is deemed to be void

15. (1) This section applies if,

(a) a consumer has received financial assistance under the Act in respect of the cost of electricity retailed to the consumer by a licensed retailer pursuant to a contract with the consumer;

(b) the financial assistance was provided to the consumer by means of a credit deducted from the amount otherwise payable by the consumer to a licensed distributor or the licensed retailer in respect of the electricity; and

(c) the contract is deemed to be void under section 16 of the *Energy Consumer Protection Act, 2010* and, pursuant to subsection 16 (3) of that Act, the licensed retailer is required to refund to the consumer the money paid by the consumer under the contract.

(2) The retailer shall,

(a) if the licensed retailer uses retailer-consolidated billing, pay to the Minister of Finance the amount of all reimbursements the licensed retailer received under clause 11 (3) (d) in respect of the eligible account to which the contract related; or

(b) if the licensed retailer uses distributor-consolidated billing, pay to the Minister of Finance an amount equal to the total amount of all financial assistance the consumer received in respect of the commodity price of the electricity under the contract.

[Drafting note for Energy Policy: Do you want to prescribe a limitation period for making retroactive claims for rebate amounts to which a consumer was entitled but did not receive? And similarly, do you want to prescribe a limitation period for claiming reimbursement for rebate amounts provided? If so, what limitation periods do you want?]

PART II
REMOTE UNLICENSED DISTRIBUTORS

Remote unlicensed distributors

16. (1) A remote unlicensed distributor is a person, corporation or organization that,

(a) distributes electricity in a remote community listed in Schedule 1;

(b) issues invoices for electricity distributed to electricity customers who are eligible to receive financial assistance under the Act; and

(c) is willing to provide financial to those customers as an agent of the Minister.

(2) Every remote unlicensed distributor meeting the requirements set out in section 17 is prescribed as an electricity vendor for the purposes of the Act. **[Energy Policy to confirm that all of the provisions of the Act and this general reg. (other than provisions specific only to entities named in those provisions, and the sections specifically excluded under ss. 16(3) below) – including Part I of this general reg. – should apply to IPAs who enrol in the rebate program under s. 17 below.]**

(3) Sections 2 **[and 7]** do not apply to remote unlicensed distributors or to consumers who have eligible accounts with them.

(4) Despite section 21, no amount is payable as a reimbursement to a remote unlicensed distributor who fails without reasonable cause to provide any information required by the Minister within the time it is required to be provided.

Enrolment of remote unlicensed distributors

Comment [DS10]: Note for leg counsel:
Since we define "remote unlicensed distributor" in the proposed Minister's reg., should we re-define it here, or cross-reference the definition in the Minister's reg.?

Comment [DS11]: Note for leg counsel:
Ss. 2(1) of 495/10 sets out the same provision, without the words "meeting the requirements set out in section 17". It seems to me that we need those words, because otherwise all consumers serviced by IPAs would be entitled to the rebate despite section 17 below. (Note as well that section 17 is taken from s. 4 of 365/11.)

Also: Since we say "the Act" I assume that includes all regs made under the Act (including the Minister's reg.)? If so, we can made tweaks to the Minister's reg. where we refer to electricity vendors "or remote unlicensed distributors".

Comment [DS12]: Note for leg counsel:
See drafting notes to Energy Policy at the beginning of section 20.

17. (1) In order to take part in the Ontario rebate for electricity consumers program, a remote unlicensed distributor must first submit a completed form entitled "Enrolment Application", available from the Ministry, to the contact person at the Ministry listed on the form. **[Energy Policy to confirm - use of this form with this title, and that it will be available from the Ministry. Are there any "lessons learned" from the OCEB that we should address in this reg.?]**

(2) The distributor must submit with the Enrolment Application,

(a) information on the distributor's electricity pricing structure;

(b) information on the distributor's consumer rate classes, if any, including the number of customers within each consumer rate class; and

(c) a sample of an invoice it intends to issue to its electricity customers that shows the amount of financial assistance the customer is entitled to with respect to the time period specified on the application.

(3) The Ministry may request, at any time and from time to time, and the distributor shall provide any additional information or documents the Ministry requires in order to confirm that the distributor is a remote unlicensed distributor during the eligible period and to determine if there are consumers who have eligible accounts with the distributor during the eligible period.

Who is eligible to receive financial assistance from a remote unlicensed distributor

18. A person is eligible to receive financial assistance from a remote unlicensed distributor who meets the requirements set out in section 17 if the person is a consumer in a remote community listed in Schedule 1 who has an eligible account with the remote unlicensed distributor based on at least one of the following conditions set out in the definition of "eligible account" in subsection 1 (1) of the Act:

[Drafting note for Energy Policy: 365/11 uses the term "Ontario clean energy benefit" (which is not defined) rather than "financial assistance" (which is defined). It looks like both are intended to refer to the same thing. Would you please confirm? Is there a policy reason you would like to use something like "Ontario electricity rebate" in these IPA sections rather than "financial assistance" (e.g. for readability by IPAs)?]

1. The consumer has a demand for electricity of 50 kilowatts or less.
2. The consumer annually uses not more than 250, 000 kilowatt hours of electricity.
3. The consumer,

   (i) carries on a business that is a farming business for the purposes of the Farm Registration and Farm Organizations Funding Act, 1993, and

   (ii) holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act.]

   [Drafting note for Energy Policy: Being a farm is one of the ways specified in the Act for a consumer to have an "eligible account". However, this was not included as a qualifying condition for IPA consumers in the Minister's reg. (365/11). Do you want to include farms served by IPAs (assuming there are any)?]

4. The account 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,

   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*.

Calculating the financial assistance: base invoice amount

19. (1) The purpose of this section is to determine the amount of a consumer's base invoice amount for a billing period for which an invoice for electricity is issued. A consumer's financial assistance for a billing period is eight per cent of the base invoice amount for the billing period or, if the billing period is partly outside the eligible period, for that portion of the billing period that is within the eligible period.

Comment [DS13]: Ss. 4(1) of O. Reg. 365/11 uses similar language in referring to the "Ontario clean energy benefits program". We may need to use more formal wording here.

Comment [DS14]: Note for leg counsel:
Do we have authority to impose this requirement?

Comment [DS15]: Note for leg counsel:
In this section, the preceding section and the next couple of sections, we have used "financial assistance" but in 365/11 the corresponding sections use the term "Ontario clean energy benefit" (which is not defined).

Comment [DS16]: Note for leg counsel:
Same issue as flagged in relation to ss. 16(2) above. This section 18 is taken from s. 5 of 365/11 but without the additional words "who meets the requirements set out in section 17".

Comment [DS17]: Note for leg counsel:
See note to leg counsel below at the Schedule.

Comment [DS18]: Note for leg counsel:
This is the wording used in s. 5 of 365/11, but I don't think we need it here, and in any event the definition in s. 1(1) of Bill 13 includes for the first two clauses a qualifier "or such other amount ... as may be prescribed".

(2) The base invoice amount for a billing period includes the cost of the electricity billed to the consumer for the billing period, including the variable and fixed charges relating to the production and delivery of the electricity, but only for electricity consumed in the eligible period.

(3) The base invoice amount for a billing period for a consumer must exclude,

(a) any unpaid amounts that have already been billed for a previous billing period;

(b) all penalties, interest and any other charges not relating to the production and delivery of electricity to the consumer during the billing period;

(c) any charges relating to electricity supplied to the consumer before the eligible period; and

(d) the amount of any harmonized sales tax (HST) payable under Part IX of the Excise Tax Act (Canada). **[Drafting note for Energy Policy: The reference to the HST in s. 6(3)(d) of 365/11 is less formal that the reference here (and elsewhere in this reg. and in Bill 13). Do you want the IPA provisions to be drafted less formally (to the extent leg counsel is comfortable, and the language used still works)?]**

(4) If an invoice issued to a consumer for a billing period includes any charges for electricity consumed before the eligible period, the remote unlicensed distributor may make a reasonable estimate of the portion of the electricity consumed during the eligible period and the electricity charges relating to that electricity in order to determine the base invoice amount for that billing period.

How the distributor provides the financial assistance to a consumer

20. [Drafting note for Energy Policy: This section appears to largely do the same thing as s. 7 above, but uses more "plain language" wording. We don't really need both mirror provisions in this reg. Are you okay having s. 7 cover IPAs as well? We can include in s. 7 the specific details that apply only to IPAs (e.g. see clause 20 4. below).] If a consumer's eligible account for electricity with a remote unlicensed distributor is closed before the consumer receives all or part of his or her financial assistance from the distributor, the following rules apply:

1. The distributor may apply the amount of the financial assistance **[Drafting note for Energy Policy: S. 7(3) 1 of 365/11 uses the term "benefits" rather than "financial assistance (but "benefits" is not defined). Is there a reason you would prefer to say "benefits" here in this section?]** the consumer is entitled to receive but has not yet received to any outstanding balance owing by the consumer to the distributor.
2. If the amount then remaining that the consumer is entitled to receive but has not yet received is at least $10, the distributor must mail or deliver by hand that unpaid amount to the consumer's most recent address known to the distributor.
3. If a cheque mailed or delivered by hand in accordance with paragraph 2 has not been cashed despite the best efforts of the distributor to deliver it, and the cheque has ceased to be negotiable through the passage of time, the distributor is no longer liable to pay the benefits to the consumer and must ensure that the amount is repaid or credited to the Minister of Finance.
4. The distributor shall pay or credit to the Minister of Finance all amounts of less than $10 that are not paid by the distributor and all amounts referred to in paragraph 3,
    i. by reporting the total amount in the next Energy Report form, required under section 21, as a deduction from the amount of any reimbursement payable to the distributor, or
    ii. by remitting the total amount to the Ministry of Energy (but payable to the Minister of Finance).

Reimbursement of benefits provided to consumers

21. (1) To receive a reimbursement for financial assistance provided to its consumers, a remote unlicensed distributor must complete a form entitled "Energy Report", available from the Ministry, for each billing period for which the distributor provided financial assistance to a consumer, and must submit it to the Ministry in accordance with the directions on the form.

(2) The Ministry may at any time request, and the distributor shall provide, within the time specified in the request, any additional information or documents the Ministry considers necessary to determine the amount of the reimbursement to be made to the distributor. No reimbursement for a billing period may be made until the Ministry has received the Energy Report for the billing period and any additional information or documents it has requested to verify the amount to be reimbursed.

Comment [DS19]: Note to leg counsel: This seems to be administrative in nature, but I am not sure whether we have subdelegation authority for this sort of request. What are your thoughts on this?

(3) Based on the information provided in an Energy Report and any additional information and documents provided by the distributor, the Minister shall reimburse the distributor for the amount of financial assistance provided to consumers. The reimbursement shall be made in the manner set out in the Enrolment Application submitted by the distributor or in another manner agreed to by the distributor and the Ministry.

(4) The amount of a reimbursement may be subsequently adjusted by way of a reduction or increase in the amount of a subsequent reimbursement if it is subsequently determined by an inspector under section 9 of the Act or by the Ministry that the amount of the reimbursement was inaccurate.

[Drafting note for Energy Policy: Do you want to prescribe a limitation period on retroactive claims for rebate amounts and/or reimbursement for rebate amounts provided? If so, what limitation periods do you want?]

Comment [DS20]: Note for leg counsel:
Do we have authority for this?

SCHEDULE 1

1. Fort Hope No. 64.
2. Keewaywin.
3. North Spirit Lake.
4. Winisk Indian Settlement.
5. Pikangikum No. 14.
6. Poplar Hill.
7. Summer Beaver Settlement.
8. Wunnumin No.1.
9. Muskrat Dam Lake.
10. Wawakapewin.

Comment [DS21]: Note to leg counsel: This is the same Schedule that appears in the Minister's reg. Should we reproduce it here as well, or cross-reference to the Minister's reg.? I am thinking more in terms of the latter, to make things easier in case the Schedule is amended down the road.

Ontario Rebate for Electricity Consumers Act, 2016

ONTARIO REGULATION [ ]
INVOICING REQUIREMENTS

Comment [DS1]: Note for leg counsel: This will be a Minister's regulation made under s. 15(2) of the ORECA.

These provisions are largely taken from the invoicing provisions of 495/10 and 365/11 under the OCEBA, but includes specifics of what must be said on or with the bills that were left to Minister's letters in the context of the OCEBA.

Definitions and interpretation

1. In this Regulation,

"financial assistance" means an amount credited to an eligible account or paid to a person as financial assistance under the Act or a regulation made under the Act and includes an amount credited or paid as financial assistance in circumstances in which the person benefiting from the credit or payment is not entitled to all or part of the amount;

"invoice period" means, in respect of an invoice issued by a consumer, agent of a consumer or unit sub-meter provider, the period of time to which the invoice applies;

"Minister" means the Minister of Energy;

"Ministry" means the Ministry of Energy;

"remote unlicensed distributor" means a person, corporation or organization that,

(a) distributes electricity in a remote community listed in Schedule 1;

(b) issues invoices for electricity distributed to electricity customers **[located in that remote community? Energy Policy to advise]** who are eligible to receive financial assistance under the Act;

(c) is willing to provide financial assistance to those customers as an agent of the Minister; and

(d) has complied with the prescribed eligibility requirements for taking part in the Ontario rebate for electricity consumers program.

Comment [JPR2]: I'm a bit concerned about creating an "agency relationship" here. Why can't we simply refer to them having agreed to, or having been required to, provide the rebate to consumers "on behalf of Government" or "on behalf of the Ministry". Are we creating liability for the Crown that might not otherwise be created or at least accentuated to the same extent? Had CLOC previously considered this?

Comment [DS3]: Note for leg counsel: Referring here to the requirements that will be set out in an LGIC reg to be made under the ORECA, as applicable to remote unlicensed distributors.

The wording "taking part in the Ontario rebate for electricity consumers program" is an adaptation of wording in s. 4(1) of 365/11 made under the OCEBA.

Comment [DS4]: Note for leg counsel: I have reproduced the same requirements (clauses 2, 3, 4, 5 and 6) in ss. 2(1) and 2(2) but I expect you might want to consolidate them. It is really only clause 1 that is different (subject to Energy Policy input).

Invoices – electricity vendors [and remote unlicensed distributors]

2. (1) Subject to section 3, the following rules apply in the case of an invoice issued by an electricity vendor **[or remote unlicensed distributor]** for a billing period in respect of an eligible account:

1. The total amount of the credit for financial assistance for the billing period and, if applicable, the amount of any credits for financial assistance for

Comment [DS5]: Note for leg counsel: Remote unlicensed distributors were prescribed as electricity vendors for the purposes of the OCEBA (see 495/10 s.2(1)). We may do the same in the ORECA LGIC reg., so we should leave in this qualifier for now.

Comment [DS6]: See comment immediately above.

previous billing periods that were not provided in previous billing periods must be clearly shown as a line item **[Energy Policy to confirm whether any carry-over credits from previous billing periods should be lumped into the current period's rebate, or shown separately. In that regard, see also s. 4 below.]** on the face of the invoice at an appropriate location below the itemized charges for electricity, delivery, regulatory charges, debt retirement charge and harmonized sales tax, but above the net amount of the invoice after deducting the credit. **[Energy Policy to confirm location requirement – note that the Minister's letters (under OCEBA) required the OCEB line item to be "at an appropriate location among the other itemized charges"]**

2. The line item must be displayed no less prominently than the itemized charges referred to in clause 1. **[Energy Policy to confirm]**

3. The credit must be labelled as follows:

   Rebate equal to Ontario's portion of HST (8%) **[Energy Policy to confirm line item wording]**

4. The invoice must set out, in a location where conservation or other utility messages to consumers are usually placed, the following statement:

   To help you with the cost of electricity, the Ontario Government has lowered your electricity costs by an amount equal to Ontario's portion of HST. **[Energy Policy to confirm information message wording]**

5. Where the invoice is provided in paper form, the envelope that contains the invoice must set out the following statement in an appropriate location on the face of the envelope:

   For residential customers, small businesses and farms: The Ontario Electricity Rebate takes an amount equal to Ontario's portion of HST (8%) off your electricity costs. Check your bill for details. **[Energy Policy to confirm]**

6. Where the invoice is provided in paper form, the invoice must be accompanied by a bill insert in the form available at the Ministry of Energy, 4th Floor, Hearst Block, 900 Bay Street, Toronto, Ontario or on the Internet through the website of the Ministry on the Ministry's website. **[Energy Policy to confirm. Do you want to require a bill insert where invoices are provided electronically?]**

Invoices – unit sub-meter providers

(2) Subject to section 3, the following rules apply in the case of an invoice issued to a person by a unit sub-meter provider who provides unit sub-metering

Comment [DS7]: Note for leg counsel: If the policy decision is made to include a requirement for a bill insert, we could probably post it on the Ministry's website or otherwise make it available to bill issuers.

This approach is similar to that taken in O. Reg. 425/06 under the EA, which defines "Functional Specifications" by referring to a specific document available at the Ministry or on its website. In the present case we might prefer not to refer to a specific document unless necessary from a legislative authority perspective. *[mtd-jpr: Dan, I think this is ok but perhaps check with Ralph – is there any concern about rolling incorporation by reference? E.g. can Energy/Government just update the form referred to herein at any time?]*

for a consumer to whom subsection 3 (7) of the Act applies: **[Explanatory drafting note for Energy Policy: A USMP would provide unit sub-metering for a "consumer" such as a landlord or condo corporation. The "person" who whom the USMP issues the invoice is the unit occupant (e.g. tenant).]**

1. The invoice must clearly show, as a line item on the face of the invoice at an appropriate location below the itemized charges for electricity, delivery, regulatory charges, debt retirement charge and harmonized sales tax, but above the total amount payable on the invoice,
   i. a credit equal to the sum of,
      A. the amount of the credit to which the person is entitled in respect of the financial assistance to which the consumer is entitled under the Act or a regulation made under the Act for the period to which the invoice relates, and
      B. the amount of financial assistance to which the person is entitled for that period under the Act or a regulation made under the Act in respect of any fees and charges for unit sub-metering, and
   ii. the amount of any credits to which the person was entitled for previous invoice periods that were not provided in previous invoices, and **[Energy Policy to confirm treatment of credit carry-forwards – e.g. lumped with current period? See also s. 4 below.]**
   iii. the net amount of the invoice after deducting the credit.
2. The line item must be displayed no less prominently than the itemized charges referred to in clause 1. **[Energy Policy to confirm]**
3. The credit must be labelled as follows:

   Rebate equal to Ontario's portion of HST (8%) **[Energy Policy to confirm line item wording]**
4. The invoice must set out, in a location where conservation or other utility messages to consumers are usually placed, the following statement:

   To help you with the cost of electricity, the Ontario Government has lowered your electricity costs by an amount equal to Ontario's portion of HST. **[Energy Policy to confirm information message wording]**
5. Where the invoice is provided in paper form, the envelope that contains the invoice must set out the following statement in an appropriate location on the face of the envelope:

   For residential customers, small businesses and farms: The Ontario Electricity Rebate takes an amount equal to Ontario's portion of HST (8%)

Comment [JPR8]: As noted, I'm a bit concerned that MOF/CRA will be concerned that our positioning of the rebate *after* the HST line-item could be interpreted by either or both of them as attempting to display the rebate as a tax credit or tax rebate equal to the HST. This could be of concern for MOF (because of any concerns of CRA may have about how ENERGY represents its rebate. This choice may be taken as by MOF or the Feds as the province attempting to usurp federal jurisdiction over how taxation should be represented to consumers.)

Comment [DS9]: Note for leg counsel: The LGIC reg. will include a provision that calculates the credit to which the "person" (e.g. unit occupant) is entitled. The unit occupant will in effect get a pro rata share of the 8% rebate based on that occupant's share of the total electricity bill for the building.

Comment [DS10]: Note for leg counsel:
The LGIC reg. will address the financial assistance to which the "person" (e.g. unit occupant) is entitled. It will in effect be 8% of the USMP's fees and charges to the person.

Comment [JPR11]: Recall that during our meeting with SNAP, you liked the idea of providing an alternative requirement or set of requirements regarding the display of the rebate on consumer invoices, which LDCs (who for technical or operational reasons could not comply with this requirement) could follow. This approach may be equally applicable to 2(2) 4 just below, consider.

off your electricity costs. Check your bill for details. **[Energy Policy to confirm]**

6. Where the invoice is provided in paper form, the invoice must be accompanied by a bill insert in the form available at the Ministry of Energy, 4th Floor, Hearst Block, 900 Bay Street, Toronto, Ontario or on the Internet through the website of the Ministry on the Ministry's website. **[Energy Policy to confirm. Do you want to require a bill insert where invoices are provided electronically?]**

Exceptions for technical or operational reasons

3. If an electricity vendor**[, remote unlicensed distributor]** or unit sub-meter provider satisfies the Minister that, for technical or operational reasons, it is unable to adapt its invoices or processes to conform to the requirements of section 2, the Minister may, in writing, authorize the electricity vendor**[, remote unlicensed distributor]** or unit sub-meter provider to include on its invoice such other wording as the Minister specifies. **[Energy Policy to confirm that the exception-granting powers of the Minister should relate to all of the requirements under s. 2 (line item, information messaging, envelope messaging and bill inserts)]**

Break-down of credit between periods

4. If an invoice issued by an electricity vendor or unit sub-meter provider contains a credit for more than one billing period or invoice period, the issuer of the invoice shall provide, if requested by the person liable to pay the invoice, a break-down of the amount of the credit between periods. **[Energy Policy to confirm treatment of carry-over credits]**

Comment [DS12]: Note for leg counsel:
Is this appropriately within the scope of the Minister's reg-making powers (which are confined to invoices)? This section relates to the invoice but the break-down could be provided verbally.

Explanation of calculation of credit

5. The issuer of an invoice that includes a credit for financial assistance shall, if requested by the person liable to pay the invoice, explain how the amount of the financial assistance on the invoice has been calculated.

Comment [DS13]: Note for leg counsel:
Is this appropriately within the scope of the Minister's reg-making powers? This relates to the invoice but the explanation could be provided verbally.

SCHEDULE 1

[Drafting note for Energy Policy: This is taken from O. Reg. 365/11 under the OCEBA.

Does this Schedule need to be updated for ORECA purposes?]

1. Fort Hope No. 64.
2. Keewaywin.

3. North Spirit Lake.
4. Winisk Indian Settlement.
5. Pikangikum No. 14.
6. Poplar Hill.
7. Summer Beaver Settlement.
8. Wunnumin No.1.
9. Muskrat Dam Lake.
10. Wawakapewin.

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Ontario Rebate for Electricity Consumers Act, 2016

EXPLANATORY NOTE

The *Ontario Rebate for Electricity Consumers Act, 2016* authorizes financial assistance for certain Ontario electricity consumers in respect of electricity costs. Consumers receive the financial assistance by means of a reduction to their electricity accounts **[ACCOUNTS?]** for each billing period. The amount of financial assistance for a billing period is required to be shown on invoices issued to consumers for the billing period. The Act authorizes the making of regulations to limit the financial assistance to a maximum number of kilowatt hours of electricity per account per month or other period of time. **[DO WE WANT TO HIGHLIGHT THE ABILITY TO IMPOSE A CAP?]** The financial assistance is available with respect to electricity consumed on or after January 1, 2017 **[NOT QUITE CORRECT]** and before a SUCH date ~~to~~ AS MAY be set by regulation. **[THIS SOUNDS TOO MUCH LIKE WE ARE PRESCRIBING A SUNSET DATE]**

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The Act authorizes the making of regulations to reimburse electricity vendors for amounts credited to consumers' accounts under the Act. The Act authorizes the making of various other regulations, including to set out other ways for consumers to receive financial assistance, to alter the default rules in the Act for how to calculate the financial assistance and to limit or alter who is entitled to financial assistance.

The Act contains administrative and enforcement provisions, including requirements relating to record keeping by electricity vendors and authorization for inspections and inquiries with respect to amounts of financial assistance provided and reimbursements to electricity vendors. The *Ontario Energy Board Act, 1998* is amended so that provisions of the *Ontario Rebate for Electricity Consumers Act, 2016* and regulations made under it will be enforceable by the Ontario Energy Board.

cc° Steen -> Wed · walk-thru

confirm timing of my amendments - IC I, RRRP

An Act in respect of the cost of electricity

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9.	Inspections and inquiries
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11.	Confidentiality
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15.	Regulations
16.	Ontario Energy Board Act, 1998
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19.	Short title

Definitions

1. (1) In this Act,

"billing period" means a period of time that is wholly or partly in the eligible period and for which an invoice in respect of an eligible account is issued; ("période de facturation")

"Board" means the Ontario Energy Board; ("Commission")

"consumer" means a person,

(a) to whom an invoice is issued in respect of an eligible account for a billing period, or

(b) who is prescribed by the regulations or who satisfies such conditions as may be prescribed by the regulations; ("consommateur")

"distribution system" has the same meaning as in section 3 of the *Ontario Energy Board Act, 1998*; ("réseau de distribution")

"electricity vendor" means the IESO, a licensed distributor, a licensed retailer or a person prescribed by the regulations; ("vendeur d'électricité")

"eligible account" means, in respect of a consumer, an account with an electricity vendor, or with a person prescribed by the regulations, for the provision of electricity in Ontario if,

(a) the consumer has a demand for electricity of 50 kilowatts or less, or such other amount of demand for electricity as may be prescribed;

(b) the consumer annually uses not more than 250,000 kilowatt hours of electricity, or such other amount of use of electricity as may be prescribed,

(c) the consumer,

(i) carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and

(ii) holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act,

(d) the account 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*, [that is not exempted from the *Residential Tenancies Act, 2006* under section 5 of that Act,] **[WE ARE GOING IN THE OPPOSITE DIRECTION HERE]**

NTD from MOF: Policy direction needed with respect to whether the types of living accommodations listed in s. 5 of the RTA should be entitled to the HST offset. For e.g, s. 5 would exclude some types of long term care facilities and student residences. If a decision is made to alter the definition of residential complex in this way, care should be taken to ensure a consistent approach in other statutes and regulations.

(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*, or

(e) the consumer or the account satisfies such conditions as may be prescribed by the regulations; ("compte admissible")

"eligible period" means the period commencing January 1, 2017 and ending on such date as may be prescribed; ("période admissible")

"IESO" means the Independent Electricity System Operator; ("SIERE")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("distributeur titulaire d'un permis")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("détaillant titulaire d'un permis")

"market rules" means the market rules made under section 32 of the *Electricity Act, 1998*; (règles du marché")

"regulations" means the regulations made under this Act; ("règlement")

"retail" has the same meaning as in section 56 of the *Ontario Energy Board Act, 1998*; ("vendre au détail")

"unit sub-metering" means activities that are unit sub-metering for the purposes of the *Ontario Energy Board Act, 1998*; ("activités liées aux compteurs divisionnaires d'unité")

"unit sub-meter provider" means a person who is licensed to engage in unit sub-metering by the Board under Part V of the *Ontario Energy Board Act, 1998*. ("fournisseur de compteurs divisionnaires d'unité")

Eligible account

(2) For the purposes of this Act, if a consumer would, but for this subsection, have an eligible account with a licensed retailer and with a licensed distributor, but only one of them issues an invoice to the consumer for a billing period for all amounts payable by the consumer to them for the billing period,

(a) the consumer is deemed to have an eligible account for the billing period only with whichever of them issues the invoice for the billing period; and

(b) the licensed distributor or licensed retailer who issues the invoice for the billing period is deemed to be imposing all charges and other amounts payable under

the invoice for the purposes of determining the amount of financial assistance to which the consumer is entitled.

Base invoice amount

2. (1) For the purposes of this Act, the base invoice amount for a billing period in respect of an eligible account is determined in accordance with the regulations and, unless otherwise prescribed by the regulations, includes, if the invoice is issued by a licensed distributor or a licensed retailer, amounts in respect of,

(a) the commodity price of the electricity;

(b) 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* that are not required under subsection (2) or the regulations to be excluded;

(c) any charges related to an assessment under section 26.1 of the *Ontario Energy Board Act, 1998*;

(d) any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*; and

(e) any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*.

(f) any other amts prescribed

Exclusions

(2) Except as otherwise prescribed by the regulations, the base invoice amount for a billing period must exclude,

(a) the balance of any amounts carried forward from previous invoices;

(b) all penalties and interest;

(c) any charges that do not relate to the consumption of electricity;

(d) the fixed monthly service charge payable by a generation facility, within the meaning of section 56 of the *Ontario Energy Board Act, 1998*, that is classified as "microFIT" in a rate order issued by the Board under subsection 78 (3) of that Act;

(e) charges labelled as "specific service charges" or "retail service charges" in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*;

reg — may authority?

(f) the amount of any harmonized sales tax payable under Part IX of the *Excise Tax Act* (Canada); and

(g) any other amounts prescribed by the regulations.

Financial assistance

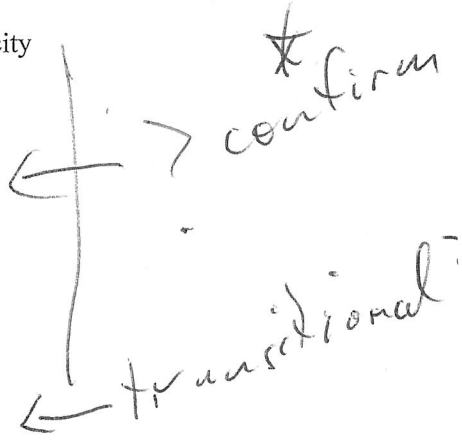
3. (1) Subject to subsection (2), a consumer who has an eligible account during a billing period is entitled to receive financial assistance in respect of the cost of electricity during the billing period in an amount equal to,

(a) 2 per cent of the base invoice amount for the billing period in respect of the eligible account, for electricity consumed in 2017,

(b) 4 per cent of the base invoice amount for the billing period in respect of the eligible account, for electricity consumed in 2018,

(c) 6 per cent of the base invoice amount for the billing period in respect of the eligible account, for electricity consumed in 2019, and

(d) 8 per cent of the base invoice amount for the billing period in respect of the eligible account, for electricity consumed in 2020 or in a later year.



Maximums

(2) A consumer is entitled to receive financial assistance in respect of the cost of a prescribed maximum number of kilowatt hours of electricity per eligible account per month, billing period or other prescribed period, subject to prescribed exemptions and determined in accordance with the regulations.

Effective date

(3) The maximums described in subsection (2) shall be in effect as of such date or during such period as may be prescribed.

Exception

(4) Despite subsection (1), a consumer is not entitled to receive financial assistance under this Act,

(a) in respect of electricity consumed in generation station service;

(b) in such circumstances as may be prescribed by the regulations; or

(c) if the regulations prescribe that they are excluded from financial assistance.

Payment of financial assistance

(5) The financial assistance to which a consumer is entitled under this Act shall be paid,

(a) by crediting the consumer's eligible account; or

(b) in such other manner as may be prescribed by the regulations.

Money appropriated by the Legislature

(6) The money required for the purposes of this Act shall be paid out of the money appropriated for those purposes by the Legislature.

No assignment of financial assistance

(7) An assignment by a consumer to another person or entity, including a licensed retailer, of the consumer's entitlement to any payment, rebate or credit does not apply to any financial assistance to which the consumer is entitled under this Act, whether the assignment was made before or after this subsection comes into force.

Same

(8) Subsection (9) applies if,

(a) a consumer provides to another person electricity in respect of which the consumer is entitled to financial assistance under subsection (1); and

(b) an invoice for the electricity is issued to the person by the consumer, by an agent of the consumer or by a unit sub-meter provider providing unit sub-metering for the consumer.

Requirement to pass on benefit

(9) Despite subsections (1) and (7), the consumer and every unit sub-meter provider providing unit sub-metering for the consumer shall ensure that each person who is liable to pay an invoice referred to in clause (8) (b) receives a credit, determined in the manner prescribed by the regulations, in respect of the financial assistance to which the consumer is entitled with respect to electricity the consumer provides to the person.

Invoices

4. (1) Subject to the regulations, every electricity vendor who issues an invoice for a billing period to a consumer in respect of an eligible account shall clearly show on the invoice,

(a) a credit equal to the amount of the financial assistance provided to the consumer for the billing period; and

(b) the net amount of the invoice after the credit.

Invoice issued by consumer, etc.

(2) An invoice that is issued by a consumer, an agent of a consumer, a unit sub-meter provider or another person prescribed by the regulations must be in the form required by the regulations and contain or be accompanied by the information required by the regulations.

Transitional

(3) If, for technical or operational reasons, an electricity vendor or a person referred to in subsection (2) is unable to adapt its invoices to comply with this Act and the regulations by the time it issues its first invoice for electricity consumed in 2017 in respect of an eligible account,

(a) the electricity vendor or person shall adapt its invoices as soon as possible and, in any event, no later than [May 1, 2017]; and

NTD from MOF : Policy direction required on amount of time required for electricity vendor to adapt invoices, keeping in mind that vendors already have experience with OCEBA, DRC exemption and OESP.

(b) consumers continue to be entitled to receive the financial assistance to which they are entitled under this Act and may receive it as a lump sum credit on the invoice for the first billing period after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Financial arrangements

Purposes

5. (1) The purposes of this section are,

(a) to ensure that financial assistance under this Act and the regulations is provided to those persons entitled to receive it; and

(b) to authorize the making of financial arrangements to reimburse electricity vendors, and other persons prescribed by the regulations, for financial assistance provided under this Act and the regulations.

Regulations

(2) The Lieutenant Governor in Council may, for the purpose of this section, make regulations,

(a) authorizing the Minister of Energy to make payments to persons who are electricity vendors or persons prescribed by the regulations in respect of the

amount of financial assistance to which consumers are entitled under this Act and prescribing methods for determining the amounts payable;

(b) requiring the IESO to make payments to licensed distributors, or to persons prescribed by the regulations, in respect of financial assistance provided under this Act or the regulations and prescribing methods for determining the amounts payable;

(c) requiring a licensed distributor to make payments to other licensed distributors or licensed retailers in respect of financial assistance under this Act and prescribing methods for determining the amounts payable;

(d) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments in respect of financial assistance to consumers or other persons entitled to receive the financial assistance and prescribing the circumstances in which such payments are to be made and methods for determining the amounts payable;

(e) authorizing the Minister of Energy to make payments of financial assistance directly to consumers and prescribing the circumstances when such payments are to be made;

(f) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments to the Minister of Finance in respect of amounts received by them or in circumstances prescribed by the regulations and prescribing methods for determining the amounts payable;

(g) authorizing payments referred to in clause (a), (b), (c), (d) or (f) to be made by way of set-offs and credits and prescribing conditions entitling or requiring amounts to be set off or credited;

(h) governing the payments required under clause (a), (b), (c), (d) or (f), including methods for paying the amounts payable and when the payments must be made, and governing methods for determining amounts to be set off or credited, including the times within which amounts must or may be set off or credited;

(i) for the purposes of this Act and the regulations, requiring persons who are electricity vendors or persons prescribed by the regulations to provide information to the Minister of Energy, the Minister of Finance, the IESO, the Board or licensed distributors and prescribing the information to be provided and when it must be provided;

(j) governing the establishment and maintenance of variance accounts required for the purposes of this Act.

Conflict with market rules

(3) In the event of a conflict, a regulation made under subsection (2) prevails over the market rules to the extent of the conflict.

Provision of information

(4) A person may do anything required by a regulation made under clause (2) (i) despite any agreement to the contrary and, if the person does so,

(a) the person is not liable for doing the thing in contravention of any agreement to the contrary; and

(b) doing the thing is deemed not to constitute a breach, termination, repudiation or frustration of any contract.

Cut-off dates for financial assistance, reimbursement

Financial assistance

6. (1) Despite any entitlement of consumers to financial assistance under this Act, no financial assistance is payable to a consumer after a date or period of time prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after a date or period of time prescribed by the regulations in respect of the electricity vendor or other person, other than in such circumstances as may be prescribed by the regulations.

Definition

7. In sections 8, 9 and 10,

"Minister" means the Minister of Finance or such other member of the Executive Council to whom the administration of those sections is assigned under the *Executive Council Act*.

Records

8. (1) Every electricity vendor and every person prescribed by the regulations shall keep at a location in Ontario such records as are necessary to determine and verify compliance with this Act and the regulations and any records required by the regulations to be kept.

Electronic records

(2) If a person keeps records in an electronic form, the person shall ensure that, from the time the records are first made and for as long as they are required to be retained,

(a) they remain complete and unaltered, apart from any changes or additions made in the normal course of communication, storage or display; and

(b) they are capable of being printed and of being produced in electronically readable format for inspection, examination or audit.

Retention of records

(3) Records required to be kept under subsection (1) shall not be destroyed unless authorization has been given in writing by the Minister.

Offence

(4) Every person who fails to keep records in accordance with this section is guilty of an offence and, on conviction, is liable to a fine of not less than $50 and not more than $5,000.

Inspections and inquiries

9. (1) The Minister may appoint one or more inspectors who are authorized to exercise any of the powers and perform any of the duties of a person authorized by the Minister under subsection 31 (1) of the *Retail Sales Tax Act* for any purpose related to the administration and enforcement of this Act.

Same

(2) Subsections 31 (1), (2), (2.1) and (2.2) of the *Retail Sales Tax Act* apply, with necessary modifications, with respect to the administration and enforcement of this Act.

Admission of evidence

(3) The Minister, or a person authorized by the Minister, may, for any purpose related to the administration of this Act or the regulations, reproduce from original data stored electronically any information previously submitted as required under this Act or the regulations in any form by any person, and the electronically reproduced document shall be admissible in evidence and shall have the same probative force as the original document would have had if it had been proved in the ordinary way.

Inquiry

(4) The Minister may, for any purpose related to the administration of this Act or the regulations, authorize any person, whether or not the person is an employee in the Ministry of the Minister, to make such inquiry as the Minister considers necessary with reference to anything relating to the administration of this Act or the regulations.

Copies

(5). If a book, record or other document is examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry may make, or cause to be made, one or more copies of it, and a document purporting to be certified by the person to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if proved in the ordinary way.

Compliance

(6) No person shall hinder or molest or interfere with any person doing anything that the person is authorized by this section to do or prevent or attempt to prevent any person doing any such thing.

Same

(7) Despite any other law to the contrary, every person shall, unless the person is unable to do so, do everything he, she or it is required by this section to do.

Administration of oaths

(8) Declarations or affidavits in connection with statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee for doing so.

Application of Public Inquiries Act, 2009

(9) Section 33 of the *Public Inquiries Act, 2009* applies to an inquiry under subsection (4).

Recovery of overpayments

Definitions

10. (1) In this section,

"inspector" means an inspector referred to in section 9; ("inspecteur")

"overpayment" means an amount received by a person in excess of any reimbursement to which the person is entitled under this Act and the regulations. ("trop-perçu")

Notice of overpayment

(2) If it appears to an inspector that a person has received an overpayment, the Minister may send a written notice to the person advising the person of the following:

1. That the person has received an overpayment.

2. The amount of the overpayment and how it was calculated.

3. The required steps to be taken by the person with respect to the overpayment.

4. The date, not more than six months after the date of the notice, by which these steps must be completed.

5. That the Minister has the authority to assess the person for the amount of the overpayment, plus interest, if the person fails to complete the required steps by the specified date.

Calculation of amount of overpayment

(3) For the purposes of this section, an inspector shall calculate an overpayment or the outstanding balance of an overpayment in the manner and form and using such procedures as the Minister considers adequate and expedient.

Assessment

(4) If a person fails to complete the steps required in a notice under subsection (2) within the time specified in the notice, and any additional time requested by the person and permitted by the Minister, the Minister may assess or reassess the amount of the overpayment, or the outstanding balance of the overpayment, based on the inspector's calculation described in subsection (3).

Penalty

(5) If the Minister makes an assessment or reassessment under subsection (4) and is satisfied that the person's non-compliance with the required steps in the notice was attributable to neglect, carelessness, wilful default or fraud, the Minister may assess a penalty against the person equal to the outstanding balance of the overpayment when the penalty is assessed.

Time limit

(6) The Minister shall not assess or reassess under subsection (4) more than 48 months after the end of the month in which the person received the overpayment.

Exception, where misrepresentation, etc.

(7) Subsection (6) does not apply if the Minister establishes that the person has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in supplying information under this Act or the regulations or in omitting to disclose information.

Deemed debt retirement charge

(8) An amount assessed or reassessed by the Minister under this section is deemed for the purposes of the administration and enforcement of this Act to be a debt retirement charge, as defined in subsection 85 (1) of the *Electricity Act, 1998*, that has been collected, on the last day of the month in which the person received the overpayment, by the person as a collector appointed under subsection 85.3 (1) of the *Electricity Act, 1998* and, for those purposes,

(a) sections 85.11, 85.12, 85.14, 85.17 and 85.30 of that Act apply with necessary modifications;

(b) in the application of sections 85.11 and 85.14 of that Act and without limiting the generality of clause (a), references to the Financial Corporation and references to the Minister of Finance are read as references to the Minister;

(c) the regulations made under that Act for the purposes of calculating the rate or rates of interest payable under section 85.11 of that Act and the manner of calculating the amount of interest apply with necessary modifications; and

(d) sections 23 and 36, subsections 37 (1), (1.1) and (2) and sections 37.1, 38 and 39 of the *Retail Sales Tax Act* apply with necessary modifications.

Disposition of repaid amounts

(9) If all or part of an overpayment is repaid to the Minister of Finance, the Minister of Energy shall make such financial arrangements and payments as may be necessary to ensure that any electricity vendor or other person entitled to all or part of the overpayment receives the appropriate amount.

Confidentiality

11. (1) Except as authorized by this section, no person employed by the Government of Ontario shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister of Energy or the Minister of Finance for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Testimony

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

(a) to give evidence relating to any information obtained by or on behalf of the Minister of Energy or Minister of Finance for the purposes of this Act; or

(b) to produce any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Exception

(3) Subsections (1) and (2) do not apply in respect of,

(a) criminal proceedings under any Act of the Parliament of Canada;

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

(c) proceedings relating to the administration or enforcement of this Act or Part V.1 or VI of the *Electricity Act, 1998*.

Communication

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,

(a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law or to an employee of the Board information obtained by or on behalf of either Minister for the purposes of this Act; and

(b) allow another person employed by the Government of Ontario in the administration or enforcement of any law or an employee of the Board to inspect or have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Reciprocal communication

(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to that Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of information

(6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

Same

(7) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to,

(a) the person from whom the information, record or thing was obtained;

(b) any person by whom an amount is payable or has been paid under this Act; or

(c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.

Information

(8) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to any person employed by any government if,

(a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and

(b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

Offence

(9) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than $2,000.

Offences

False statements, etc., and fraud

12. (1) Every person who engages in any of the following acts or omissions is guilty of an offence:

1. Making, participating in, assenting to or acquiescing in the making of a false or deceptive statement in any document or answer required or submitted under this Act or the regulations.

2. Destroying, altering, mutilating, hiding or otherwise disposing of information or records of an electricity vendor or other person, for the purpose of evading compliance with this Act or the regulations.

3. Making, assenting to or acquiescing in the making of a false or deceptive entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

4. Omitting to make or assenting to or acquiescing in the omission of an entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

5. Wilfully evading or attempting to evade, in any manner, compliance with an obligation under this Act or the regulations.

Penalty upon conviction

(2) A person convicted of an offence under subsection (1) is liable to either or both of the following penalties in addition to any other penalty assessed under this Act:

1. A fine in an amount that is not less than $1,000 and not more than $10,000.

2. Imprisonment for a term of not more than two years.

General offence

(3) Every person who contravenes, by any act or omission, a requirement imposed under this Act is guilty of an offence and, on conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than $50 and not more than $5,000.

Limitation period

13. A proceeding to prosecute an offence under this Act must be commenced within six years after the date on which the matter of the offence arose.

Payment of fines

14. Fines imposed on conviction of an offence under this Act are payable to the Minister of Finance on behalf of the Crown in right of Ontario.

Regulations

15. (1) The Lieutenant Governor in Council may make regulations,

Note from the Office of Legislative Counsel: Under s. 82 of the *Legislation Act, 2006*, a power to make a regulation includes the power to create classes and create different rules for different classes. For example, the power to cap financial assistance includes the power to impose different caps on different classes of consumers.

Also, regulations can be made in respect of multiple periods of time.

A question was asked about a general regulation-making power to exempt anyone from any provision of the Act. Although some Ontario statutes do have such a provision, it is

not recommended. On its face, it is a sweeping power to negate the will of the Legislature. This is sometimes called a "Henry VIII clause". If an exemption power may be needed, it is better to identify which provisions may be affected and then provide in those provisions that the rule is subject to exceptions set out in regulation (as in s. 3 (2) of this draft), rather than by a more sweeping power.

It is also important to note that regulations are only authorized to the extent that they are consistent with the purposes of the Act. Therefore, a general power to grant an exemption may be less useful than it seems: a regulation made under a sweeping general power may seem less consistent with the purposes of the Act than a regulation made under a specific power contemplated in the substantive provisions of the Act.

(a) prescribing anything required to be or referred to in this Act as being prescribed by the regulations;

(b) defining any word or expression used in this Act that is not already expressly defined in this Act;

(c) requiring any person to take such action or refrain from taking such action as may be necessary for the purposes of or in connection with any regulation made under this Act;

(d) prescribing information that must or may be included on invoices issued to consumers or that must or may accompany invoices issued to consumers or payments of financial assistance under this Act;

(e) governing the presentation of financial assistance under this Act on invoices issued to consumers;

(f) governing information that must or may be provided to consumers concerning this Act and eligibility for financial assistance under it;

(g) governing the determination of the base invoice amount for a billing period with respect to a class of electricity vendors or a class of consumers;

(h) governing the determination of the maximum financial assistance to which a consumer is entitled under subsection 3 (2) in respect of a month, billing period or other specified period, including,

(i) prescribing what constitutes a month or other specified period for the purposes of the maximum,

(ii) prescribing the method for determining the number of kilowatt hours of electricity consumed per month, billing period or other specified period, and

(iii) prescribing exemptions for the purposes of that subsection;

(i) prescribing a method of paying or crediting to a consumer an amount of financial assistance to which the consumer is entitled under this Act and the circumstances in which the method applies;

(j) requiring a unit sub-meter provider to provide financial assistance in respect of the cost of electricity and prescribing,

(i) the circumstances in which the financial assistance is to be provided,

(ii) the person or class of persons entitled to receive the financial assistance,

(iii) the method of determining the amount of the financial assistance to be provided,

(iv) the manner for paying or otherwise providing the financial assistance;

(k) setting out one or more dates for the purposes of subsection 6 (1) or (2), and governing the circumstances in which that subsection does not apply;

(l) respecting records to be kept by electricity vendors or by persons prescribed by the regulations;

(m) providing for matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of this Act and the regulations.

Retroactive regulations

(2) A regulation made under this Act is, if it so provides, effective with reference to a period before it is filed.

Subdelegation

(3) A regulation under this Act may authorize a person to require, authorize, prescribe or otherwise determine any matter that may be required, authorized, prescribed or otherwise determined by the Lieutenant Governor in Council under this Act.

Ontario Energy Board Act, 1998

16. (1) The definition of "enforceable provision" in section 3 of the *Ontario Clean Energy Board Act, 1998* is amended by adding the following clause:

(c.2) a provision of the *Ontario Rebate for Electricity Consumers Act, 2016* or the regulations made under it,

(2) Section 70 of the Act is amended by adding the following subsection:

Deemed condition of licences, unit sub-meter provider, *Ontario Rebate for Electricity Consumers Act, 2016*

(2.3) Every licence issued to a unit sub-meter provider is deemed to contain the condition that the unit sub-meter provider is required to comply with the *Ontario Rebate for Electricity Consumers Act, 2016* and the regulations made under it.

Repeal

17. This Act is repealed on a day to be named by proclamation of the Lieutenant Governor.

Commencement

18. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

19. The short title of this Act is the *Ontario Rebate for Electricity Consumers Act, 2016.*

[OTHER CONSEQUENTIAL AMENDMENTS?]

+ OCEBA

Rate Relief ?

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Ontario Rebate for Electricity Consumers Act, 2016

EXPLANATORY NOTE

The *Ontario Rebate for Electricity Consumers Act, 2016* authorizes financial assistance for certain Ontario electricity consumers in respect of electricity costs. Consumers receive the financial assistance by means of an 8 per cent reduction in the amount payable under their electricity accounts for each billing period. The amount of financial assistance for a billing period is required to be shown on invoices issued to consumers for the billing period. The Act authorizes the making of regulations to limit the financial assistance to a maximum number of kilowatt hours of electricity per account per month or other period of time. The financial assistance is available with respect to invoices issued on or after January 1, 2017 and before such date as may be set by regulation.

The Act authorizes the making of regulations to reimburse electricity vendors for amounts credited to consumers' accounts under the Act. The Act authorizes the making of various other regulations, including to set out other ways for consumers to receive financial assistance, to alter the default rules in the Act for how to calculate the financial assistance and to limit or alter who is entitled to financial assistance.

The Act contains administrative and enforcement provisions, including requirements relating to record keeping by electricity vendors and authorization for inspections and inquiries with respect to amounts of financial assistance provided and reimbursements to electricity vendors. The *Ontario Energy Board Act, 1998* is amended so that provisions of the *Ontario Rebate for Electricity Consumers Act, 2016* and regulations made under it will be enforceable by the Ontario Energy Board.

An Act in respect of the cost of electricity

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Definitions

1. (1) In this Act,

"billing period" means a period of time that is wholly or partly in the eligible period and for which an invoice in respect of an eligible account is issued; ("période de facturation")

"Board" means the Ontario Energy Board; ("Commission")

"consumer" means a person,

(a) to whom an invoice is issued in respect of an eligible account for a billing period, or

(b) who is prescribed by the regulations or who satisfies such conditions as may be prescribed by the regulations; ("consommateur")

"distribution system" has the same meaning as in section 3 of the *Ontario Energy Board Act, 1998*; ("réseau de distribution")

"electricity vendor" means the IESO, a licensed distributor, a licensed retailer or a person prescribed by the regulations; ("vendeur d'électricité")

"eligible account" means, in respect of a consumer, an account with an electricity vendor, or with a person prescribed by the regulations, for the provision of electricity in Ontario if,

(a) the consumer has a demand for electricity of 50 kilowatts or less, or such other amount of demand for electricity as may be prescribed;

(b) the consumer annually uses not more than 250,000 kilowatt hours of electricity, or such other amount of use of electricity as may be prescribed,

(c) the consumer,

(i) carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and

(ii) holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act,

(d) the account 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,

(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*, or

(e) the consumer or the account satisfies such conditions as may be prescribed by the regulations; ("compte admissible")

"eligible period" means the period commencing January 1, 2017 and ending on such date as may be prescribed; ("période admissible")

"IESO" has the same meaning as in subsection 2 (1) of the *Electricity Act, 1998*; ("SIERE")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("distributeur titulaire d'un permis")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("détaillant titulaire d'un permis")

"market rules" means the market rules made under section 32 of the *Electricity Act, 1998*; (règles du marché")

"regulations" means the regulations made under this Act; ("règlement")

"retail" has the same meaning as in section 56 of the *Ontario Energy Board Act, 1998*; ("vendre au détail")

"unit sub-metering" means activities that are unit sub-metering for the purposes of the *Ontario Energy Board Act, 1998*; ("activités liées aux compteurs divisionnaires d'unité")

"unit sub-meter provider" means a person who is licensed to engage in unit sub-metering by the Board under Part V of the *Ontario Energy Board Act, 1998*. ("fournisseur de compteurs divisionnaires d'unité")

Eligible account

(2) For the purposes of this Act, if a consumer would, but for this subsection, have an eligible account with a licensed retailer and with a licensed distributor, but only one of them issues an invoice to the consumer for a billing period for all amounts payable by the consumer to them for the billing period,

(a) the consumer is deemed to have an eligible account for the billing period only with whichever of them issues the invoice for the billing period; and

(b) the licensed distributor or licensed retailer who issues the invoice for the billing period is deemed to be imposing all charges and other amounts payable under the invoice for the purposes of determining the amount of financial assistance to which the consumer is entitled.

Base invoice amount

2. (1) For the purposes of this Act, the base invoice amount for a billing period in respect of an eligible account is determined in accordance with the regulations and,

unless otherwise prescribed by the regulations, includes, if the invoice is issued by a licensed distributor or a licensed retailer, amounts in respect of,

(a) the commodity price of the electricity;

(b) 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* that are not required under subsection (2) or the regulations to be excluded;

[(c) any charges related to an assessment under section 26.1 of the *Ontario Energy Board Act, 1998*;]

(d) any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*;

(e) any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*; and

(f) anything else prescribed by the regulations.

Exclusions

(2) Except as otherwise prescribed by the regulations, the base invoice amount for a billing period must exclude,

(a) the balance of any amounts carried forward from previous invoices;

(b) all penalties and interest;

(c) any charges that do not relate to the consumption of electricity;

(d) the fixed monthly service charge payable by a generation facility, within the meaning of section 56 of the *Ontario Energy Board Act, 1998*, that is classified as "microFIT" in a rate order issued by the Board under subsection 78 (3) of that Act;

(e) charges labelled as "specific service charges" or "retail service charges" in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*;

(f) the amount of any harmonized sales tax payable under Part IX of the *Excise Tax Act* (Canada); and

(g) any other amounts prescribed by the regulations.

Financial assistance

3. (1) Subject to subsection (2), a consumer who has an eligible account during a billing period is entitled to receive financial assistance in respect of the cost of electricity during the billing period in an amount equal to 8 per cent of the base invoice amount for the billing period in respect of the eligible account.

Maximums

(2) A consumer is entitled to receive financial assistance in respect of the cost of a prescribed maximum number of kilowatt hours of electricity per eligible account per month, billing period or other prescribed period, subject to prescribed exemptions and determined in accordance with the regulations.

Effective date

(3) The maximums described in subsection (2) shall be in effect as of such date or during such period as may be prescribed.

Exception

(4) Despite subsection (1), a consumer is not entitled to receive financial assistance under this Act,

(a) in respect of electricity consumed in generation station service;

(b) in such circumstances as may be prescribed by the regulations; or

(c) if the regulations prescribe that they are excluded from financial assistance.

Payment of financial assistance

(5) The financial assistance to which a consumer is entitled under this Act shall be paid,

(a) by crediting the consumer's eligible account; or

(b) in such other manner as may be prescribed by the regulations.

Money appropriated by the Legislature

(6) The money required for the purposes of this Act shall be paid out of the money appropriated for those purposes by the Legislature.

No assignment of financial assistance

(7) An assignment by a consumer to another person or entity, including a licensed retailer, of the consumer's entitlement to any payment, rebate or credit does not apply to

any financial assistance to which the consumer is entitled under this Act, whether the assignment was made before or after this subsection comes into force.

Same

(8) Subsection (9) applies if,

(a) a consumer provides to another person electricity in respect of which the consumer is entitled to financial assistance under subsection (1); and

(b) an invoice for the electricity is issued to the person by the consumer, by an agent of the consumer or by a unit sub-meter provider providing unit sub-metering for the consumer.

Requirement to pass on benefit

(9) Despite subsections (1) and (7), the consumer and every unit sub-meter provider providing unit sub-metering for the consumer shall ensure that each person who is liable to pay an invoice referred to in clause (8) (b) receives a credit, determined in the manner prescribed by the regulations, in respect of the financial assistance to which the consumer is entitled with respect to electricity the consumer provides to the person.

Invoices

4. (1) Subject to the regulations, every electricity vendor who issues an invoice for a billing period to a consumer in respect of an eligible account shall clearly show on the invoice,

(a) a credit equal to the amount of the financial assistance provided to the consumer for the billing period; and

(b) the net amount of the invoice after the credit.

Invoice issued by consumer, etc.

(2) An invoice that is issued by a consumer, an agent of a consumer, a unit sub-meter provider or another person prescribed by the regulations must be in the form required by the regulations and contain or be accompanied by the information required by the regulations.

Transitional

(3) If, for technical or operational reasons, an electricity vendor or a person referred to in subsection (2) is unable to adapt its invoices to comply with this Act and the regulations by the time it issues its first invoice for electricity consumed in 2017 in respect of an eligible account,

(a) the electricity vendor or person shall adapt its invoices as soon as possible and, in any event, no later than July 1, 2017; and

(b) consumers continue to be entitled to receive the financial assistance to which they are entitled under this Act and may receive it as a lump sum credit on the invoice for the first billing period after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Financial arrangements

Purposes

5. (1) The purposes of this section are,

(a) to ensure that financial assistance under this Act and the regulations is provided to those persons entitled to receive it; and

(b) to authorize the making of financial arrangements to reimburse electricity vendors, and other persons prescribed by the regulations, for financial assistance provided under this Act and the regulations.

Regulations

(2) The Lieutenant Governor in Council may, for the purpose of this section, make regulations,

(a) authorizing the Minister of Energy to make payments to persons who are electricity vendors or persons prescribed by the regulations in respect of the amount of financial assistance to which consumers are entitled under this Act and prescribing methods for determining the amounts payable;

(b) requiring the IESO to make payments to licensed distributors, or to persons prescribed by the regulations, in respect of financial assistance provided under this Act or the regulations and prescribing methods for determining the amounts payable;

(c) requiring a licensed distributor to make payments to other licensed distributors or licensed retailers in respect of financial assistance under this Act and prescribing methods for determining the amounts payable;

(d) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments in respect of financial assistance to consumers or other persons entitled to receive the financial assistance and prescribing the circumstances in which such payments are to be made and methods for determining the amounts payable;

(e) authorizing the Minister of Energy to make payments of financial assistance directly to consumers and prescribing the circumstances when such payments are to be made;

(f) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments to the Minister of Finance in respect of amounts received by them or in circumstances prescribed by the regulations and prescribing methods for determining the amounts payable;

(g) authorizing payments referred to in clause (a), (b), (c), (d) or (f) to be made by way of set-offs and credits and prescribing conditions entitling or requiring amounts to be set off or credited;

(h) governing the payments required under clause (a), (b), (c), (d) or (f), including methods for paying the amounts payable and when the payments must be made, and governing methods for determining amounts to be set off or credited, including the times within which amounts must or may be set off or credited;

(i) for the purposes of this Act and the regulations, requiring persons who are electricity vendors or persons prescribed by the regulations to provide information to the Minister of Energy, the Minister of Finance, the IESO, the Board or licensed distributors and prescribing the information to be provided and when it must be provided;

(j) governing the establishment and maintenance of variance accounts required for the purposes of this Act.

Conflict with market rules

(3) In the event of a conflict, a regulation made under subsection (2) prevails over the market rules to the extent of the conflict.

Provision of information

(4) A person may do anything required by a regulation made under clause (2) (i) despite any agreement to the contrary and, if the person does so,

(a) the person is not liable for doing the thing in contravention of any agreement to the contrary; and

(b) doing the thing is deemed not to constitute a breach, termination, repudiation or frustration of any contract.

Cut-off dates for financial assistance, reimbursement
Financial assistance

6. (1) Despite any entitlement of consumers to financial assistance under this Act, no financial assistance is payable to a consumer after a date or period of time prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after a date or period of time prescribed by the regulations in respect of the electricity vendor or other person, other than in such circumstances as may be prescribed by the regulations.

Definition

7. In sections 8, 9 and 10,

"Minister" means the Minister of Finance or such other member of the Executive Council to whom the administration of those sections is assigned under the *Executive Council Act*.

Records

8. (1) Every electricity vendor and every person prescribed by the regulations shall keep at a location in Ontario such records as are necessary to determine and verify compliance with this Act and the regulations and any records required by the regulations to be kept.

Electronic records

(2) If a person keeps records in an electronic form, the person shall ensure that, from the time the records are first made and for as long as they are required to be retained,

(a) they remain complete and unaltered, apart from any changes or additions made in the normal course of communication, storage or display; and

(b) they are capable of being printed and of being produced in electronically readable format for inspection, examination or audit.

Retention of records

(3) Records required to be kept under subsection (1) shall not be destroyed unless authorization has been given in writing by the Minister.

Offence

(4) Every person who fails to keep records in accordance with this section is guilty of an offence and, on conviction, is liable to a fine of not less than $50 and not more than $5,000.

Inspections and inquiries

9. (1) The Minister may appoint one or more inspectors who are authorized to exercise any of the powers and perform any of the duties of a person authorized by the Minister under subsection 31 (1) of the *Retail Sales Tax Act* for any purpose related to the administration and enforcement of this Act.

Same

(2) Subsections 31 (1), (2), (2.1) and (2.2) of the *Retail Sales Tax Act* apply, with necessary modifications, with respect to the administration and enforcement of this Act.

Admission of evidence

(3) The Minister, or a person authorized by the Minister, may, for any purpose related to the administration of this Act or the regulations, reproduce from original data stored electronically any information previously submitted as required under this Act or the regulations in any form by any person, and the electronically reproduced document shall be admissible in evidence and shall have the same probative force as the original document would have had if it had been proved in the ordinary way.

Inquiry

(4) The Minister may, for any purpose related to the administration of this Act or the regulations, authorize any person, whether or not the person is an employee in the Ministry of the Minister, to make such inquiry as the Minister considers necessary with reference to anything relating to the administration of this Act or the regulations.

Copies

(5) If a book, record or other document is examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry may make, or cause to be made, one or more copies of it, and a document purporting to be certified by the person to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if proved in the ordinary way.

Compliance

(6) No person shall hinder or molest or interfere with any person doing anything that the person is authorized by this section to do or prevent or attempt to prevent any person doing any such thing.

Same

(7) Despite any other law to the contrary, every person shall, unless the person is unable to do so, do everything he, she or it is required by this section to do.

Administration of oaths

(8) Declarations or affidavits in connection with statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee for doing so.

Application of Public Inquiries Act, 2009

(9) Section 33 of the *Public Inquiries Act, 2009* applies to an inquiry under subsection (4).

Recovery of overpayments

Definitions

10. (1) In this section,

"inspector" means an inspector referred to in section 9; ("inspecteur")

"overpayment" means an amount received by a person in excess of any reimbursement to which the person is entitled under this Act and the regulations. ("trop-perçu")

Notice of overpayment

(2) If it appears to an inspector that a person has received an overpayment, the Minister may send a written notice to the person advising the person of the following:

1. That the person has received an overpayment.

2. The amount of the overpayment and how it was calculated.

3. The required steps to be taken by the person with respect to the overpayment.

4. The date, not more than six months after the date of the notice, by which these steps must be completed.

5. That the Minister has the authority to assess the person for the amount of the overpayment, plus interest, if the person fails to complete the required steps by the specified date.

Calculation of amount of overpayment

(3) For the purposes of this section, an inspector shall calculate an overpayment or the outstanding balance of an overpayment in the manner and form and using such procedures as the Minister considers adequate and expedient.

Assessment

(4) If a person fails to complete the steps required in a notice under subsection (2) within the time specified in the notice, and any additional time requested by the person and permitted by the Minister, the Minister may assess or reassess the amount of the overpayment, or the outstanding balance of the overpayment, based on the inspector's calculation described in subsection (3).

Penalty

(5) If the Minister makes an assessment or reassessment under subsection (4) and is satisfied that the person's non-compliance with the required steps in the notice was attributable to neglect, carelessness, wilful default or fraud, the Minister may assess a penalty against the person equal to the outstanding balance of the overpayment when the penalty is assessed.

Time limit

(6) The Minister shall not assess or reassess under subsection (4) more than 48 months after the end of the month in which the person received the overpayment.

Exception, where misrepresentation, etc.

(7) Subsection (6) does not apply if the Minister establishes that the person has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in supplying information under this Act or the regulations or in omitting to disclose information.

Deemed debt retirement charge

(8) An amount assessed or reassessed by the Minister under this section is deemed for the purposes of the administration and enforcement of this Act to be a debt retirement charge, as defined in subsection 85 (1) of the *Electricity Act, 1998*, that has been collected, on the last day of the month in which the person received the overpayment, by the person as a collector appointed under subsection 85.3 (1) of the *Electricity Act, 1998* and, for those purposes,

(a) sections 85.11, 85.12, 85.14, 85.17 and 85.30 of that Act apply with necessary modifications;

(b) in the application of sections 85.11 and 85.14 of that Act and without limiting the generality of clause (a), references to the Financial Corporation are read as

references to the Minister of Finance and references to the Minister of Finance are read as references to the Minister as defined in section 7 of this Act;

(c) the regulations made under that Act for the purposes of calculating the rate or rates of interest payable under section 85.11 of that Act and the manner of calculating the amount of interest apply with necessary modifications; and

(d) sections 23 and 36, subsections 37 (1), (1.1) and (2) and sections 37.1, 38 and 39 of the *Retail Sales Tax Act* apply with necessary modifications.

Disposition of repaid amounts

(9) If all or part of an overpayment is repaid to the Minister of Finance, the Minister of Energy shall make such financial arrangements and payments as may be necessary to ensure that any electricity vendor or other person entitled to all or part of the overpayment receives the appropriate amount.

Confidentiality

11. (1) Except as authorized by this section, no person employed by the Government of Ontario shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister of Energy or the Minister of Finance for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Testimony

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

(a) to give evidence relating to any information obtained by or on behalf of the Minister of Energy or Minister of Finance for the purposes of this Act; or

(b) to produce any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Exception

(3) Subsections (1) and (2) do not apply in respect of,

(a) criminal proceedings under any Act of the Parliament of Canada;

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

(c) proceedings relating to the administration or enforcement of this Act or Part V.1 or VI of the *Electricity Act, 1998*.

Communication

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,

(a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law or to an employee of the Board information obtained by or on behalf of either Minister for the purposes of this Act; and

(b) allow another person employed by the Government of Ontario in the administration or enforcement of any law or an employee of the Board to inspect or have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Reciprocal communication

(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to that Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of information

(6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

Same

(7) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to,

(a) the person from whom the information, record or thing was obtained;

(b) any person by whom an amount is payable or has been paid under this Act; or

(c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.

Information

(8) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to any person employed by any government if,

(a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and

(b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

Offence

(9) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than $2,000.

Offences

False statements, etc., and fraud

12. (1) Every person who engages in any of the following acts or omissions is guilty of an offence:

1. Making, participating in, assenting to or acquiescing in the making of a false or deceptive statement in any document or answer required or submitted under this Act or the regulations.

2. Destroying, altering, mutilating, hiding or otherwise disposing of information or records of an electricity vendor or other person, for the purpose of evading compliance with this Act or the regulations.

3. Making, assenting to or acquiescing in the making of a false or deceptive entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

4. Omitting to make or assenting to or acquiescing in the omission of an entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

5. Wilfully evading or attempting to evade, in any manner, compliance with an obligation under this Act or the regulations.

Penalty upon conviction

(2) A person convicted of an offence under subsection (1) is liable to either or both of the following penalties in addition to any other penalty assessed under this Act:

1. A fine in an amount that is not less than $1,000 and not more than $10,000.

2. Imprisonment for a term of not more than two years.

General offence

(3) Every person who contravenes, by any act or omission, a requirement imposed under this Act is guilty of an offence and, on conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than $50 and not more than $5,000.

Limitation period

13. A proceeding to prosecute an offence under this Act must be commenced within six years after the date on which the matter of the offence arose.

Payment of fines

14. Fines imposed on conviction of an offence under this Act are payable to the Minister of Finance on behalf of the Crown in right of Ontario.

Regulations

15. (1) The Lieutenant Governor in Council may make regulations,

Note from the Office of Legislative Counsel: Under s. 82 of the *Legislation Act, 2006*, a power to make a regulation includes the power to create classes and create different rules for different classes. For example, the power to cap financial assistance includes the power to impose different caps on different classes of consumers.

Also, regulations can be made in respect of multiple periods of time.

A question was asked about a general regulation-making power to exempt anyone from any provision of the Act. Although some Ontario statutes do have such a provision, it is not recommended. On its face, it is a sweeping power to negate the will of the Legislature. This is sometimes called a "Henry VIII clause". If an exemption power may be needed, it is better to identify which provisions may be affected and then provide in those provisions that the rule is subject to exceptions set out in regulation (as in s. 3 (2) of this draft), rather than by a more sweeping power.

It is also important to note that regulations are only authorized to the extent that they are consistent with the purposes of the Act. Therefore, a general power to grant an exemption may be less useful than it seems: a regulation made under a sweeping general power may seem less consistent with the purposes of the Act than a regulation made under a specific power contemplated in the substantive provisions of the Act.

(a) prescribing anything required to be or referred to in this Act as being prescribed by the regulations;

(b) defining any word or expression used in this Act that is not already expressly defined in this Act;

(c) requiring any person to take such action or refrain from taking such action as may be necessary for the purposes of or in connection with any regulation made under this Act;

(d) prescribing information that must or may be included on invoices issued to consumers or that must or may accompany invoices issued to consumers or payments of financial assistance under this Act;

(e) governing the presentation of financial assistance under this Act on invoices issued to consumers;

(f) governing information that must or may be provided to consumers concerning this Act and eligibility for financial assistance under it;

(g) governing the determination of the base invoice amount for a billing period with respect to a class of electricity vendors or a class of consumers;

(h) governing the determination of the maximum financial assistance to which a consumer is entitled under subsection 3 (2) in respect of a month, billing period or other specified period, including,

(i) prescribing what constitutes a month or other specified period for the purposes of the maximum,

(ii) prescribing the method for determining the number of kilowatt hours of electricity consumed per month, billing period or other specified period, and

(iii) prescribing exemptions for the purposes of that subsection;

(i) prescribing a method of paying or crediting to a consumer an amount of financial assistance to which the consumer is entitled under this Act and the circumstances in which the method applies;

(j) requiring a unit sub-meter provider to provide financial assistance in respect of the cost of electricity and prescribing,

(i) the circumstances in which the financial assistance is to be provided,

(ii) the person or class of persons entitled to receive the financial assistance,

(iii) the method of determining the amount of the financial assistance to be provided,

(iv) the manner for paying or otherwise providing the financial assistance;

(k) setting out one or more dates for the purposes of subsection 6 (1) or (2), and governing the circumstances in which that subsection does not apply;

(l) respecting records to be kept by electricity vendors or by persons prescribed by the regulations;

(m) providing for matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of this Act and the regulations.

Retroactive regulations

(2) A regulation made under this Act is, if it so provides, effective with reference to a period before it is filed.

Subdelegation

(3) A regulation under this Act may authorize a person to require, authorize, prescribe or otherwise determine any matter that may be required, authorized, prescribed or otherwise determined by the Lieutenant Governor in Council under this Act.

Ontario Energy Board Act, 1998

16. (1) The definition of "enforceable provision" in section 3 of the *Ontario Clean Energy Board Act, 1998* is amended by adding the following clause:

(c.2) a provision of the *Ontario Rebate for Electricity Consumers Act, 2016* or the regulations made under it,

(2) Section 70 of the Act is amended by adding the following subsection:

Deemed condition of licences, unit sub-meter provider, *Ontario Rebate for Electricity Consumers Act, 2016*

(2.3) Every licence issued to a unit sub-meter provider is deemed to contain the condition that the unit sub-meter provider is required to comply with the *Ontario Rebate for Electricity Consumers Act, 2016* and the regulations made under it.

Repeal

17. This Act is repealed on a day to be named by proclamation of the Lieutenant Governor.

Commencement

18. This Act comes into force on the later of January 1, 2017 and the day it receives Royal Assent.

Short title

19. The short title of this Act is the *Ontario Rebate for Electricity Consumers Act, 2016*.

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Ontario Rebate for Electricity Consumers Act, 2016

EXPLANATORY NOTE

The *Ontario Rebate for Electricity Consumers Act, 2016* authorizes financial assistance for certain Ontario electricity consumers in respect of electricity costs. Consumers receive the financial assistance by means of an 8 per cent reduction in the amount payable before tax under their electricity accounts for each billing period. The amount of financial assistance for a billing period is required to be shown on invoices issued to consumers for the billing period. The financial assistance is available with respect to invoices issued on or after January 1, 2017.

The Act authorizes the making of regulations to reimburse electricity vendors for amounts credited to consumers' accounts under the Act. The Act authorizes the making of various other regulations, including to set out other ways for consumers to receive financial assistance, to alter the default rules in the Act for how to calculate the financial assistance and to limit or alter who is entitled to financial assistance.

The Act contains administrative and enforcement provisions, including requirements relating to record keeping by electricity vendors and authorization for inspections and inquiries with respect to amounts of financial assistance provided and reimbursements to electricity vendors. The *Ontario Energy Board Act, 1998* is amended so that provisions of the *Ontario Rebate for Electricity Consumers Act, 2016* and regulations made under it will be enforceable by the Ontario Energy Board.

An Act in respect of the cost of electricity

[TOC]

Definitions

1. (1) In this Act,

"billing period" means a period of time that is wholly or partly in the eligible period and for which an invoice in respect of an eligible account is issued; ("période de facturation")

"Board" means the Ontario Energy Board; ("Commission")

"consumer" means a person,

(a) to whom an invoice is issued in respect of an eligible account for a billing period, or

(b) who is prescribed by the regulations or who satisfies such conditions as may be prescribed by the regulations; ("consommateur")

"distribution system" has the same meaning as in section 3 of the *Ontario Energy Board Act, 1998*; ("réseau de distribution")

"electricity vendor" means the IESO, a licensed distributor, a licensed retailer or a person prescribed by the regulations; ("vendeur d'électricité")

"eligible account" means, in respect of a consumer, an account with an electricity vendor, or with a person prescribed by the regulations, for the provision of electricity in Ontario if,

(a) the consumer has a demand for electricity of 50 kilowatts or less, or such other amount of demand for electricity as may be prescribed,

(b) the consumer annually uses not more than 250,000 kilowatt hours of electricity, or such other amount of use of electricity as may be prescribed,

(c) the consumer,

(i) carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and

(ii) holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act,

(d) the account 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*, or

(e) the consumer or the account satisfies such conditions as may be prescribed by the regulations; ("compte admissible")

"eligible period" means the period commencing January 1, 2017; ("période admissible")

"IESO" has the same meaning as in subsection 2 (1) of the *Electricity Act, 1998*; ("SIERE")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("distributeur titulaire d'un permis")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("détaillant titulaire d'un permis")

"market rules" means the market rules made under section 32 of the *Electricity Act, 1998*; (règles du marché")

"regulations" means the regulations made under this Act; ("règlement")

"retail" has the same meaning as in section 56 of the *Ontario Energy Board Act, 1998*; ("vendre au détail")

"unit sub-metering" means activities that are unit sub-metering for the purposes of the *Ontario Energy Board Act, 1998*; ("activités liées aux compteurs divisionnaires d'unité")

"unit sub-meter provider" means a person who is licensed to engage in unit sub-metering by the Board under Part V of the *Ontario Energy Board Act, 1998*. ("fournisseur de compteurs divisionnaires d'unité")

Eligible account

(2) For the purposes of this Act, if a consumer would, but for this subsection, have an eligible account with a licensed retailer and with a licensed distributor, but only one of them issues an invoice to the consumer for a billing period for all amounts payable by the consumer to them for the billing period,

(a) the consumer is deemed to have an eligible account for the billing period only with whichever of them issues the invoice for the billing period; and

(b) the licensed distributor or licensed retailer who issues the invoice for the billing period is deemed to be imposing all charges and other amounts payable under the invoice for the purposes of determining the amount of financial assistance to which the consumer is entitled.

Base invoice amount

2. (1) For the purposes of this Act, the base invoice amount for a billing period in respect of an eligible account is determined in accordance with the regulations and, unless otherwise prescribed by the regulations, includes, if the invoice is issued by a licensed distributor or a licensed retailer, amounts in respect of,

(a) the commodity price of the electricity;

(b) 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* that are not required under subsection (2) or the regulations to be excluded;

[(c) any charges related to an assessment under section 26.1 of the *Ontario Energy Board Act, 1998*;]

(d) any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*;

(e) any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*; and

(f) anything else prescribed by the regulations.

Exclusions

(2) Except as otherwise prescribed by the regulations, the base invoice amount for a billing period must exclude,

(a) the balance of any amounts carried forward from previous invoices;

(b) all penalties and interest;

(c) any charges that do not relate to the consumption of electricity;

(d) the fixed monthly service charge payable by a generation facility, within the meaning of section 56 of the *Ontario Energy Board Act, 1998*, that is classified as "microFIT" in a rate order issued by the Board under subsection 78 (3) of that Act;

(e) charges labelled as "specific service charges" or "retail service charges" in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*;

(f) the amount of any harmonized sales tax payable under Part IX of the *Excise Tax Act* (Canada); and

(g) any other amounts prescribed by the regulations.

Financial assistance

3. (1) A consumer who has an eligible account during a billing period is entitled to receive financial assistance in respect of the cost of electricity during the billing period in an amount equal to 8 per cent of the base invoice amount for the billing period in respect of the eligible account.

Exception

(2) Despite subsection (1), a consumer is not entitled to receive financial assistance under this Act,

(a) in respect of electricity consumed in generation station service;

(b) in such circumstances as may be prescribed by the regulations; or

(c) if the regulations prescribe that the consumer is excluded from financial assistance.

Payment of financial assistance

(3) The financial assistance to which a consumer is entitled under this Act shall be paid,

(a) by crediting the consumer's eligible account; or

(b) in such other manner as may be prescribed by the regulations.

Money appropriated by the Legislature

(4) The money required for the purposes of this Act shall be paid out of the money appropriated for those purposes by the Legislature.

No assignment of financial assistance

(5) An assignment by a consumer to another person or entity, including a licensed retailer, of the consumer's entitlement to any payment, rebate or credit does not apply to any financial assistance to which the consumer is entitled under this Act, whether the assignment was made before or after this subsection comes into force.

Same

(6) Subsection (7) applies if,

(a) a consumer provides to another person electricity in respect of which the consumer is entitled to financial assistance under subsection (1); and

(b) an invoice for the electricity is issued to the person by the consumer, by an agent of the consumer or by a unit sub-meter provider providing unit sub-metering for the consumer.

Requirement to pass on benefit

(7) Despite subsections (1) and (5), the consumer and every unit sub-meter provider providing unit sub-metering for the consumer shall ensure that each person who is liable to pay an invoice referred to in clause (6) (b) receives a credit, determined in the manner prescribed by the regulations, in respect of the financial assistance to which the consumer is entitled with respect to electricity the consumer provides to the person.

Invoices

4. (1) Unless otherwise prescribed by the regulations, every electricity vendor who issues an invoice for a billing period to a consumer in respect of an eligible account shall clearly show on the invoice,

(a) a credit equal to the amount of the financial assistance provided to the consumer for the billing period; and

(b) the net amount of the invoice after the credit.

Invoice issued by consumer, etc.

(2) An invoice that is issued by a consumer, an agent of a consumer, a unit sub-meter provider or another person prescribed by the regulations must be in the form required by the regulations and contain or be accompanied by the information required by the regulations.

Transitional

(3) If, for technical or operational reasons, an electricity vendor or a person referred to in subsection (2) is unable to adapt its invoices to comply with this Act and the regulations by the time it issues its first invoice for electricity consumed in 2017 in respect of an eligible account,

(a) the electricity vendor or person shall adapt its invoices as soon as possible and, in any event, no later than July 1, 2017; and

(b) consumers continue to be entitled to receive the financial assistance to which they are entitled under this Act and may receive it as a lump sum credit on the invoice for the first billing period after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Financial arrangements

Purposes

5. (1) The purposes of this section are,

(a) to ensure that financial assistance under this Act and the regulations is provided to those persons entitled to receive it; and

(b) to authorize the making of financial arrangements to reimburse electricity vendors, and other persons prescribed by the regulations, for financial assistance provided under this Act and the regulations.

Regulations

(2) The Lieutenant Governor in Council may, for the purpose of this section, make regulations,

(a) authorizing the Minister of Energy to make payments to persons who are electricity vendors or persons prescribed by the regulations in respect of the

amount of financial assistance to which consumers are entitled under this Act and prescribing methods for determining the amounts payable;

(b) requiring the IESO to make payments to licensed distributors, or to persons prescribed by the regulations, in respect of financial assistance provided under this Act or the regulations and prescribing methods for determining the amounts payable;

(c) requiring a licensed distributor to make payments to other licensed distributors or licensed retailers in respect of financial assistance under this Act and prescribing methods for determining the amounts payable;

(d) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments in respect of financial assistance to consumers or other persons entitled to receive the financial assistance and prescribing the circumstances in which such payments are to be made and methods for determining the amounts payable;

(e) authorizing the Minister of Energy to make payments of financial assistance directly to consumers and prescribing the circumstances when such payments are to be made;

(f) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments to the Minister of Finance in respect of amounts received by them or in circumstances prescribed by the regulations and prescribing methods for determining the amounts payable;

(g) authorizing payments referred to in clause (a), (b), (c), (d) or (f) to be made by way of set-offs and credits and prescribing conditions entitling or requiring amounts to be set off or credited;

(h) governing the payments required under clause (a), (b), (c), (d) or (f), including methods for paying the amounts payable and when the payments must be made, and governing methods for determining amounts to be set off or credited, including the times within which amounts must or may be set off or credited;

(i) for the purposes of this Act and the regulations, requiring persons who are electricity vendors or persons prescribed by the regulations to provide information to the Minister of Energy, the Minister of Finance, the IESO, the Board or licensed distributors and prescribing the information to be provided and when it must be provided;

(j) governing the establishment and maintenance of variance accounts required for the purposes of this Act.

Conflict with market rules and codes

(3) In the event of a conflict, a regulation made under subsection (2) prevails over the market rules to the extent of the conflict and prevails over a code issued by the Board under section 70.1 of the *Ontario Energy Board Act, 1998* to the extent of the conflict.

Provision of information

(4) A person may do anything required by a regulation made under clause (2) (i) despite any agreement to the contrary and, if the person does so,

(a) the person is not liable for doing the thing in contravention of any agreement to the contrary; and

(b) doing the thing is deemed not to constitute a breach, termination, repudiation or frustration of any contract.

Cut-off dates and limitation periods for financial assistance, reimbursement
Financial assistance

6. (1) Despite any entitlement of consumers to financial assistance under this Act, no financial assistance is payable to a consumer after a date or after a limitation period prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after a date or limitation period prescribed by the regulations in respect of the electricity vendor or other person, other than in such circumstances as may be prescribed by the regulations.

Definition

7. In sections 8, 9 and 10,

"Minister" means the Minister of Finance or such other member of the Executive Council to whom the administration of those sections is assigned under the *Executive Council Act*.

Records

8. (1) Every electricity vendor and every person prescribed by the regulations shall keep at a location in Ontario such records as are necessary to determine and verify

compliance with this Act and the regulations and any records required by the regulations to be kept.

Electronic records

(2) If a person keeps records in an electronic form, the person shall ensure that, from the time the records are first made and for as long as they are required to be retained,

(a) they remain complete and unaltered, apart from any changes or additions made in the normal course of communication, storage or display; and

(b) they are capable of being printed and of being produced in electronically readable format for inspection, examination or audit.

Retention of records

(3) Records required to be kept under subsection (1) shall not be destroyed unless authorization has been given in writing by the Minister.

Offence

(4) Every person who fails to keep records in accordance with this section is guilty of an offence and, on conviction, is liable to a fine of not less than $50 and not more than $5,000.

Inspections and inquiries

9. (1) The Minister may appoint one or more inspectors who are authorized to exercise any of the powers and perform any of the duties of a person authorized by the Minister under subsection 31 (1) of the *Retail Sales Tax Act* for any purpose related to the administration and enforcement of this Act.

Same

(2) Subsections 31 (1), (2), (2.1) and (2.2) of the *Retail Sales Tax Act* apply, with necessary modifications, with respect to the administration and enforcement of this Act.

Admission of evidence

(3) The Minister, or a person authorized by the Minister, may, for any purpose related to the administration of this Act or the regulations, reproduce from original data stored electronically any information previously submitted as required under this Act or the regulations in any form by any person, and the electronically reproduced document shall be admissible in evidence and shall have the same probative force as the original document would have had if it had been proved in the ordinary way.

Inquiry

(4) The Minister may, for any purpose related to the administration of this Act or the regulations, authorize any person, whether or not the person is an employee in the

Ministry of the Minister, to make such inquiry as the Minister considers necessary with reference to anything relating to the administration of this Act or the regulations.

Copies

(5) If a book, record or other document is examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry may make, or cause to be made, one or more copies of it, and a document purporting to be certified by the person to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if proved in the ordinary way.

Compliance

(6) No person shall hinder or molest or interfere with any person doing anything that the person is authorized by this section to do or prevent or attempt to prevent any person doing any such thing.

Same

(7) Despite any other law to the contrary, every person shall, unless the person is unable to do so, do everything he, she or it is required by this section to do.

Administration of oaths

(8) Declarations or affidavits in connection with statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee for doing so.

Application of Public Inquiries Act, 2009

(9) Section 33 of the *Public Inquiries Act, 2009* applies to an inquiry under subsection (4).

Recovery of overpayments

Definitions

10. (1) In this section,

"inspector" means an inspector referred to in section 9; ("inspecteur")

"overpayment" means an amount received by a person in excess of any reimbursement to which the person is entitled under this Act and the regulations. ("trop-perçu")

Notice of overpayment

(2) If it appears to an inspector that a person has received an overpayment, the Minister may send a written notice to the person advising the person of the following:

1. That the person has received an overpayment.

2. The amount of the overpayment and how it was calculated.

3. The required steps to be taken by the person with respect to the overpayment.

4. The date, not more than six months after the date of the notice, by which these steps must be completed.

5. That the Minister has the authority to assess the person for the amount of the overpayment, plus interest, if the person fails to complete the required steps by the specified date.

Calculation of amount of overpayment

(3) For the purposes of this section, an inspector shall calculate an overpayment or the outstanding balance of an overpayment in the manner and form and using such procedures as the Minister considers adequate and expedient.

Assessment

(4) If a person fails to complete the steps required in a notice under subsection (2) within the time specified in the notice, and any additional time requested by the person and permitted by the Minister, the Minister may assess or reassess the amount of the overpayment, or the outstanding balance of the overpayment, based on the inspector's calculation described in subsection (3).

Penalty

(5) If the Minister makes an assessment or reassessment under subsection (4) and is satisfied that the person's non-compliance with the required steps in the notice was attributable to neglect, carelessness, wilful default or fraud, the Minister may assess a penalty against the person equal to the outstanding balance of the overpayment when the penalty is assessed.

Time limit

(6) The Minister shall not assess or reassess under subsection (4) more than 48 months after the end of the month in which the person received the overpayment.

Exception, where misrepresentation, etc.

(7) Subsection (6) does not apply if the Minister establishes that the person has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in supplying information under this Act or the regulations or in omitting to disclose information.

Deemed debt retirement charge

(8) An amount assessed or reassessed by the Minister under this section is deemed for the purposes of the administration and enforcement of this Act to be a debt retirement charge, as defined in subsection 85 (1) of the *Electricity Act, 1998*, that has been collected, on the last day of the month in which the person received the overpayment, by the person as a collector appointed under subsection 85.3 (1) of the *Electricity Act, 1998* and, for those purposes,

(a) sections 85.11, 85.12, 85.14, 85.17 and 85.30 of that Act apply with necessary modifications;

(b) in the application of sections 85.11 and 85.14 of that Act and without limiting the generality of clause (a), references to the Financial Corporation are read as references to the Minister of Finance and references to the Minister of Finance are read as references to the Minister as defined in section 7 of this Act;

(c) the regulations made under that Act for the purposes of calculating the rate or rates of interest payable under section 85.11 of that Act and the manner of calculating the amount of interest apply with necessary modifications; and

(d) sections 23 and 36, subsections 37 (1), (1.1) and (2) and sections 37.1, 38 and 39 of the *Retail Sales Tax Act* apply with necessary modifications.

Disposition of repaid amounts

(9) If all or part of an overpayment is repaid to the Minister of Finance, the Minister of Energy shall make such financial arrangements and payments as may be necessary to ensure that any electricity vendor or other person entitled to all or part of the overpayment receives the appropriate amount.

Confidentiality

11. (1) Except as authorized by this section, no person employed by the Government of Ontario shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister of Energy or the Minister of Finance for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Testimony

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

(a) to give evidence relating to any information obtained by or on behalf of the Minister of Energy or Minister of Finance for the purposes of this Act; or

(b) to produce any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Exception

(3) Subsections (1) and (2) do not apply in respect of,

(a) criminal proceedings under any Act of the Parliament of Canada;

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

(c) proceedings relating to the administration or enforcement of this Act or Part V.1 or VI of the *Electricity Act, 1998*.

Communication

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,

(a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law or to an employee of the Board information obtained by or on behalf of either Minister for the purposes of this Act; and

(b) allow another person employed by the Government of Ontario in the administration or enforcement of any law or an employee of the Board to inspect or have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Reciprocal communication

(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to that Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of information

(6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

Same

(7) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to,

(a) the person from whom the information, record or thing was obtained;

(b) any person by whom an amount is payable or has been paid under this Act; or

(c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.

Information

(8) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to any person employed by any government if,

(a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and

(b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

Offence

(9) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than $2,000.

Offences

False statements, etc., and fraud

12. (1) Every person who engages in any of the following acts or omissions is guilty of an offence:

1. Making, participating in, assenting to or acquiescing in the making of a false or deceptive statement in any document or answer required or submitted under this Act or the regulations.

2. Destroying, altering, mutilating, hiding or otherwise disposing of information or records of an electricity vendor or other person, for the purpose of evading compliance with this Act or the regulations.

3. Making, assenting to or acquiescing in the making of a false or deceptive entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

4. Omitting to make or assenting to or acquiescing in the omission of an entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

5. Wilfully evading or attempting to evade, in any manner, compliance with an obligation under this Act or the regulations.

Penalty upon conviction

(2) A person convicted of an offence under subsection (1) is liable to either or both of the following penalties in addition to any other penalty assessed under this Act:

1. A fine in an amount that is not less than $1,000 and not more than $10,000.

2. Imprisonment for a term of not more than two years.

General offence

(3) Every person who contravenes, by any act or omission, a requirement imposed under this Act is guilty of an offence and, on conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than $50 and not more than $5,000.

Limitation period

13. A proceeding to prosecute an offence under this Act must be commenced within six years after the date on which the matter of the offence arose.

Payment of fines

14. Fines imposed on conviction of an offence under this Act are payable to the Minister of Finance on behalf of the Crown in right of Ontario.

Regulations

15. (1) The Lieutenant Governor in Council may make regulations,

(a) prescribing anything required to be or referred to in this Act as being prescribed by the regulations;

(b) defining any word or expression used in this Act that is not already expressly defined in this Act;

(c) requiring any person to take such action or refrain from taking such action as may be necessary for the purposes of or in connection with any regulation made under this Act;

(d) prescribing information that must or may be included on invoices issued to consumers or that must or may accompany invoices issued to consumers or payments of financial assistance under this Act;

(e) governing the presentation of financial assistance under this Act on invoices issued to consumers;

(f) governing information that must or may be provided to consumers concerning this Act and eligibility for financial assistance under it;

(g) governing the determination of the base invoice amount for a billing period with respect to a class of electricity vendors or a class of consumers;

(h) prescribing a method of paying or crediting to a consumer an amount of financial assistance to which the consumer is entitled under this Act and the circumstances in which the method applies;

(i) requiring a unit sub-meter provider to provide financial assistance in respect of the cost of electricity and prescribing,

(i) the circumstances in which the financial assistance is to be provided,

(ii) the person or class of persons entitled to receive the financial assistance,

(iii) the method of determining the amount of the financial assistance to be provided,

(iv) the manner for paying or otherwise providing the financial assistance;

(j) setting out one or more dates or limitation periods for the purposes of subsection 6 (1) or (2), and governing the circumstances in which that subsection does not apply;

(k) respecting records to be kept by electricity vendors or by persons prescribed by the regulations;

(l) providing for matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of this Act and the regulations.

Retroactive regulations

(2) A regulation made under this Act is, if it so provides, effective with reference to a period before it is filed.

Subdelegation

(3) A regulation under this Act may authorize a person to require, authorize, prescribe or otherwise determine any matter that may be required, authorized, prescribed or otherwise determined by the Lieutenant Governor in Council under this Act.

Repeal

16. On the day this section comes into force, this Act is repealed.

Ontario Clean Energy Benefit Act, 2010

17. (1) The *Ontario Clean Energy Benefit Act, 2010* is amended by adding the following section:

Cut-off dates for financial assistance, reimbursement

Financial assistance

6.1 (1) Despite any entitlement of consumers to financial assistance under this Act, no financial assistance is payable to a consumer after the date prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after the date prescribed by the regulations in respect of the electricity vendor or other person, other than in such circumstances as may be prescribed by the regulations.

(2) Subsection 15 (1) of the Act is amended by adding the following clause:

(i.1) setting out one or more dates for the purposes of subsection 6.1 (1) or (2), and governing the circumstances in which that subsection does not apply;

Ontario Energy Board Act, 1998

18. (1) The definition of "enforceable provision" in section 3 of the *Ontario Energy Board Act, 1998* is amended by adding the following clause:

(c.2) a provision of the *Ontario Rebate for Electricity Consumers Act, 2016* or the regulations made under it,

(2) On the day this subsection comes into force, clause (c.2) of the definition of "enforceable provision" in section 3 of the Act, as made by subsection (1), is repealed.

(3) Section 70 of the Act is amended by adding the following subsection:

Deemed condition of licences, unit sub-meter provider, *Ontario Rebate for Electricity Consumers Act, 2016*

(2.3) Every licence issued to a unit sub-meter provider is deemed to contain the condition that the unit sub-meter provider is required to comply with the *Ontario Rebate for Electricity Consumers Act, 2016* and the regulations made under it.

(4) On the day this subsection comes into force, subsection 70 (2.3) of the Act, as made by subsection (3), is repealed.

Commencement

19. (1) Subject to subsection (2), this Act comes into force on the later of January 1, 2017 and the day it receives Royal Assent.

(2) Section 16 and subsections 18 (2) and (4) come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

20. The short title of this Act is the *Ontario Rebate for Electricity Consumers Act, 2016*.

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1-edited-RA

ONTARIO REGULATION

made under the

ONTARIO REBATE FOR ELECTRICITY CONSUMERS ACT, 2016

INVOICING REQUIREMENTS

Definitions

1. In this Regulation,

"financial assistance" has the same meaning as in **[**insert filing number of reg2016.046**].**
[linked to definition in LGinC reg, sincefinancial assistance" is used in the Act, and the power to define terms used in the Act is for the LGinC, not the Minister, and also to simplify][I am wondering, though, if the definition is needed -- does it work in the sub-metering provision? Does it add anything to the vendor provisions ?]

[dropped definition of "invoice period" as it didn't seem to add anything to ordinary meaning of term]

"Minister" means the Minister of Energy.

[dropped definition of "Ministry" since it only seemed to be used in reference back to a clear reference to the Ministry of Energy]

[dropped reference to "remote unlicensed distributor" on understanding they will be prescribed as electricity vendors under the LGinC reg]
[Ralph: We will need to distinguish between RUDs and other electricity vendors, as noted in drafting instructions for s. 2 below, so suggest keeping the definition of RUD]

Invoices – electricity vendors

2. Subject to sections 4 and 5, the following rules apply in the case of an invoice issued by an electricity vendor for a billing period in respect of an eligible account:
[Ralph:

Clauses 1 – 6 will only apply starting with the first invoice on which the financial assistance is provided

Clauses 4 – 6 will not apply at all to RUDs.]

1. The total amount of the credited financial assistance for the billing period and, if applicable, the amount of any credits for financial assistance for previous billing periods that were not provided in previous billing periods, must be clearly shown as a line item on the face of the invoice at an appropriate location below the itemized charges for electricity, delivery, regulatory charges, debt retirement charge and harmonized sales tax, but above the net amount of the invoice after deducting the credit.

2. The line item must be displayed no less prominently than the itemized charges referred to in paragraph 1.

3. The credit must be labelled as follows: "8% Provincial Rebate ~~equal to Ontario's portion of HST (8%)~~".

4. The invoice must set out, in a location where conservation or other utility messages to consumers are usually placed, the following statement: "~~To help you with the cost of electricity, the~~ Ontario is providing a rebate on your electricity costs ~~Government has lowered your electricity costs by an amount~~ equal to ~~Ontario's~~ the Provincial portion of HST".

5. Where the invoice is provided in paper form, the envelope that contains the invoice must set out the following statement in an appropriate location on the face of the envelope: "~~For residential customers~~Ontario is helping reduce electricity costs for families, ~~small~~ businesses and farms~~: The Ontario Electricity Rebate takes an amount equal to Ontario's portion of HST (8%) off your electricity costs. Check your bill for details~~".

6. Where the invoice is provided in paper form, ~~T~~the invoice must be accompanied by a paper bill insert in the form available at the Ministry of Energy, 4th Floor, Hearst Block, 900 Bay Street, Toronto, Ontario ~~or on the Internet through the website of the Ministry, which shall be a paper insert in a paper invoice, or an attachment to an electronic invoice~~.

[What is to be in this insert? As it stands, this seems too vague]
[Ralph: I have set out at the end of this reg. the proposed required wording for the bill insert]

Invoices – unit sub-meter providers

3. Subject to sections 4 and 5, the following rules apply in the case of an invoice issued to a person by a unit sub-meter provider who provides unit sub-metering for a consumer to whom subsection 3 (7) of the Act applies:

1. The invoice must clearly show, as a line item on the face of the invoice at an appropriate location below the itemized charges for electricity, delivery, regulatory charges, debt retirement charge and harmonized sales tax, but above the total amount payable on the invoice,

    i. a credit equal to the sum of,

        A. the amount of the credit to which the person is entitled in respect of the financial assistance to which the consumer is entitled under the Act or a regulation made under the Act for the period to which the invoice relates,

        B. the amount of financial assistance to which the person is entitled for that period under the Act or a regulation made under the Act in respect of any fees and charges for unit sub-metering, and

        C. the amount of any credits to which the person was entitled for previous invoice periods that were not provided in previous invoices, and

    ii. the net amount of the invoice after deducting the credit.

2. The line item must be displayed no less prominently than the itemized charges referred to in paragraph 1.

3. The credit must be labelled as follows: "8% Provincial Rebate ~~equal to Ontario's portion of HST (8%)~~".

4. The invoice must set out, in a location where conservation or other utility messages to consumers are usually placed, the following statement: "~~To help you with the cost of electricity, the~~ Ontario is providing a rebate on your ~~Government has lowered your~~ electricity costs ~~by an amount~~ equal to ~~Ontario's~~ the Provincial portion of HST".

5. Where the invoice is provided in paper form, the envelope that contains the invoice must set out the following statement in an appropriate location on the face of the envelope: "~~For residential customers, small~~Ontario is helping reduce electricity costs for families, businesses and farms~~: The Ontario Electricity Rebate takes an amount equal to Ontario's portion of HST (8%) off your electricity costs. Check your bill for details~~".

6. Where the invoice is provided in paper form, t~~T~~he invoice must be accompanied by a paper bill insert in the form available at the Ministry of Energy, 4th Floor, Hearst Block, 900 Bay Street, Toronto, Ontario ~~or on the Internet through the website of the Ministry, which shall be a paper insert in a paper invoice, or an attachment to an electronic invoice~~.

[What is to be in this insert? As it stands, this seems too vague] [See wording at end of reg.]

Alternatives authorized by Minister

4. (1) If the Minister is satisfied that, for technical or operational reasons, it would be impossible, impractical or unreasonably difficult for an electricity vendor or a unit sub-meter provider to use on its invoices the wording required by this Regulation or to follow an invoicing process required by this Regulation, and if the Minister is satisfied that using different wording specified by the Minister or following a different invoicing process specified by the Minister would also promote the purposes of the requirement, the Minister may give the vendor a written notice so stating.

(2) If an electricity vendor or unit sub-meter provider receives a notice from the Minister under subsection (1), it shall use on its invoices the wording specified in the Minister's notice and shall follow the invoicing process specified in the Minister's notice instead of the wording or invoicing process otherwise required under this Regulation.

Transitional

5. (1) The requirements of clauses 1 to 4 of sections 2 and 3 apply in respect of all invoices issued in respect of an eligible account that show the financial assistance under the Act.

(2) The requirements of clauses 5 and 6 of sections 2 and 3 apply in respect of all of the invoices contemplated in subsection (1) up to and including the invoice for electricity consumed in July 2017.

Commencement

6. This Regulation comes into force on January 1, 2017.

Proposed Wording for Bill Insert:

On January 1, 2017 your hydro bill got 8% lighter

Ontario's government is taking action to reduce electricity costs and will rebate an amount equal to the provincial portion of the HST on your monthly bills. That's an 8% rebate for Ontario families, and on average this will mean $130 more in your pocket each year.

[This is all part of Ontario's balanced plan to build the province up and help people in their everyday lives. Across Ontario, about five million residential consumers, farms and small businesses, along with more than one thousand industrial customers will be positively impacted by expanding programs to help businesses grow and compete.]
[Ralph: I understand that you may have authority issues with this paragraph]

[***LDC name***] will implement these savings onto your bill by July 1, 2017. Applicable savings will be retroactive to January 1, 2017.

To learn more visit Ontario.ca/energy

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1-RA

ONTARIO REGULATION

made under the

ONTARIO REBATE FOR ELECTRICITY CONSUMERS ACT, 2016

(GENERAL)

PART I
ELECTRICITY VENDORS

Definitions and interpretation

1. (1) In this Regulation,

"distribution system" has the same meaning as in section 3 of the *Ontario Energy Board Act, 1998*;

"distributor" means a person who owns or operates a distribution system;

"financial assistance" means an amount credited to an eligible account or paid to a person as financial assistance under the Act or this Regulation and includes an amount credited or paid as financial assistance in circumstances in which the person benefiting from the credit or payment is not entitled to all or part of the amount;

"host distributor" means a licensed distributor who is a market participant and who distributes electricity to a wholly-embedded distributor;

"IESO-controlled grid" means the transmission systems with respect to which, pursuant to agreements, the IESO has authority to direct operations;

"market participant" means a person who is authorized by the market rules,

(a) to participate in the markets established by the market rules, or

(b) to cause or permit electricity to be conveyed into, through or out of the IESO-controlled grid;

"Minister" means the Minister of Energy;

"Ministry" means the Ministry of Energy;

"transmission system" means a system for transmitting electricity and includes any structures, equipment or other things used for that purpose;

"wholly-embedded distributor" means a licensed distributor who is not a market participant and to whom a host distributor distributes electricity.

(2) For the purposes of the Act and this Regulation, the commodity price of electricity includes the "Final RPP Variance Settlement Amount", if any, required by the Standard Supply Service Code issued by the Board.

(3) For the purposes of this Regulation,

(a) Hydro One Remote Communities Inc. is deemed to be a wholly-embedded distributor and Hydro One Networks Inc. is deemed to be its host distributor; and

(b) Cornwall Street Railway Light and Power Company Limited is deemed to be a wholly-embedded distributor and Canadian Niagara Power Inc. is deemed to be its host distributor.

[Energy Policy to confirm that this is still correct. This provision is taken from the OCEBA general reg. 495/10]

Yes this is correct

(4) Payments required under this Regulation are in addition to any payments that may be required by the market rules or by the Retail Settlement Code issued by the Board under the *Ontario Energy Board Act, 1998*.

Base invoice amount

2. (1) Subject to subsection (2), the base invoice amount for a billing period in respect of an eligible account is determined as follows:

[Energy Policy to confirm that these provisions are correct as written. The provisions were taken from 495/10]

[Note for leg counsel: OESP is shown as a credit (deduction) on OESP program participant's invoices. For all invoices that include OESP (i.e. rate assistance under s. 79.2 of the OEBA), the base invoice amount should be net of (i.e. after deducting) the OESP rate assistance.]

Comment [DS1]: Note for leg counsel: Using the reg-making powers under s. 2(1) of the ORECA, we would like to specifically include OESP in the base invoice amount the amount of any rate assistance received under 79.2 of the OEBA (i.e. the OESP).

But if the amount payable on the bill is less than zero, then we don't want the rebate to claw back the credit going onto the next bill. (Bear in mind that the rebate is a reduction.)

1. If the invoice is issued by a licensed distributor, other than Cornwall Street Railway Light and Power Company Limited or Dubreuil Lumber Inc., or is issued by a licensed retailer, the base invoice amount for a billing period includes the amounts for the billing period listed in subsection 2 (1) of the Act, other than anything required by subsection 2 (2) of the Act to be excluded in determining the base invoice amount for the billing period.

2. If the invoice is issued by the IESO to a market participant who is a consumer, the base invoice amount for a billing period,

    i. includes,

        A. the commodity price of the electricity,

        B. all settlement amounts appearing on the invoice in accordance with Chapter 9 of the market rules,

        C. any fees and charges payable by the market participant under section 25.20 of the *Electricity Act, 1998*,

        D. amounts payable by the market participant under subsection 79.1 (3) of the *Ontario Energy Board Act, 1998*,

        E. **[Energy Policy to advise whether we should refer to the DRC here. Note that the DRC was not referenced in the corresponding provision in 495/10, but I was not able to find an exemption for market participants (other than in connection with residential consumption)]**, and
        [Note for leg counsel: No need to reference DRC. It is included in B. above (it is in Ch. 9 of the market rules)]

        F. any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*, and

    ii. excludes anything required by subsection 2 (2) of the Act to be excluded.

3. If the invoice is issued by Cornwall Street Railway Light and Power Company Limited, the base invoice amount for a billing period,

    i. includes,

        A. the cost of electricity supplied, including any delivery charges and regulatory charges, and

B. any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*, and

ii. excludes,

A. any charges for services that are not included in the cost of the electricity supplied, the delivery charges or the regulatory charges referred to in sub-subparagraph i A, and

B. anything required by subsection 2 (2) of the Act to be excluded.

4. If the invoice is issued by Dubreuil Lumber Inc., the base invoice amount for a billing period,

i. includes,

A. the commodity price of the electricity,

B. delivery charges, other than a charge required to be excluded under subparagraph ii,

C. any regulatory charges,

D. any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*,

E. any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*, and

ii. excludes,

A. a charge for reconnecting the consumer at a meter or pole, and

B. anything required by subsection 2 (2) of the Act to be excluded.

(2) An electricity vendor shall include in the base invoice amount for a billing period only those amounts or portions of amounts appearing on the invoice for the billing period that relate to electricity consumption in the eligible period.

[Drafting note for Energy Policy: Bill 13 would allow the rebate to be applied to all electricity consumed on transitional bills (i.e. bills for electricity consumed both in 2016 and 2017). This ss. 3(2) would restrict the application of the rebate to the portion of transition bills covering electricity consumed in 2017. Ss. 3(3) below addresses the practicalities of dealing with transition bills esp. where the

consumption is not smart metered. Please confirm that this is the approach you want to take.]
The Policy direction is that only charges that are connected to consumption that occurs on and after January 1, 2017 is eligible for the rebate.

(3) An electricity vendor may make a reasonable estimate of,

(a) the volume of electricity used by a consumer during a portion of a billing period; and

(b) the portion of an amount that relates to electricity consumption during a portion of a billing period.

Flow through of financial assistance

4. (1) This section applies to,

Comment [DS2]: Confirm numbering.

(a) a consumer to whom subsection 3 (7) of the Act applies; and

(b) a person who is entitled to receive a credit under subsection 3 (7) of the Act on an invoice issued by the consumer, an agent of the consumer or a unit sub-meter provider providing unit sub-metering for the consumer.

(2) The credit that the person is entitled to receive under subsection 3 (7) of the Act and the consumer or unit sub-meter provider is required to provide is equal to the amount of the financial assistance to which the consumer is entitled for a billing period in respect of the eligible account, multiplied by the ratio of the portion of the amount of the invoice for the billing period that is payable by the person to the total amount of the invoice for the billing period payable by the consumer.

Financial assistance re fees and charges imposed by unit sub-meter providers

5. (1) The section applies to,

(a) every unit sub-meter provider who provides unit sub-metering for a consumer to whom subsection 3 (7) of the Act applies; and

(b) every person to whom the unit sub-meter provider issues an invoice for electricity in respect of which a consumer is entitled to receive financial assistance under section 3 of the Act.

(2) In this section,

"fees and charges" means any fees and charges for unit sub-metering that appear on an invoice issued by a unit sub-meter provider;

"invoice period" means, in respect of an invoice for electricity issued to a person by a unit sub-meter provider, the period of time to which the invoice applies.

(3) A person to whom an invoice is issued for an invoice period by a unit sub-meter provider is entitled to receive financial assistance equal to eight per cent of the sum of the amount of fees and charges for the invoice period or, if the invoice period is not wholly in the eligible period, for the portion of the invoice period that is in the eligible period.
[Energy Policy to confirm treatment of transitional bills. This includes treatment of USMP fees and charges on transitional bills (see s. 5(4) below).]
[Note for leg counsel: We should allow USMPs to make reasonable estimates of the portion in the eligible period – see 3(3) above]

(4) If an invoice period is not wholly within the eligible period, the amount of fees and charges for the portion of the invoice period that is in the eligible period is determined by multiplying the amount of the fees and charges for the invoice period by the ratio of the number of days in the invoice period that are in the eligible period to the total number of days in the invoice period.

Explanation of calculation of credit

6. (1) The issuer of an invoice that includes a credit for financial assistance shall, if requested by the person liable to pay the invoice, explain how the amount of the financial assistance on the invoice has been calculated.

(2) If an invoice issued by an electricity vendor or unit sub-meter provider contains a credit for more than one billing period or invoice period, the issuer of the invoice shall provide, if requested by the person liable to pay the invoice, a break-down of the amount of the credit between periods.
[Energy Policy to confirm treatment of carry-over credits]
Confirmed

Payments directly to consumers

7. (1) In this section,

"issuer" means an electricity vendor, consumer, agent of a consumer or a unit sub-meter provider who issues an invoice to a person who is entitled to,

(a) financial assistance, or

(b) a credit under subsection 3 (7) of the Act.

(2) This section applies to an issuer if,

(a) subsection 4 (3) of the Act applies to,

(i) the issuer,

(ii) an electricity vendor who issues invoices to the issuer or to a consumer for whom the issuer is an agent, or

(iii) an electricity vendor who issues invoices to a consumer for whom the issuer provides unit sub-metering; and

(b) the person entitled to the financial assistance or credit ceases to have an account with the issuer before receiving all or part of the financial assistance or credit to which he or she is entitled.

(3) If the amount the person is entitled to receive from an issuer but has not received is at least $10, the issuer shall, no later than September 30, 2017, mail or deliver by hand the unpaid amount to the person's most recent address known to the issuer.

[Energy Policy to confirm $ threshold – also applies in ss. 7(5) below]
[Energy Policy to confirm date] Confirming both threshold and date

(4) If a cheque mailed or delivered by hand in accordance with subsection (3) has not been cashed despite the best efforts of the issuer to deliver it, and the cheque has ceased to be negotiable through the passage of time, the person ceases to be entitled to receive the amount of financial assistance or credit represented by the cheque.

(5) Every electricity vendor and unit sub-meter provider shall pay to the Minister of Finance all amounts of less than $10 that are not paid by the electricity vendor or unit sub-meter provider and all amounts not received by a person and to which the person has ceased under this section to be entitled to receive.

(6) If a consumer referred to in subsection 3 (7) of the Act is unable for reasons beyond his or her control to provide a credit to a person, to have the credit provided to the person by an agent or unit sub-meter provider or to pay the amount of the credit to the person under subsection (3), the consumer shall pay to the Minister of Finance the amount that should have been credited or paid to the person and the person ceases to be entitled to the credit.

Duty to provide information

8. Every electricity vendor and every person specified by the Minister shall, upon receipt of a request from the Minister or the Board, provide the information relating to the Act and this Regulation specified in the request within the time period specified in the request.

[As you know, this was our Office's advice about this section: The problem with s. 8 is that, on its face, it allows the Minister to require anyone to provide any information relating to the Act or regulation. This is a broad power, and a search power that infringes on rights. A court would expect to see clear authority. The general regulation-making powers in s. 15 (1) (c) and (j) are not sufficient.

It is possible to imagine a more limited version of this provision being authorized, if the provision were
(i) specifically about information required for financial assistance and financial arrangements for reimbursement for financial assistance, and
(ii) about requiring information only from a clear class of persons who one would expect to see affected by s. 5, such as electricity vendors and others who provide financial assistance under the Act, and
(iii) limited to information the Minister considers necessary to ensure that financial assistance is provided to those entitled to receive it and to accurately reimburse the financial assistance providers.
This could be authorized under the regulation-making power in s. 5 (2) (j) (which must be read as modified by the opening flush of s. 5 (2), which limits it to the purpose of s. 5).]

[Note for leg counsel: Under the OCEBA, we used this clause (from 495/10) to require bill issuers to report into a secure Ministry of Energy portal certain information related to the amount of financial assistance provided, number of eligible accounts, volume of electricity on which financial assistance was provided, rate class of consumers receiving financial assistance, etc. I will send you an outline of the information required. If your more limited version of the information provision would allow the Ministry to ask for all of that information, then please provide a draft of the clause – scoped as broadly as authority limits would permit.]

Records

9. Every unit sub-meter provider is prescribed for the purposes of section 8 of the Act as a person required to keep records in accordance with that section.

Requirement to provide information for reimbursement purposes

10. (1) An electricity vendor listed in Column 2 in the Table to this subsection, other than a remote unlicensed distributor, shall provide to the person listed in Column 3 in the same row of the Table the information set out in Column 4 in the same row, in the format and at the times specified by the person to whom the information is to be provided, in respect of the last month ending before the day the information is to be provided.

TABLE

[Energy Policy to confirm table specifics. Note that we need to address retail-consolidated billing even if there are no retailers using that form of billing currently, since that option is still currently available to them] [Confirmed]

Column 1 Item	Column 2 Electricity vendor	Column 3 Person to whom information must be provided	Column 4 Information in respect of the last month ending before the day the information is provided
1.	A licensed retailer who uses retailer-consolidated billing	The licensed distributor in whose service area the licensed retailer has	The amount of financial assistance to which consumers who have eligible accounts with the licensed retailer are entitled for the month and any adjustments to be made in respect of earlier months.

		contracts with consumers	
2.	A wholly-embedded distributor	The host distributor of the wholly-embedded distributor	The amount of, (a) financial assistance to which consumers who have eligible accounts with the wholly-embedded distributor are entitled for the month and any adjustments to be made in respect of earlier months; and (b) financial assistance to which consumers who have eligible accounts with licensed retailers are entitled for the month, if the licensed retailers use retailer-consolidated billing and the consumers are in the wholly-embedded distributor's service area, and any adjustments to be made in respect of earlier months.
3.	A licensed distributor who is a market participant	The IESO	The amount of, (a) financial assistance to which consumers who have eligible accounts with the licensed distributor are entitled for the month and any adjustments to be made in respect of earlier months; (b) financial assistance to which consumers who have eligible accounts with licensed retailers are entitled for the month, if the licensed retailers use retailer-consolidated billing and the consumers are in the licensed distributor's service area, and any adjustments to be made in respect of earlier months; (c) financial assistance to which consumers who have eligible accounts with wholly-embedded distributors are entitled for the month, if the licensed distributor is the host distributor of the embedded distributors, and any adjustments to be made in respect of earlier months; and (d) financial assistance to which consumers who have eligible accounts with licensed retailers are entitled for the month, if the licensed retailers use retailer-consolidated billing and the consumers are in service areas of wholly-embedded distributors of which the licensed distributor is the host distributor, and any adjustments to be made in respect of earlier months.

(2) The IESO shall provide to the Minister the information specified by the Minister relating to the following matters, in the format and at the times specified by the Minister:

1. The amount of financial assistance the IESO is required by the Act to provide for a month to consumers who are market participants and any adjustments to be made in respect of earlier months.

2. The amount of financial assistance to which consumers who have eligible accounts with licensed distributors who are market participants are entitled for the month and any adjustments to be made in respect of earlier months.

3. The amount of financial assistance to which consumers who have eligible accounts with wholly-embedded distributors are entitled for the month and any adjustments to be made in respect of earlier months.

4. The amount of financial assistance to which consumers who have eligible accounts with licensed retailers who use retailer-consolidated billing are entitled for the month and any adjustments to be made in respect of earlier months.

(3) For the purposes of this section, a licensed distributor or licensed retailer may estimate the amount of financial assistance to which consumers who have eligible accounts are entitled for a month.

(4) If a licensed distributor or licensed retailer estimates the amount of financial assistance under subsection (3), it must include an adjustment for the difference between the estimate and the actual amount that consumers were entitled to with the information required under subsection (1) as soon as possible after the actual amount becomes known.

Reimbursement to electricity vendors

11. (1) In this section,

"specified electricity vendor" means an electricity vendor other than a remote unlicensed distributor.

(2) The Minister shall reimburse specified electricity vendors for financial assistance provided by them to consumers entitled under the Act to receive the financial assistance.

(3) Based on the information provided by specified electricity vendors under section 10,

(a) the Minister shall pay to the IESO, at such times as the Minister considers appropriate, sufficient amounts to reimburse specified electricity vendors for financial assistance to which consumers are entitled for a month, subject to any adjustments to be made in respect of earlier months;

(b) the IESO shall, after receiving the information required for a month from a licensed distributor who is a market participant, pay to the licensed distributor a sufficient amount to reimburse,

(i) the licensed distributor for the financial assistance to which consumers who have eligible accounts with the licensed distributor are entitled for the month, subject to any adjustments to be made in respect of earlier months,

(ii) wholly-embedded distributors of which the licensed distributor is the host distributor for financial assistance to which consumers who have eligible accounts with the wholly-embedded distributors are entitled for the month, subject to any adjustments to be made in respect of earlier months, and

(iii) licensed retailers who use retailer-consolidated billing for financial assistance to which consumers who have eligible accounts with the licensed retailers, and are in the service area of the licensed distributor or of a wholly-embedded distributor of which the licensed distributor is the host distributor, are entitled for the month, subject to any adjustments to be made in respect of earlier months;

(c) a host distributor shall, before the day specified by the Board, pay to every wholly-embedded distributor of which it is a host distributor a sufficient amount to reimburse,

(i) the wholly-embedded distributor for financial assistance to which consumers who have eligible accounts with the wholly-embedded distributor are entitled for a month, subject to any adjustments to be made in respect of earlier months, and

(ii) licensed retailers who use retailer-consolidated billing for financial assistance to which consumers who have eligible accounts with the licensed retailers, and are in the service area of the wholly-embedded distributor, are entitled for a month, subject to any adjustments to be made in respect of earlier months; and

(d) a licensed distributor shall, before the day specified by the Board, pay a sufficient amount to each licensed retailer who uses retailer-consolidated billing to reimburse the licensed retailer for financial assistance to which consumers who have eligible accounts with the licensed retailer, and who are in the licensed distributor's service area, are entitled for a month, subject to any adjustments to be made in respect of earlier months.

(4) Despite subsection (3), the amount of reimbursement to which an electricity vendor is entitled is subject to such subsequent adjustments as may be required by reason of,

(a) the provision to the Minister or an electricity vendor of additional information;

(b) a determination made by an inspector who conducts an inspection or inquiry under section 9 of the Act that relates to the electricity vendor or to another electricity vendor;

(c) a requirement under subsection 7 (5) to pay an amount to the Minister of Finance; or

(d) a requirement to pay an amount referred to in clause 15 (2) (a) to the Minister of Finance.

(5) Despite subsections (2) and (3), no amount is payable as a reimbursement to a specified electricity vendor who fails without reasonable cause to provide any information required to be provided under this Regulation within the time it is required to be provided.

(6) Payments required under this section by the IESO to a licensed distributor who is a market participant and any subsequent adjustments may be made at the option of the IESO by way of set-off in the accounts maintained by the IESO.

(7) Payments required under this section by a host distributor to a wholly-embedded distributor and any subsequent adjustments may be made at the option of the host distributor by way of set-off in the accounts maintained by the host distributor.

(8) Payments required under this section by a licensed distributor to a licensed retailer who uses retailer-consolidated billing and any subsequent adjustments may be made at the option of the licensed distributor by way of set-off in the accounts maintained by the licensed distributor.

Reimbursement to unit sub-meter providers

12. (1) A unit sub-meter provider shall provide to the IESO, in the format and at the time specified by the IESO, information about the amount of financial assistance provided by the unit sub-meter provider in accordance with section 5 in respect of the last month ending before the day the information is required to be provided and any adjustments to be made in respect of earlier months.

(2) The IESO shall provide to the Minister, in the format and at the times specified by the Minister, the information specified by the Minister relating to the amount of financial assistance provided in accordance with section 5 by unit sub-meter providers for a month and any adjustments to be made in respect of earlier months.

(3) Based on the information provided by unit sub-meter providers to the IESO,

(a) the Minister shall pay to the IESO, at such time as the Minister considers appropriate, sufficient amounts to reimburse unit sub-meter providers for financial assistance provided in accordance with section 5 for a month, subject to any adjustments to be made in respect of earlier months; and

(b) the IESO shall, after receiving the information required for a month from a unit sub-meter provider, pay to the unit sub-meter provider a sufficient amount to reimburse the unit sub-meter provider for the financial assistance provided in accordance with section 5 for a month, subject to any adjustments to be made in respect of earlier months.

(4) Despite subsection (3), the amount of reimbursement to which a unit sub-meter provider is entitled is subject to such subsequent adjustments as may be required by reason of,

(a) the provision to the Minister or the IESO of additional information;

(b) a determination made by an inspector who conducts an inspection or inquiry under section 9 of the Act; or

(c) a requirement under subsection 7 (5) to pay an amount to the Minister of Finance.

(5) Despite subsection (3), no amount is payable as a reimbursement to a unit sub-meter provider who fails without reasonable cause,

(a) to provide any information required to be provided under this Regulation within the time it is required to be provided; or

(b) to comply with any requirement specified by the IESO.

(6) Payments required under this section by the IESO to a unit sub-meter provider and any subsequent adjustments may be made at the option of the IESO by way of set-off in the accounts maintained by the IESO.

Reliance on information

13. (1) For the purposes of the reimbursements and any repayments required under this Regulation, the Minister and electricity vendors shall rely on the information provided to them as required under this Regulation and any additional information requested under section 8.

(2) A licensed retailer and licensed distributor may rely on information provided to each other in determining if a person is entitled to financial assistance under the Act and the amount of the financial assistance.

Variance accounts

14. With the approval of and subject to any direction from the Board, licensed distributors, other than Cornwall Street Railway Light and Power Company Limited and Dubreuil Lumber Inc., shall establish and maintain such variance accounts as may be necessary or desirable for the purposes of the Act and this Regulation.

If retail contract is deemed to be void

15. (1) This section applies if,

(a) a consumer has received financial assistance under the Act in respect of the cost of electricity retailed to the consumer by a licensed retailer pursuant to a contract with the consumer;

(b) the financial assistance was provided to the consumer by means of a credit deducted from the amount otherwise payable by the consumer to a licensed distributor or the licensed retailer in respect of the electricity; and

(c) the contract is deemed to be void under section 16 of the *Energy Consumer Protection Act, 2010* and, pursuant to subsection 16 (3) of that Act, the licensed retailer is required to refund to the consumer the money paid by the consumer under the contract.

(2) The retailer shall,

(a) if the licensed retailer uses retailer-consolidated billing, pay to the Minister of Finance the amount of all reimbursements the licensed retailer received under clause 11 (3) (d) in respect of the eligible account to which the contract related; or

(b) if the licensed retailer uses distributor-consolidated billing, pay to the Minister of Finance an amount equal to the total amount of all financial assistance the consumer received in respect of the commodity price of the electricity under the contract.

[Drafting note for Energy Policy: Do you want to prescribe a limitation period for making retroactive claims for rebate amounts to which a consumer was entitled but did not receive? And similarly, do you want to prescribe a limitation period for claiming reimbursement for rebate amounts provided? If so, what limitation periods do you want?]

[Note for leg counsel: We would like to prescribe a limitation period. It would be somewhat along the same lines as we are preparing for the OCEBA reg. amendments. Since the rebate program has no end date, the limitation period for consumer claims would run for 48 months from the date of entitlement to the rebate that was not provided. The limitation period for bill issuers claiming reimbursement for rebate amounts provided (whether in response to retroactive claims or not) would be three months later – in other words, 51 months from the date of consumer entitlement to the rebate that was not provided. At worst, this would give bill issuers three months to seek reimbursement for rebate amounts paid.]

PART II
REMOTE UNLICENSED DISTRIBUTORS

Remote unlicensed distributors

16. (1) A remote unlicensed distributor is a person, corporation or organization that,

(a) distributes electricity in a remote community listed in Schedule 1;

(b) issues invoices for electricity distributed to electricity customers who are eligible to receive financial assistance under the Act; and

(c) is willing to provide financial to those customers as an agent of the Minister.

(2) Every remote unlicensed distributor meeting the requirements set out in section 17 is prescribed as an electricity vendor for the purposes of the Act.

(3) Sections 2 and 7 do not apply to remote unlicensed distributors or to consumers who have eligible accounts with them.

(4) Despite section 21, no amount is payable as a reimbursement to a remote unlicensed distributor who fails without reasonable cause to provide any information required by the Minister within the time it is required to be provided.

Enrolment of remote unlicensed distributors

17. (1) In order to take part in the Ontario rebate for electricity consumers program, a remote unlicensed distributor must first submit a completed form entitled "Enrolment Application", available from the Ministry, to the contact person at the Ministry listed on the form.

[the "program" kind of comes out of nowhere -- I think we at least need a definition, if not something more substantive] [Note for leg counsel:

[Energy Policy to confirm - use of this form with this title, and that it will be available from the Ministry. Are there any "lessons learned" from the OCEB that we should address in this reg.?] [Confirmed, but Energy Policy is still thinking about whether to allow the four communities that participated in the OCEB program to forego the application process and just sign an energy agreement]

(2) The distributor must submit with the Enrolment Application,

(a) information on the distributor's electricity pricing structure;

(b) information on the distributor's consumer rate classes, if any, including the number of customers within each consumer rate class; and

(c) a sample of an invoice it intends to issue to its electricity customers that shows the amount of financial assistance the customer is entitled to with respect to the time period specified on the application.

(3) The Ministry may request, at any time and from time to time, and the distributor shall provide any additional information or documents the Ministry requires in order to confirm that the distributor is a remote unlicensed distributor during the eligible period and to determine if there are consumers who have eligible accounts with the distributor during the eligible period.

Who is eligible to receive financial assistance from a remote unlicensed distributor

18. A person is eligible to receive financial assistance from a remote unlicensed distributor who meets the requirements set out in section 17 if the person is a consumer in a remote community listed in Schedule 1 who has an eligible account with the remote unlicensed distributor based on at least one of the following conditions set out in the definition of "eligible account" in subsection 1 (1) of the Act:

[Drafting note for Energy Policy: 365/11 uses the term "Ontario clean energy benefit" (which is not defined) rather than "financial assistance" (which is defined). It looks like both are intended to refer to the same thing. Would you please confirm? Is there a policy reason you would like to use something like

"Ontario electricity rebate" in these IPA sections rather than "financial assistance" (e.g. for readability by IPAs)?]
Please continue to use "financial assistance".

1. The consumer has a demand for electricity of 50 kilowatts or less.

2. The consumer annually uses not more than 250, 000 kilowatt hours of electricity.

3. The consumer,

   i. carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and

   ii. holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act.

[Drafting note for Energy Policy: Being a farm is one of the ways specified in the Act for a consumer to have an "eligible account". However, this was not included as a qualifying condition for IPA consumers in the Minister's reg. (365/11). Do you want to include farms served by IPAs (assuming there are any)?]
NTD: include farms served by IPAs.

4. The account 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,

   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*.

Calculating the financial assistance: base invoice amount

19. (1) The purpose of this section is to determine the amount of a consumer's base invoice amount for a billing period for which an invoice for electricity is issued. A consumer's financial assistance for a billing period is eight per cent of the base invoice amount for the billing period or, if the billing period is partly outside the eligible period, for that portion of the billing period that is within the eligible period.

(2) The base invoice amount for a billing period includes the cost of the electricity billed to the consumer for the billing period, including the variable and fixed charges relating to the production and delivery of the electricity, but only for electricity consumed in the eligible period.

(3) The base invoice amount for a billing period for a consumer must exclude,

(a) any unpaid amounts that have already been billed for a previous billing period;

(b) all penalties, interest and any other charges not relating to the production and delivery of electricity to the consumer during the billing period;

(c) any charges relating to electricity supplied to the consumer before the eligible period; and

(d) the amount of any harmonized sales tax (HST) payable under Part IX of the *Excise Tax Act* (Canada).

[Drafting note for Energy Policy: The reference to the HST in s. 6(3)(d) of 365/11 is less formal that the reference here (and elsewhere in this reg. and in Bill 13). Do you want the IPA provisions to be drafted less formally (to the extent leg counsel is comfortable, and the language used still works)?]

Agreed. IPA provisions to be drafted less formally, and with the differences (relative to other electricity vendors) reflected above.

(4) If an invoice issued to a consumer for a billing period includes any charges for electricity consumed before the eligible period, the remote unlicensed distributor may make a reasonable estimate of the portion of the electricity consumed during the eligible period and the electricity charges relating to that electricity in order to determine the base invoice amount for that billing period.

How the distributor provides the financial assistance to a consumer

20. If a consumer's eligible account for electricity with a remote unlicensed distributor is closed before the consumer receives all or part of his or her financial assistance from the distributor, the following rules apply:

1. The distributor may apply the amount of the financial assistance the consumer is entitled to receive but has not yet received to any outstanding balance owing by the consumer to the distributor.

2. If the amount then remaining that the consumer is entitled to receive but has not yet received is at least $10, the distributor must mail or deliver by hand that unpaid amount to the consumer's most recent address known to the distributor.

3. If a cheque mailed or delivered by hand in accordance with paragraph 2 has not been cashed despite the best efforts of the distributor to deliver it, and the cheque has ceased to be negotiable through the passage of time, the distributor is no longer liable to pay the benefits to the consumer and must ensure that the amount is repaid or credited to the Minister of Finance.

4. The distributor shall pay or credit to the Minister of Finance all amounts of less than $10 that are not paid by the distributor and all amounts referred to in paragraph 3,

    i. by reporting the total amount in the next Energy Report form, required under section 21, as a deduction from the amount of any reimbursement payable to the distributor, or

    ii. by remitting the total amount to the Ministry of Energy (but payable to the Minister of Finance).

Reimbursement of benefits provided to consumers

21. (1) To receive a reimbursement for financial assistance provided to its consumers, a remote unlicensed distributor must complete a form entitled "Energy Report", available from the Ministry, for each billing period for which the distributor provided financial assistance to a consumer, and must submit it to the Ministry in accordance with the directions on the form.

(2) The Ministry may at any time request, and the distributor shall provide, within the time specified in the request, any additional information or documents the Ministry considers necessary to determine the amount of the reimbursement to be made to the distributor. No reimbursement for a billing period may be made until the Ministry has received the Energy Report for the billing period and any additional information or documents it has requested to verify the amount to be reimbursed.

(3) Based on the information provided in an Energy Report and any additional information and documents provided by the distributor, the Minister shall reimburse the distributor for the amount of financial assistance provided to consumers. The reimbursement shall be made in the manner set out in the Enrolment Application submitted by the distributor or in another manner agreed to by the distributor and the Ministry.

(4) The amount of a reimbursement may be subsequently adjusted by way of a reduction or increase in the amount of a subsequent reimbursement if it is subsequently determined by an inspector under section 9 of the Act or by the Ministry that the amount of the reimbursement was inaccurate.

[Drafting note for Energy Policy: Do you want to prescribe a limitation period on retroactive claims for rebate amounts and/or reimbursement for rebate amounts provided? If so, what limitation periods do you want?]

NTD: Yes, for IPAs we want to prescribe the same 2-year limitation on retroactive claims for rebates that is being contemplated for the overall program.

Commencement

22. This Regulation comes into force on January 1, 2017.

SCHEDULE 1

1. Fort Hope No. 64.
2. Keewaywin.
3. North Spirit Lake.
4. Winisk Indian Settlement.
5. Pikangikum No. 14.
6. Poplar Hill.
7. Summer Beaver Settlement.
8. Wunnumin No.1.
9. Muskrat Dam Lake.
10. Wawakapewin.

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Ontario Rebate for Electricity Consumers Act, 2016

EXPLANATORY NOTE

The *Ontario Rebate for Electricity Consumers Act, 2016* authorizes financial assistance for certain Ontario electricity consumers in respect of electricity costs. Consumers receive the financial assistance by means of an 8 per cent reduction in the amount payable before tax under their electricity accounts for each billing period. The amount of financial assistance for a billing period is required to be shown on invoices issued to consumers for the billing period. ~~The Act authorizes the making of regulations to limit the financial assistance to a maximum number of kilowatt hours of electricity per account per month or other period of time.~~ The financial assistance is available with respect to invoices issued on or after January 1, ~~2017 and before such date as may be set by regulation.~~2017.

The Act authorizes the making of regulations to reimburse electricity vendors for amounts credited to consumers' accounts under the Act. The Act authorizes the making of various other regulations, including to set out other ways for consumers to receive financial assistance, to alter the default rules in the Act for how to calculate the financial assistance and to limit or alter who is entitled to financial assistance.

The Act contains administrative and enforcement provisions, including requirements relating to record keeping by electricity vendors and authorization for inspections and inquiries with respect to amounts of financial assistance provided and reimbursements to electricity vendors. The *Ontario Energy Board Act, 1998* is amended so that provisions of the *Ontario Rebate for Electricity Consumers Act, 2016* and regulations made under it will be enforceable by the Ontario Energy Board.

An Act in respect of the cost of electricity

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[TOC]

Definitions

1. (1) In this Act,

"billing period" means a period of time that is wholly or partly in the eligible period and for which an invoice in respect of an eligible account is issued; ("période de facturation")

"Board" means the Ontario Energy Board; ("Commission")

"consumer" means a person,

(a) to whom an invoice is issued in respect of an eligible account for a billing period, or

(b) who is prescribed by the regulations or who satisfies such conditions as may be prescribed by the regulations; ("consommateur")

"distribution system" has the same meaning as in section 3 of the *Ontario Energy Board Act, 1998*; ("réseau de distribution")

"electricity vendor" means the IESO, a licensed distributor, a licensed retailer or a person prescribed by the regulations; ("vendeur d'électricité")

"eligible account" means, in respect of a consumer, an account with an electricity vendor, or with a person prescribed by the regulations, for the provision of electricity in Ontario if,

(a) the consumer has a demand for electricity of 50 kilowatts or less, or such other amount of demand for electricity as may be prescribed;

(b) the consumer annually uses not more than 250,000 kilowatt hours of electricity, or such other amount of use of electricity as may be prescribed,

(c) the consumer,

(i) carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and

(ii) holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act,

(d) the account 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*, or

(e) the consumer or the account satisfies such conditions as may be prescribed by the regulations; ("compte admissible")

"eligible period" means the period commencing January 1, 2017 ~~and ending on such date as may be prescribed~~; ("période admissible")

"IESO" has the same meaning as in subsection 2 (1) of the *Electricity Act, 1998*; ("SIERE")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("distributeur titulaire d'un permis")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("détaillant titulaire d'un permis")

"market rules" means the market rules made under section 32 of the *Electricity Act, 1998*; (règles du marché")

"regulations" means the regulations made under this Act; ("règlement")

"retail" has the same meaning as in section 56 of the *Ontario Energy Board Act, 1998*; ("vendre au détail")

"unit sub-metering" means activities that are unit sub-metering for the purposes of the *Ontario Energy Board Act, 1998*; ("activités liées aux compteurs divisionnaires d'unité")

"unit sub-meter provider" means a person who is licensed to engage in unit sub-metering by the Board under Part V of the *Ontario Energy Board Act, 1998*. ("fournisseur de compteurs divisionnaires d'unité")

Eligible account

(2) For the purposes of this Act, if a consumer would, but for this subsection, have an eligible account with a licensed retailer and with a licensed distributor, but only one of them issues an invoice to the consumer for a billing period for all amounts payable by the consumer to them for the billing period,

(a) the consumer is deemed to have an eligible account for the billing period only with whichever of them issues the invoice for the billing period; and

(b) the licensed distributor or licensed retailer who issues the invoice for the billing period is deemed to be imposing all charges and other amounts payable under the invoice for the purposes of determining the amount of financial assistance to which the consumer is entitled.

Base invoice amount

2. (1) For the purposes of this Act, the base invoice amount for a billing period in respect of an eligible account is determined in accordance with the regulations and, unless

otherwise prescribed by the regulations, includes, if the invoice is issued by a licensed distributor or a licensed retailer, amounts in respect of,

(a) the commodity price of the electricity;

(b) 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* that are not required under subsection (2) or the regulations to be excluded;

[(c) any charges related to an assessment under section 26.1 of the *Ontario Energy Board Act, 1998*;]

(d) any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*;

(e) any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*; and

(f) anything else prescribed by the regulations.

Exclusions

(2) Except as otherwise prescribed by the regulations, the base invoice amount for a billing period must exclude,

(a) the balance of any amounts carried forward from previous invoices;

(b) all penalties and interest;

(c) any charges that do not relate to the consumption of electricity;

(d) the fixed monthly service charge payable by a generation facility, within the meaning of section 56 of the *Ontario Energy Board Act, 1998*, that is classified as "microFIT" in a rate order issued by the Board under subsection 78 (3) of that Act;

(e) charges labelled as "specific service charges" or "retail service charges" in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*;

(f) the amount of any harmonized sales tax payable under Part IX of the *Excise Tax Act* (Canada); and

(g) any other amounts prescribed by the regulations.

Financial assistance

3. (1) ~~Subject to subsection (2), a~~A consumer who has an eligible account during a billing period is entitled to receive financial assistance in respect of the cost of electricity during the billing period in an amount equal to 8 per cent of the base invoice amount for the billing period in respect of the eligible account.

~~**Maximums**~~

~~(2) A consumer is entitled to receive financial assistance in respect of the cost of a prescribed maximum number of kilowatt hours of electricity per eligible account per month, billing period or other prescribed period, subject to prescribed exemptions and determined in accordance with the regulations.~~

~~**Effective date**~~

~~(3) The maximums described in subsection (2) shall be in effect as of such date or during such period as may be prescribed.~~

Exception

(~~4~~2) Despite subsection (1), a consumer is not entitled to receive financial assistance under this Act,

(a) in respect of electricity consumed in generation station service;

(b) in such circumstances as may be prescribed by the regulations; or

(c) if the regulations prescribe that ~~they are~~the consumer is excluded from financial assistance.

Payment of financial assistance

(~~5~~3) The financial assistance to which a consumer is entitled under this Act shall be paid,

(a) by crediting the consumer's eligible account; or

(b) in such other manner as may be prescribed by the regulations.

Money appropriated by the Legislature

(~~6~~4) The money required for the purposes of this Act shall be paid out of the money appropriated for those purposes by the Legislature.

No assignment of financial assistance

(~~7~~5) An assignment by a consumer to another person or entity, including a licensed retailer, of the consumer's entitlement to any payment, rebate or credit does not apply to

any financial assistance to which the consumer is entitled under this Act, whether the assignment was made before or after this subsection comes into force.

Same

(~~8~~6) Subsection (~~9~~7) applies if,

(a) a consumer provides to another person electricity in respect of which the consumer is entitled to financial assistance under subsection (1); and

(b) an invoice for the electricity is issued to the person by the consumer, by an agent of the consumer or by a unit sub-meter provider providing unit sub-metering for the consumer.

Requirement to pass on benefit

(~~9~~7) Despite subsections (1) and (~~7~~5), the consumer and every unit sub-meter provider providing unit sub-metering for the consumer shall ensure that each person who is liable to pay an invoice referred to in clause (~~8~~6) (b) receives a credit, determined in the manner prescribed by the regulations, in respect of the financial assistance to which the consumer is entitled with respect to electricity the consumer provides to the person.

Invoices

4. (1) ~~Subject to~~Unless otherwise prescribed by the regulations, every electricity vendor who issues an invoice for a billing period to a consumer in respect of an eligible account shall clearly show on the invoice,

(a) a credit equal to the amount of the financial assistance provided to the consumer for the billing period; and

(b) the net amount of the invoice after the credit.

Invoice issued by consumer, etc.

(2) An invoice that is issued by a consumer, an agent of a consumer, a unit sub-meter provider or another person prescribed by the regulations must be in the form required by the regulations and contain or be accompanied by the information required by the regulations.

Transitional

(3) If, for technical or operational reasons, an electricity vendor or a person referred to in subsection (2) is unable to adapt its invoices to comply with this Act and the regulations by the time it issues its first invoice for electricity consumed in 2017 in respect of an eligible account,

(a) the electricity vendor or person shall adapt its invoices as soon as possible and, in any event, no later than July 1, 2017; and

(b) consumers continue to be entitled to receive the financial assistance to which they are entitled under this Act and may receive it as a lump sum credit on the invoice for the first billing period after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Financial arrangements

Purposes

5. (1) The purposes of this section are,

(a) to ensure that financial assistance under this Act and the regulations is provided to those persons entitled to receive it; and

(b) to authorize the making of financial arrangements to reimburse electricity vendors, and other persons prescribed by the regulations, for financial assistance provided under this Act and the regulations.

Regulations

(2) The Lieutenant Governor in Council may, for the purpose of this section, make regulations,

(a) authorizing the Minister of Energy to make payments to persons who are electricity vendors or persons prescribed by the regulations in respect of the amount of financial assistance to which consumers are entitled under this Act and prescribing methods for determining the amounts payable;

(b) requiring the IESO to make payments to licensed distributors, or to persons prescribed by the regulations, in respect of financial assistance provided under this Act or the regulations and prescribing methods for determining the amounts payable;

(c) requiring a licensed distributor to make payments to other licensed distributors or licensed retailers in respect of financial assistance under this Act and prescribing methods for determining the amounts payable;

(d) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments in respect of financial assistance to consumers or other persons entitled to receive the financial assistance and prescribing the circumstances in which such payments are to be made and methods for determining the amounts payable;

(e) authorizing the Minister of Energy to make payments of financial assistance directly to consumers and prescribing the circumstances when such payments are to be made;

(f) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments to the Minister of Finance in respect of amounts received by them or in circumstances prescribed by the regulations and prescribing methods for determining the amounts payable;

(g) authorizing payments referred to in clause (a), (b), (c), (d) or (f) to be made by way of set-offs and credits and prescribing conditions entitling or requiring amounts to be set off or credited;

(h) governing the payments required under clause (a), (b), (c), (d) or (f), including methods for paying the amounts payable and when the payments must be made, and governing methods for determining amounts to be set off or credited, including the times within which amounts must or may be set off or credited;

(i) for the purposes of this Act and the regulations, requiring persons who are electricity vendors or persons prescribed by the regulations to provide information to the Minister of Energy, the Minister of Finance, the IESO, the Board or licensed distributors and prescribing the information to be provided and when it must be provided;

(j) governing the establishment and maintenance of variance accounts required for the purposes of this Act.

Conflict with market rules and codes

(3) In the event of a conflict, a regulation made under subsection (2) prevails over the market rules to the extent of the conflict and prevails over a code issued by the Board under section 70.1 of the *Ontario Energy Board Act, 1998* to the extent of the conflict.

Provision of information

(4) A person may do anything required by a regulation made under clause (2) (i) despite any agreement to the contrary and, if the person does so,

(a) the person is not liable for doing the thing in contravention of any agreement to the contrary; and

(b) doing the thing is deemed not to constitute a breach, termination, repudiation or frustration of any contract.

Cut-off dates and limitation periods for financial assistance, reimbursement
Financial assistance

6. (1) Despite any entitlement of consumers to financial assistance under this Act, no financial assistance is payable to a consumer after a date or after a limitation period ~~of time~~ prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after a date or limitation period ~~of time~~ prescribed by the regulations in respect of the electricity vendor or other person, other than in such circumstances as may be prescribed by the regulations.

Definition

7. In sections 8, 9 and 10,

"Minister" means the Minister of Finance or such other member of the Executive Council to whom the administration of those sections is assigned under the *Executive Council Act*.

Records

8. (1) Every electricity vendor and every person prescribed by the regulations shall keep at a location in Ontario such records as are necessary to determine and verify compliance with this Act and the regulations and any records required by the regulations to be kept.

Electronic records

(2) If a person keeps records in an electronic form, the person shall ensure that, from the time the records are first made and for as long as they are required to be retained,

(a) they remain complete and unaltered, apart from any changes or additions made in the normal course of communication, storage or display; and

(b) they are capable of being printed and of being produced in electronically readable format for inspection, examination or audit.

Retention of records

(3) Records required to be kept under subsection (1) shall not be destroyed unless authorization has been given in writing by the Minister.

Offence

(4) Every person who fails to keep records in accordance with this section is guilty of an offence and, on conviction, is liable to a fine of not less than $50 and not more than $5,000.

Inspections and inquiries

9. (1) The Minister may appoint one or more inspectors who are authorized to exercise any of the powers and perform any of the duties of a person authorized by the Minister under subsection 31 (1) of the *Retail Sales Tax Act* for any purpose related to the administration and enforcement of this Act.

Same

(2) Subsections 31 (1), (2), (2.1) and (2.2) of the *Retail Sales Tax Act* apply, with necessary modifications, with respect to the administration and enforcement of this Act.

Admission of evidence

(3) The Minister, or a person authorized by the Minister, may, for any purpose related to the administration of this Act or the regulations, reproduce from original data stored electronically any information previously submitted as required under this Act or the regulations in any form by any person, and the electronically reproduced document shall be admissible in evidence and shall have the same probative force as the original document would have had if it had been proved in the ordinary way.

Inquiry

(4) The Minister may, for any purpose related to the administration of this Act or the regulations, authorize any person, whether or not the person is an employee in the Ministry of the Minister, to make such inquiry as the Minister considers necessary with reference to anything relating to the administration of this Act or the regulations.

Copies

(5) If a book, record or other document is examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry may make, or cause to be made, one or more copies of it, and a document purporting to be certified by the person to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if proved in the ordinary way.

Compliance

(6) No person shall hinder or molest or interfere with any person doing anything that the person is authorized by this section to do or prevent or attempt to prevent any person doing any such thing.

Same

(7) Despite any other law to the contrary, every person shall, unless the person is unable to do so, do everything he, she or it is required by this section to do.

Administration of oaths

(8) Declarations or affidavits in connection with statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee for doing so.

Application of Public Inquiries Act, 2009

(9) Section 33 of the *Public Inquiries Act, 2009* applies to an inquiry under subsection (4).

Recovery of overpayments

Definitions

10. (1) In this section,

"inspector" means an inspector referred to in section 9; ("inspecteur")

"overpayment" means an amount received by a person in excess of any reimbursement to which the person is entitled under this Act and the regulations. ("trop-perçu")

Notice of overpayment

(2) If it appears to an inspector that a person has received an overpayment, the Minister may send a written notice to the person advising the person of the following:

1. That the person has received an overpayment.

2. The amount of the overpayment and how it was calculated.

3. The required steps to be taken by the person with respect to the overpayment.

4. The date, not more than six months after the date of the notice, by which these steps must be completed.

5. That the Minister has the authority to assess the person for the amount of the overpayment, plus interest, if the person fails to complete the required steps by the specified date.

Calculation of amount of overpayment

(3) For the purposes of this section, an inspector shall calculate an overpayment or the outstanding balance of an overpayment in the manner and form and using such procedures as the Minister considers adequate and expedient.

Assessment

(4) If a person fails to complete the steps required in a notice under subsection (2) within the time specified in the notice, and any additional time requested by the person and permitted by the Minister, the Minister may assess or reassess the amount of the overpayment, or the outstanding balance of the overpayment, based on the inspector's calculation described in subsection (3).

Penalty

(5) If the Minister makes an assessment or reassessment under subsection (4) and is satisfied that the person's non-compliance with the required steps in the notice was attributable to neglect, carelessness, wilful default or fraud, the Minister may assess a penalty against the person equal to the outstanding balance of the overpayment when the penalty is assessed.

Time limit

(6) The Minister shall not assess or reassess under subsection (4) more than 48 months after the end of the month in which the person received the overpayment.

Exception, where misrepresentation, etc.

(7) Subsection (6) does not apply if the Minister establishes that the person has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in supplying information under this Act or the regulations or in omitting to disclose information.

Deemed debt retirement charge

(8) An amount assessed or reassessed by the Minister under this section is deemed for the purposes of the administration and enforcement of this Act to be a debt retirement charge, as defined in subsection 85 (1) of the *Electricity Act, 1998*, that has been collected, on the last day of the month in which the person received the overpayment, by the person as a collector appointed under subsection 85.3 (1) of the *Electricity Act, 1998* and, for those purposes,

(a) sections 85.11, 85.12, 85.14, 85.17 and 85.30 of that Act apply with necessary modifications;

(b) in the application of sections 85.11 and 85.14 of that Act and without limiting the generality of clause (a), references to the Financial Corporation are read as

references to the Minister of Finance and references to the Minister of Finance are read as references to the Minister as defined in section 7 of this Act;

(c) the regulations made under that Act for the purposes of calculating the rate or rates of interest payable under section 85.11 of that Act and the manner of calculating the amount of interest apply with necessary modifications; and

(d) sections 23 and 36, subsections 37 (1), (1.1) and (2) and sections 37.1, 38 and 39 of the *Retail Sales Tax Act* apply with necessary modifications.

Disposition of repaid amounts

(9) If all or part of an overpayment is repaid to the Minister of Finance, the Minister of Energy shall make such financial arrangements and payments as may be necessary to ensure that any electricity vendor or other person entitled to all or part of the overpayment receives the appropriate amount.

Confidentiality

11. (1) Except as authorized by this section, no person employed by the Government of Ontario shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister of Energy or the Minister of Finance for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Testimony

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

(a) to give evidence relating to any information obtained by or on behalf of the Minister of Energy or Minister of Finance for the purposes of this Act; or

(b) to produce any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Exception

(3) Subsections (1) and (2) do not apply in respect of,

(a) criminal proceedings under any Act of the Parliament of Canada;

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

(c) proceedings relating to the administration or enforcement of this Act or Part V.1 or VI of the *Electricity Act, 1998*.

Communication

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,

(a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law or to an employee of the Board information obtained by or on behalf of either Minister for the purposes of this Act; and

(b) allow another person employed by the Government of Ontario in the administration or enforcement of any law or an employee of the Board to inspect or have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Reciprocal communication

(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to that Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of information

(6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

Same

(7) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to,

(a) the person from whom the information, record or thing was obtained;

(b) any person by whom an amount is payable or has been paid under this Act; or

(c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.

Information

(8) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to any person employed by any government if,

(a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and

(b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

Offence

(9) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than $2,000.

Offences

False statements, etc., and fraud

12. (1) Every person who engages in any of the following acts or omissions is guilty of an offence:

1. Making, participating in, assenting to or acquiescing in the making of a false or deceptive statement in any document or answer required or submitted under this Act or the regulations.

2. Destroying, altering, mutilating, hiding or otherwise disposing of information or records of an electricity vendor or other person, for the purpose of evading compliance with this Act or the regulations.

3. Making, assenting to or acquiescing in the making of a false or deceptive entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

4. Omitting to make or assenting to or acquiescing in the omission of an entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

5. Wilfully evading or attempting to evade, in any manner, compliance with an obligation under this Act or the regulations.

Penalty upon conviction

(2) A person convicted of an offence under subsection (1) is liable to either or both of the following penalties in addition to any other penalty assessed under this Act:

1. A fine in an amount that is not less than $1,000 and not more than $10,000.

2. Imprisonment for a term of not more than two years.

General offence

(3) Every person who contravenes, by any act or omission, a requirement imposed under this Act is guilty of an offence and, on conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than $50 and not more than $5,000.

Limitation period

13. A proceeding to prosecute an offence under this Act must be commenced within six years after the date on which the matter of the offence arose.

Payment of fines

14. Fines imposed on conviction of an offence under this Act are payable to the Minister of Finance on behalf of the Crown in right of Ontario.

Regulations

15. (1) The Lieutenant Governor in Council may make regulations,

~~**Note from the Office of Legislative Counsel:** Under s. 82 of the *Legislation Act, 2006*, a power to make a regulation includes the power to create classes and create different rules for different classes. For example, the power to cap financial assistance includes the power to impose different caps on different classes of consumers.~~

~~Also, regulations can be made in respect of multiple periods of time.~~

~~A question was asked about a general regulation-making power to exempt anyone from any provision of the Act. Although some Ontario statutes do have such a provision, it is not recommended. On its face, it is a sweeping power to negate the will of the Legislature. This is sometimes called a "Henry VIII clause". If an exemption power may be needed, it is better to identify which provisions may be affected and then provide in those provisions that the rule is subject to exceptions set out in regulation (as in s. 3 (2) of this draft), rather than by a more sweeping power.~~

~~It is also important to note that regulations are only authorized to the extent that they are consistent with the purposes of the Act. Therefore, a general power to grant an exemption may be less useful than it seems: a regulation made under a sweeping general power may seem less consistent with the purposes of the Act than a regulation made under a specific power contemplated in the substantive provisions of the Act.~~

(a) prescribing anything required to be or referred to in this Act as being prescribed by the regulations;

(b) defining any word or expression used in this Act that is not already expressly defined in this Act;

(c) requiring any person to take such action or refrain from taking such action as may be necessary for the purposes of or in connection with any regulation made under this Act;

(d) prescribing information that must or may be included on invoices issued to consumers or that must or may accompany invoices issued to consumers or payments of financial assistance under this Act;

(e) governing the presentation of financial assistance under this Act on invoices issued to consumers;

(f) governing information that must or may be provided to consumers concerning this Act and eligibility for financial assistance under it;

(g) governing the determination of the base invoice amount for a billing period with respect to a class of electricity vendors or a class of consumers;

~~(h) governing the determination of the maximum financial assistance to which a consumer is entitled under subsection 3 (2) in respect of a month, billing period or other specified period, including,~~

~~(i) prescribing what constitutes a month or other specified period for the purposes of the maximum,~~

~~(ii) prescribing the method for determining the number of kilowatt hours of electricity consumed per month, billing period or other specified period, and~~

~~(iii) prescribing exemptions for the purposes of that subsection;~~ (i) prescribing a method of paying or crediting to a consumer an amount of financial assistance to which the consumer is entitled under this Act and the circumstances in which the method applies;

(ji) requiring a unit sub-meter provider to provide financial assistance in respect of the cost of electricity and prescribing,

(i) the circumstances in which the financial assistance is to be provided,

(ii) the person or class of persons entitled to receive the financial assistance,

(iii) the method of determining the amount of the financial assistance to be provided,

(iv) the manner for paying or otherwise providing the financial assistance;

(~~kj~~) setting out one or more dates or limitation periods for the purposes of subsection 6 (1) or (2), and governing the circumstances in which that subsection does not apply;

(~~lk~~) respecting records to be kept by electricity vendors or by persons prescribed by the regulations;

(~~ml~~) providing for matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of this Act and the regulations.

Retroactive regulations

(2) A regulation made under this Act is, if it so provides, effective with reference to a period before it is filed.

Subdelegation

(3) A regulation under this Act may authorize a person to require, authorize, prescribe or otherwise determine any matter that may be required, authorized, prescribed or otherwise determined by the Lieutenant Governor in Council under this Act.

Repeal

16. On the day this section comes into force, this Act is repealed.

Ontario Clean Energy Benefit Act, 2010

17. (1) The *Ontario Clean Energy Benefit Act, 2010* is amended by adding the following section:

Cut-off dates for financial assistance, reimbursement

Financial assistance

6.1 (1) Despite any entitlement of consumers to financial assistance under this Act, no financial assistance is payable to a consumer after the date prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after the date prescribed by the regulations in respect of the electricity vendor or other person, other than in such circumstances as may be prescribed by the regulations.

(2) Subsection 15 (1) of the Act is amended by adding the following clause:

(i.1) setting out one or more dates for the purposes of subsection 6.1 (1) or (2), and governing the circumstances in which that subsection does not apply;

Ontario Energy Board Act, 1998

~~16.~~**18. (1) The definition of "enforceable provision" in section 3 of the *Ontario* ~~*Clean*~~ *Energy Board Act, 1998* is amended by adding the following clause:**

(c.2) a provision of the *Ontario Rebate for Electricity Consumers Act, 2016* or the regulations made under it,

(2) On the day this subsection comes into force, clause (c.2) of the definition of "enforceable provision" in section 3 of the Act, as made by subsection (1), is repealed.

(3) Section 70 of the Act is amended by adding the following subsection:

Deemed condition of licences, unit sub-meter provider, *Ontario Rebate for Electricity Consumers Act, 2016*

(2.3) Every licence issued to a unit sub-meter provider is deemed to contain the condition that the unit sub-meter provider is required to comply with the *Ontario Rebate for Electricity Consumers Act, 2016* and the regulations made under it.

~~**Repeal**~~

~~**17. This Act is repealed on a day to be named by proclamation of the Lieutenant Governor.**~~ **(4) On the day this subsection comes into force, subsection 70 (2.3) of the Act, as made by subsection (3), is repealed.**

Commencement

~~**18. This**~~**19. (1) Subject to subsection (2), this Act comes into force on the later of January 1, 2017 and the day it receives Royal Assent.**

(2) Section 16 and subsections 18 (2) and (4) come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

~~19.~~**20.** **The short title of this Act is the *Ontario Rebate for Electricity Consumers Act, 2016*.**

Document comparison by Workshare Compare on August-31-16 22:15:06

Input:	
Document 1 ID	file://K:\2016\FIN\Clean Energy Rebate (GOV2016.091)\GOV2016.091.e03 (Clean Energy Rebate).docx
Description	GOV2016.091.e03 (Clean Energy Rebate)
Document 2 ID	file://K:\2016\FIN\Clean Energy Rebate (GOV2016.091)\GOV2016.091.e04 (Clean Energy Rebate).docx
Description	GOV2016.091.e04 (Clean Energy Rebate)
Rendering set	Standard

Legend:	
Insertion	
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~~Moved from~~	
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Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	46
Deletions	81
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	127

ORECA General
- Min's Reg → fwd to SNAP the email I sent to leg counsel
442/01 → callout for H1 R2 custs. only + not Algoma?
429/04
161/99
275/04
OCEB liability → Nov 16?
→ Poteck situ.

Ontario Rebate for Electricity Consumers Act, 2016

Bill 13 → when comes into force? can we still do the regs? → OCEB reg

ONTARIO REGULATION [ ]

GENERAL

ask leg counsel:

PART I

ELECTRICITY VENDORS

→ reg specifics categories of data req'd; M letter setting out some further specifics under these categories

Comment [DS1]: Note for leg counsel: This will be an LGIC regulation made under s. 15(1) of the Act.

This reg. is based largely on portions of 495/10 and 365/11 made under the OCEBA.

Comment [DS2]: Note for leg counsel: I think we should consider having two Parts to this reg., since there are a number of provisions that will apply only to IPAs (i.e. remote unlicensed distributors).

Comment [DS3]: Note for leg counsel: This would include IPAs if we retain ss. 16(2) below, but Part II would ONLY apply to IPAs.

Definitions and interpretation

1. (1) In this Regulation,

"distribution system" has the same meaning as in section 3 of the *Ontario Energy Board Act, 1998*;

"distributor" means a person who owns or operates a distribution system;

"financial assistance" means an amount credited to an eligible account or paid to a person as financial assistance under the Act or this Regulation and includes an amount credited or paid as financial assistance in circumstances in which the person benefiting from the credit or payment is not entitled to all or part of the amount;

"host distributor" means a licensed distributor who is a market participant and who distributes electricity to a wholly-embedded distributor;

"IESO-controlled grid" means the transmission systems with respect to which, pursuant to agreements, the IESO has authority to direct operations;

"market participant" means a person who is authorized by the market rules,

(a) to participate in the markets established by the market rules, or

(b) to cause or permit electricity to be conveyed into, through or out of the IESO-controlled grid;

"Minister" means the Minister of Energy;

"Ministry" means the Ministry of Energy;

"transmission system" means a system for transmitting electricity and includes any structures, equipment or other things used for that purpose;

"wholly-embedded distributor" means a licensed distributor who is not a market participant and to whom a host distributor distributes electricity.

(2) For the purposes of the Act and this Regulation, the commodity price of electricity includes the "Final RPP Variance Settlement Amount", if any, required by the Standard Supply Service Code issued by the Board.

(3) For the purposes of this Regulation,

(a) Hydro One Remote Communities Inc. is deemed to be a wholly-embedded distributor and Hydro One Networks Inc. is deemed to be its host distributor; and **[Confirm with Charlotte/James]**

(b) Cornwall Street Railway Light and Power Company Limited is deemed to be a wholly-embedded distributor and Canadian Niagara Power Inc. is deemed to be its host distributor. **[Energy Policy to confirm that this is still correct. This provision is taken from the OCEBA general reg. 495/10]**

(4) Payments required under this Regulation are in addition to any payments that may be required by the market rules or by the Retail Settlement Code issued by the Board under the *Ontario Energy Board Act, 1998*.

→ + maybe a user guide → a meter final specs reg?

Mats due to Cabinet Nov 2
⇒ finalize by Oct 21

Base invoice amount

2. (1) Subject to subsection (2), the base invoice amount for a billing period in respect of an eligible account is determined as follows: **[Energy Policy to confirm that these provisions are correct as written. The provisions were taken from 495/10]**

1. If the invoice is issued by a licensed distributor, other than Cornwall Street Railway Light and Power Company Limited or Dubreuil Lumber Inc., or is issued by a licensed retailer, the base invoice amount for a billing period includes the amounts for the billing period listed in subsection 2 (1) of the Act, other than anything required by subsection 2 (2) of the Act to be excluded in determining the base invoice amount for the billing period.
2. If the invoice is issued by the IESO to a market participant who is a consumer, the base invoice amount for a billing period,
   i. includes,
      A. the commodity price of the electricity,
      B. all settlement amounts appearing on the invoice in accordance with Chapter 9 of the market rules,
      C. any fees and charges payable by the market participant under section 25.20 of the *Electricity Act, 1998*,
      D. amounts payable by the market participant under subsection 79.1 (3) of the *Ontario Energy Board Act, 1998*,
      E. **[Energy Policy to advise whether we should refer to the DRC here. Note that the DRC was not referenced in the corresponding provision in 495/10, but I was not able to find an exemption for market participants (other than in connection with residential consumption)]**, and
      F. any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*, and
   ii. excludes anything required by subsection 2 (2) of the Act to be excluded.
3. If the invoice is issued by Cornwall Street Railway Light and Power Company Limited, the base invoice amount for a billing period,
   i. includes,
      A. the cost of electricity supplied, including any delivery charges and regulatory charges, and
      B. any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*, and
   ii. excludes,
      A. any charges for services that are not included in the cost of the electricity supplied, the delivery charges or the regulatory charges referred to in sub-subparagraph i A, and
      B. anything required by subsection 2 (2) of the Act to be excluded.
4. If the invoice is issued by Dubreuil Lumber Inc., the base invoice amount for a billing period,
   i. includes,
      A. the commodity price of the electricity,
      B. delivery charges, other than a charge required to be excluded under subparagraph ii,
      C. any regulatory charges,
      D. any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*,
      E. any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*, and
   ii. excludes,
      A. a charge for reconnecting the consumer at a meter or pole, and

B. anything required by subsection 2 (2) of the Act to be excluded.

(2) An electricity vendor shall include in the base invoice amount for a billing period only those amounts or portions of amounts appearing on the invoice for the billing period that relate to electricity consumption in the eligible period. **[Drafting note for Energy Policy: Bill 13 would allow the rebate to be applied to all electricity consumed on transitional bills (i.e. bills for electricity consumed both in 2016 and 2017). This ss. 3(2) would restrict the application of the rebate to the portion of transition bills covering electricity consumed in 2017. Ss. 3(3) below addresses the practicalities of dealing with transition bills esp. where the consumption is not smart metered. Please confirm that this is the approach you want to take.]**

(3) An electricity vendor may make a reasonable estimate of,

(a) the volume of electricity used by a consumer during a portion of a billing period; and

(b) the portion of an amount that relates to electricity consumption during a portion of a billing period.

Flow through of financial assistance

4. (1) This section applies to,

(a) a consumer to whom subsection 3 (7) of the Act applies; and

(b) a person who is entitled to receive a credit under subsection 3 (7) of the Act on an invoice issued by the consumer, an agent of the consumer or a unit sub-meter provider providing unit sub-metering for the consumer.

(2) The credit that the person is entitled to receive under subsection 3 (7) of the Act and the consumer or unit sub-meter provider is required to provide is equal to the amount of the financial assistance to which the consumer is entitled for a billing period in respect of the eligible account, multiplied by the ratio of the portion of the amount of the invoice for the billing period that is payable by the person to the total amount of the invoice for the billing period payable by the consumer.

Financial assistance re fees and charges imposed by unit sub-meter providers

5. (1) The section applies to,

(a) every unit sub-meter provider who provides unit sub-metering for a consumer to whom subsection 3 (7) of the Act applies; and

(b) every person to whom the unit sub-meter provider issues an invoice for electricity in respect of which a consumer is entitled to receive financial assistance under section 3 of the Act.

(2) In this section,

"fees and charges" means any fees and charges for unit sub-metering that appear on an invoice issued by a unit sub-meter provider; **[Explanatory note for Energy Policy: This definition restricts "fees and charges" to those related to "unit sub-metering" which is defined in Bill 13 by reference to the OEBA (which cross-references to the ECPA). Ultimately this relates only to metering electricity consumption. As such, the fees and charges should only relate to electricity and not to other activities of USMPs such as metering water consumption.]**

"invoice period" means, in respect of an invoice for electricity issued to a person by a unit sub-meter provider, the period of time to which the invoice applies.

(3) A person to whom an invoice is issued for an invoice period by a unit sub-meter provider is entitled to receive financial assistance equal to eight per cent of the sum of the amount of fees and charges for the invoice period or, if the invoice period is not wholly in the eligible period, for the portion of the invoice period that is in the eligible period. **[Energy Policy to confirm treatment of transitional bills. This includes treatment of USMP fees and charges on transitional bills (see s. 5(4) below).]**

(4) If an invoice period is not wholly within the eligible period, the amount of fees and charges for the portion of the invoice period that is in the eligible period is determined by multiplying the amount of the fees and charges for the invoice period by the ratio of the number of days in the invoice period that are in the eligible period to the total number of days in the invoice period.

Explanation of calculation of credit

6. (1) The issuer of an invoice that includes a credit for financial assistance shall, if requested by the person liable to pay the invoice, explain how the amount of the financial assistance on the invoice has been calculated.

Break-down of credit between periods

(2) If an invoice issued by an electricity vendor or unit sub-meter provider contains a credit for more than one billing period or invoice period, the issuer of the invoice shall provide, if requested by the person liable to pay the invoice, a break-down of the amount of the credit between periods. **[Energy Policy to confirm treatment of carry-over credits]**

Payments directly to consumers

7. (1) In this section,

"issuer" means an electricity vendor, consumer, agent of a consumer or a unit sub-meter provider who issues an invoice to a person who is entitled to,

(a) financial assistance, or

(b) a credit under subsection 3 (7) of the Act.

(2) This section applies to an issuer if,

(a) subsection 4 (3) of the Act applies to,

(i) the issuer,

(ii) an electricity vendor who issues invoices to the issuer or to a consumer for whom the issuer is an agent, **[or?]**

(iii) an electricity vendor who issues invoices to a consumer for whom the issuer provides unit sub-metering; and

(b) the person entitled to the financial assistance or credit ceases to have an account with the issuer before receiving all or part of the financial assistance or credit to which he or she is entitled.

Comment [DS4]: Note for leg counsel: This is taken from s. 7(2)(a) of 495/10. In that section, there is no "or" where I have bolded and square bracketed that word here. Is "or" automatically implied here, such that it would be redundant to include it?

(3) If the amount the person is entitled to receive from an issuer but has not received is at least $10 **[Energy Policy to confirm $ threshold – also applies in ss. 7(5) below]**, the issuer shall, no later than September 30, 2017 **[Energy Policy to confirm date]**, mail or deliver by hand the unpaid amount to the person's most recent address known to the issuer.

(4) If a cheque mailed or delivered by hand in accordance with subsection (3) has not been cashed despite the best efforts of the issuer to deliver it, and the cheque has ceased to be negotiable through the passage of time, the person ceases to be entitled to receive the amount of financial assistance or credit represented by the cheque.

(5) Every electricity vendor and unit sub-meter provider shall pay to the Minister of Finance all amounts of less than $10 that are not paid by the electricity vendor or unit sub-meter provider and all amounts not received by a person and to which the person has ceased under this section to be entitled to receive.

(6) If a consumer referred to in subsection 3 (7) of the Act is unable for reasons beyond his or her control to provide a credit to a person, to have the credit provided to the person by an agent or unit sub-meter provider or to pay the amount of the credit to the person under subsection (3), the consumer shall pay to the Minister of Finance the amount that should have been credited or paid to the person and the person ceases to be entitled to the credit.

Duty to provide information

8. Every electricity vendor and every person specified by the Minister shall, upon receipt of a request from the Minister or the Board, provide the information relating to the Act and this Regulation specified in the request within the time period specified in the request.

Comment [DS5]: Note for leg counsel: This is taken from 495/10. Is there sufficient authority in Bill 13 to impose these requirements?

Records

9. Every unit sub-meter provider is prescribed for the purposes of section 8 of the Act as a person required to keep records in accordance with that section.

Requirement to provide information for reimbursement purposes

10. (1) An electricity vendor listed in Column 2 in the Table to this subsection, other than a remote unlicensed distributor, shall provide to the person listed in Column 3 in the same row of the Table the information set out in Column 4 in the same row, in the format and at the times specified by the person to whom the information is to be provided, in respect of the last month ending before the day the information is to be provided.

Comment [DS6]: Note for leg counsel: This comes from 495/10. Is there sufficient authority to impose these requirements?

TABLE

[Energy Policy to confirm table specifics. Note that we need to address retail-consolidated billing even if there are no retailers using that form of billing currently, since that option is still currently available to them]

Column 1	*Column 2*	*Column 3*	*Column 4*
Item	Electricity vendor	Person to whom information must be provided	Information in respect of the last month ending before the day the information is provided
1.	A licensed retailer who uses retailer-consolidated billing	The licensed distributor in whose service area the licensed retailer has contracts with consumers	The amount of financial assistance to which consumers who have eligible accounts with the licensed retailer are entitled for the month and any adjustments to be made in respect of earlier months.
2.	A wholly-embedded distributor	The host distributor of the wholly-embedded distributor	The amount of, (a) financial assistance to which consumers who have eligible accounts with the wholly-embedded distributor are entitled for the month and any adjustments to be made in respect of earlier months; and (b) financial assistance to which consumers who have eligible accounts with licensed retailers are entitled for the month, if the licensed retailers use retailer-consolidated billing and the consumers are in the wholly-embedded distributor's service area, and any adjustments to be made in respect of earlier months.
3.	A licensed distributor who is a market participant	The IESO	The amount of, (a) financial assistance to which consumers who have eligible accounts with the licensed distributor are entitled for the month and any adjustments to be made in respect of earlier months; (b) financial assistance to which consumers who have eligible accounts with licensed retailers are entitled for the month, if the licensed retailers use retailer-consolidated billing and the consumers are in the licensed distributor's service area, and any adjustments to be made in respect of earlier months; (c) financial assistance to which consumers who have eligible accounts with wholly-embedded distributors are entitled for the month, if the licensed distributor is the host distributor of the embedded distributors, and any adjustments to be made in respect of earlier months; and (d) financial assistance to which consumers who have eligible accounts with licensed retailers are entitled for the month, if the licensed retailers use retailer-consolidated billing and the consumers are in service areas of wholly-embedded distributors of which the licensed distributor is the host distributor, and any adjustments to be made in respect of earlier months.

(2) The IESO shall provide to the Minister the information specified by the Minister relating to the following matters, in the format and at the times specified by the Minister:

1. The amount of financial assistance the IESO is required by the Act to provide for a month to consumers who are market participants and any adjustments to be made in respect of earlier months.
2. The amount of financial assistance to which consumers who have eligible accounts with licensed distributors who are market participants are entitled for the month and any adjustments to be made in respect of earlier months.
3. The amount of financial assistance to which consumers who have eligible accounts with wholly-embedded distributors are entitled for the month and any adjustments to be made in respect of earlier months.

Comment [DS7]: Note for leg counsel: I am not sure whether this Table meets the new accessibility requirements. If it does not, then please present the requirements in whatever accessible format you think is appropriate.

Comment [DS8]: Note for leg counsel: Is there sufficient authority to impose these requirements?

4. The amount of financial assistance to which consumers who have eligible accounts with licensed retailers who use retailer-consolidated billing are entitled for the month and any adjustments to be made in respect of earlier months.

(3) For the purposes of this section, a licensed distributor or licensed retailer may estimate the amount of financial assistance to which consumers who have eligible accounts are entitled for a month.

(4) If a licensed distributor or licensed retailer estimates the amount of financial assistance under subsection (3), it must include an adjustment for the difference between the estimate and the actual amount that consumers were entitled to with the information required under subsection (1) as soon as possible after the actual amount becomes known.

Reimbursement to electricity vendors

11. (1) In this section,

"specified electricity vendor" means an electricity vendor other than a remote unlicensed distributor.

(2) The Minister shall reimburse specified electricity vendors for financial assistance provided by them to consumers entitled under the Act to receive the financial assistance.

(3) Based on the information provided by specified electricity vendors under section 10,

(a) the Minister shall pay to the IESO, at such times as the Minister considers appropriate, sufficient amounts to reimburse specified electricity vendors for financial assistance to which consumers are entitled for a month, subject to any adjustments to be made in respect of earlier months;

(b) the IESO shall, after receiving the information required for a month from a licensed distributor who is a market participant, pay to the licensed distributor a sufficient amount to reimburse,

(i) the licensed distributor for the financial assistance to which consumers who have eligible accounts with the licensed distributor are entitled for the month, subject to any adjustments to be made in respect of earlier months,

(ii) wholly-embedded distributors of which the licensed distributor is the host distributor for financial assistance to which consumers who have eligible accounts with the wholly-embedded distributors are entitled for the month, subject to any adjustments to be made in respect of earlier months, and

(iii) licensed retailers who use retailer-consolidated billing for financial assistance to which consumers who have eligible accounts with the licensed retailers, and are in the service area of the licensed distributor or of a wholly-embedded distributor of which the licensed distributor is the host distributor, are entitled for the month, subject to any adjustments to be made in respect of earlier months;

(c) a host distributor shall, before the day specified by the Board, pay to every wholly-embedded distributor of which it is a host distributor a sufficient amount to reimburse,

(i) the wholly-embedded distributor for financial assistance to which consumers who have eligible accounts with the wholly-embedded distributor are entitled for a month, subject to any adjustments to be made in respect of earlier months, and

(ii) licensed retailers who use retailer-consolidated billing for financial assistance to which consumers who have eligible accounts with the licensed retailers, and are in the service area of the wholly-embedded distributor, are entitled for a month, subject to any adjustments to be made in respect of earlier months; and

(d) a licensed distributor shall, before the day specified by the Board, pay a sufficient amount to each licensed retailer who uses retailer-consolidated billing to reimburse the licensed retailer for financial assistance to which consumers who have eligible accounts with the licensed retailer, and who are in the licensed distributor's service area, are entitled for a month, subject to any adjustments to be made in respect of earlier months.

(4) Despite subsection (3), the amount of reimbursement to which an electricity vendor is entitled is subject to such subsequent adjustments as may be required by reason of,

(a) the provision to the Minister or an electricity vendor of additional information;

(b) a determination made by an inspector who conducts an inspection or inquiry under section 9 of the Act that relates to the electricity vendor or to another electricity vendor;

Comment [DS9]: Note for leg counsel: This section will not apply to IPAs (remote unlicensed distributors). The corresponding provisions for the IPAs is set out in s. 21 below.

(c) a requirement under subsection 7 (5) to pay an amount to the Minister of Finance; or

(d) a requirement to pay an amount referred to in clause 15 (2) (a) to the Minister of Finance.

(5) Despite subsections (2) and (3), no amount is payable as a reimbursement to a specified electricity vendor who fails without reasonable cause to provide any information required to be provided under this Regulation within the time it is required to be provided.

(6) Payments required under this section by the IESO to a licensed distributor who is a market participant and any subsequent adjustments may be made at the option of the IESO by way of set-off in the accounts maintained by the IESO.

(7) Payments required under this section by a host distributor to a wholly-embedded distributor and any subsequent adjustments may be made at the option of the host distributor by way of set-off in the accounts maintained by the host distributor.

(8) Payments required under this section by a licensed distributor to a licensed retailer who uses retailer-consolidated billing and any subsequent adjustments may be made at the option of the licensed distributor by way of set-off in the accounts maintained by the licensed distributor.

Reimbursement to unit sub-meter providers

12. (1) A unit sub-meter provider shall provide to the IESO, in the format and at the time specified by the IESO, information about the amount of financial assistance provided by the unit sub-meter provider in accordance with section 5 in respect of the last month ending before the day the information is required to be provided and any adjustments to be made in respect of earlier months.

(2) The IESO shall provide to the Minister, in the format and at the times specified by the Minister, the information specified by the Minister relating to the amount of financial assistance provided in accordance with section 5 by unit sub-meter providers for a month and any adjustments to be made in respect of earlier months.

(3) Based on the information provided by unit sub-meter providers to the IESO,

(a) the Minister shall pay to the IESO, at such time as the Minister considers appropriate, sufficient amounts to reimburse unit sub-meter providers for financial assistance provided in accordance with section 5 for a month, subject to any adjustments to be made in respect of earlier months; and

(b) the IESO shall, after receiving the information required for a month from a unit sub-meter provider, pay to the unit sub-meter provider a sufficient amount to reimburse the unit sub-meter provider for the financial assistance provided in accordance with section 5 for a month, subject to any adjustments to be made in respect of earlier months.

(4) Despite subsection (3), the amount of reimbursement to which a unit sub-meter provider is entitled is subject to such subsequent adjustments as may be required by reason of,

(a) the provision to the Minister or the IESO of additional information;

(b) a determination made by an inspector who conducts an inspection or inquiry under section 9 of the Act; or

(c) a requirement under subsection 7 (5) to pay an amount to the Minister of Finance.

(5) Despite subsection (3), no amount is payable as a reimbursement to a unit sub-meter provider who fails without reasonable cause,

(a) to provide any information required to be provided under this Regulation within the time it is required to be provided; or

(b) to comply with any requirement specified by the IESO.

(6) Payments required under this section by the IESO to a unit sub-meter provider and any subsequent adjustments may be made at the option of the IESO by way of set-off in the accounts maintained by the IESO.

Reliance on information

13. (1) For the purposes of the reimbursements and any repayments required under this Regulation, the Minister and electricity vendors shall rely on the information provided to them as required under this Regulation and any additional information requested under section 8.

(2) A licensed retailer and licensed distributor may rely on information provided to each other in determining if a person is entitled to financial assistance under the Act and the amount of the financial assistance.

Variance accounts

14. With the approval of and subject to any direction from the Board, licensed distributors, other than Cornwall Street Railway Light and Power Company Limited and Dubreuil Lumber Inc., shall establish and maintain such variance accounts as may be necessary or desirable for the purposes of the Act and this Regulation.

If retail contract is deemed to be void

15. (1) This section applies if,

(a) a consumer has received financial assistance under the Act in respect of the cost of electricity retailed to the consumer by a licensed retailer pursuant to a contract with the consumer;

(b) the financial assistance was provided to the consumer by means of a credit deducted from the amount otherwise payable by the consumer to a licensed distributor or the licensed retailer in respect of the electricity; and

(c) the contract is deemed to be void under section 16 of the *Energy Consumer Protection Act, 2010* and, pursuant to subsection 16 (3) of that Act, the licensed retailer is required to refund to the consumer the money paid by the consumer under the contract.

(2) The retailer shall,

(a) if the licensed retailer uses retailer-consolidated billing, pay to the Minister of Finance the amount of all reimbursements the licensed retailer received under clause 11 (3) (d) in respect of the eligible account to which the contract related; or

(b) if the licensed retailer uses distributor-consolidated billing, pay to the Minister of Finance an amount equal to the total amount of all financial assistance the consumer received in respect of the commodity price of the electricity under the contract.

[Drafting note for Energy Policy: Do you want to prescribe a limitation period for making retroactive claims for rebate amounts to which a consumer was entitled but did not receive? And similarly, do you want to prescribe a limitation period for claiming reimbursement for rebate amounts provided? If so, what limitation periods do you want?]

PART II
REMOTE UNLICENSED DISTRIBUTORS

Remote unlicensed distributors

16. (1) A remote unlicensed distributor is a person, corporation or organization that,

(a) distributes electricity in a remote community listed in Schedule 1;

(b) issues invoices for electricity distributed to electricity customers who are eligible to receive financial assistance under the Act; and

(c) is willing to provide financial to those customers as an agent of the Minister.

(2) Every remote unlicensed distributor meeting the requirements set out in section 17 is prescribed as an electricity vendor for the purposes of the Act. **[Energy Policy to confirm that all of the provisions of the Act and this general reg. (other than provisions specific only to entities named in those provisions, and the sections specifically excluded under ss. 16(3) below) – including Part I of this general reg. – should apply to IPAs who enrol in the rebate program under s. 17 below.]**

(3) Sections 2 **[and 7]** do not apply to remote unlicensed distributors or to consumers who have eligible accounts with them.

(4) Despite section 21, no amount is payable as a reimbursement to a remote unlicensed distributor who fails without reasonable cause to provide any information required by the Minister within the time it is required to be provided.

Enrolment of remote unlicensed distributors

Comment [DS10]: Note for leg counsel:
Since we define "remote unlicensed distributor" in the proposed Minister's reg., should we re-define it here, or cross-reference the definition in the Minister's reg.?

Comment [DS11]: Note for leg counsel:
Ss. 2(1) of 495/10 sets out the same provision, without the words "meeting the requirements set out in section 17". It seems to me that we need those words, because otherwise all consumers serviced by IPAs would be entitled to the rebate despite section 17 below. (Note as well that section 17 is taken from s. 4 of 365/11.)

Also: Since we say "the Act" I assume that includes all regs made under the Act (including the Minister's reg.)? If so, we can made tweaks to the Minister's reg. where we refer to electricity vendors "or remote unlicensed distributors".

Comment [DS12]: Note for leg counsel:
See drafting notes to Energy Policy at the beginning of section 20.

17. (1) In order to take part in the Ontario rebate for electricity consumers program, a remote unlicensed distributor must first submit a completed form entitled "Enrolment Application", available from the Ministry, to the contact person at the Ministry listed on the form. **[Energy Policy to confirm - use of this form with this title, and that it will be available from the Ministry. Are there any "lessons learned" from the OCEB that we should address in this reg.?]**

(2) The distributor must submit with the Enrolment Application,

(a) information on the distributor's electricity pricing structure;

(b) information on the distributor's consumer rate classes, if any, including the number of customers within each consumer rate class; and

(c) a sample of an invoice it intends to issue to its electricity customers that shows the amount of financial assistance the customer is entitled to with respect to the time period specified on the application.

(3) The Ministry may request, at any time and from time to time, and the distributor shall provide any additional information or documents the Ministry requires in order to confirm that the distributor is a remote unlicensed distributor during the eligible period and to determine if there are consumers who have eligible accounts with the distributor during the eligible period.

Comment [DS13]: Ss. 4(1) of O. Reg. 365/11 uses similar language in referring to the "Ontario clean energy benefits program". We may need to use more formal wording here.

Comment [DS14]: Note for leg counsel:
Do we have authority to impose this requirement?

Who is eligible to receive financial assistance from a remote unlicensed distributor

18. A person is eligible to receive financial assistance from a remote unlicensed distributor who meets the requirements set out in section 17 if the person is a consumer in a remote community listed in Schedule 1 who has an eligible account with the remote unlicensed distributor based on at least one of the following conditions set out in the definition of "eligible account" in subsection 1 (1) of the Act:

[Drafting note for Energy Policy: 365/11 uses the term "Ontario clean energy benefit" (which is not defined) rather than "financial assistance" (which is defined). It looks like both are intended to refer to the same thing. Would you please confirm? Is there a policy reason you would like to use something like "Ontario electricity rebate" in these IPA sections rather than "financial assistance" (e.g. for readability by IPAs)?]

1. The consumer has a demand for electricity of 50 kilowatts or less.
2. The consumer annually uses not more than 250, 000 kilowatt hours of electricity.
3. The consumer,

   (i) carries on a business that is a farming business for the purposes of the Farm Registration and Farm Organizations Funding Act, 1993, and

   (ii) holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act.]

   [Drafting note for Energy Policy: Being a farm is one of the ways specified in the Act for a consumer to have an "eligible account". However, this was not included as a qualifying condition for IPA consumers in the Minister's reg. (365/11). Do you want to include farms served by IPAs (assuming there are any)?]

4. The account 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,

   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*.

Comment [DS15]: Note for leg counsel:
In this section, the preceding section and the next couple of sections, we have used "financial assistance" but in 365/11 the corresponding sections use the term "Ontario clean energy benefit" (which is not defined).

Comment [DS16]: Note for leg counsel:
Same issue as flagged in relation to ss. 16(2) above. This section 18 is taken from s. 5 of 365/11 but without the additional words "who meets the requirements set out in section 17".

Comment [DS17]: Note for leg counsel:
See note to leg counsel below at the Schedule.

Comment [DS18]: Note for leg counsel:
This is the wording used in s. 5 of 365/11, but I don't think we need it here, and in any event the definition in s. 1(1) of Bill 13 includes for the first two clauses a qualifier "or such other amount … as may be prescribed".

Calculating the financial assistance: base invoice amount

19. (1) The purpose of this section is to determine the amount of a consumer's base invoice amount for a billing period for which an invoice for electricity is issued. A consumer's financial assistance for a billing period is eight per cent of the base invoice amount for the billing period or, if the billing period is partly outside the eligible period, for that portion of the billing period that is within the eligible period.

– IPA ops only on reserve
* – if on reserve → not subj to prov'l law just fed law

(2) The base invoice amount for a billing period includes the cost of the electricity billed to the consumer for the billing period, including the variable and fixed charges relating to the production and delivery of the electricity, but only for electricity consumed in the eligible period.

(3) The base invoice amount for a billing period for a consumer must exclude,

(a) any unpaid amounts that have already been billed for a previous billing period;

(b) all penalties, interest and any other charges not relating to the production and delivery of electricity to the consumer during the billing period;

(c) any charges relating to electricity supplied to the consumer before the eligible period; and

(d) the amount of any harmonized sales tax (HST) payable under Part IX of the Excise Tax Act (Canada). **[Drafting note for Energy Policy: The reference to the HST in s. 6(3)(d) of 365/11 is less formal that the reference here (and elsewhere in this reg. and in Bill 13). Do you want the IPA provisions to be drafted less formally (to the extent leg counsel is comfortable, and the language used still works)?]**

(4) If an invoice issued to a consumer for a billing period includes any charges for electricity consumed before the eligible period, the remote unlicensed distributor may make a reasonable estimate of the portion of the electricity consumed during the eligible period and the electricity charges relating to that electricity in order to determine the base invoice amount for that billing period.

How the distributor provides the financial assistance to a consumer

20. [Drafting note for Energy Policy: This section appears to largely do the same thing as s. 7 above, but uses more "plain language" wording. We don't really need both mirror provisions in this reg. Are you okay having s. 7 cover IPAs as well? We can include in s. 7 the specific details that apply only to IPAs (e.g. see clause 20 4. below).] If a consumer's eligible account for electricity with a remote unlicensed distributor is closed before the consumer receives all or part of his or her financial assistance from the distributor, the following rules apply:

1. The distributor may apply the amount of the financial assistance **[Drafting note for Energy Policy: S. 7(3) 1 of 365/11 uses the term "benefits" rather than "financial assistance (but "benefits" is not defined). Is there a reason you would prefer to say "benefits" here in this section?]** the consumer is entitled to receive but has not yet received to any outstanding balance owing by the consumer to the distributor.
2. If the amount then remaining that the consumer is entitled to receive but has not yet received is at least $10, the distributor must mail or deliver by hand that unpaid amount to the consumer's most recent address known to the distributor.
3. If a cheque mailed or delivered by hand in accordance with paragraph 2 has not been cashed despite the best efforts of the distributor to deliver it, and the cheque has ceased to be negotiable through the passage of time, the distributor is no longer liable to pay the benefits to the consumer and must ensure that the amount is repaid or credited to the Minister of Finance.
4. The distributor shall pay or credit to the Minister of Finance all amounts of less than $10 that are not paid by the distributor and all amounts referred to in paragraph 3,
    i. by reporting the total amount in the next Energy Report form, required under section 21, as a deduction from the amount of any reimbursement payable to the distributor, or
    ii. by remitting the total amount to the Ministry of Energy (but payable to the Minister of Finance).

Reimbursement of benefits provided to consumers

21. (1) To receive a reimbursement for financial assistance provided to its consumers, a remote unlicensed distributor must complete a form entitled "Energy Report", available from the Ministry, for each billing period for which the distributor provided financial assistance to a consumer, and must submit it to the Ministry in accordance with the directions on the form.

(2) The Ministry may at any time request, and the distributor shall provide, within the time specified in the request, any additional information or documents the Ministry considers necessary to determine the amount of the reimbursement to be made to the distributor. No reimbursement for a billing period may be made until the Ministry has received the Energy Report for the billing period and any additional information or documents it has requested to verify the amount to be reimbursed.

Comment [DS19]: Note to leg counsel: This seems to be administrative in nature, but I am not sure whether we have subdelegation authority for this sort of request. What are your thoughts on this?

(3) Based on the information provided in an Energy Report and any additional information and documents provided by the distributor, the Minister shall reimburse the distributor for the amount of financial assistance provided to consumers. The reimbursement shall be made in the manner set out in the Enrolment Application submitted by the distributor or in another manner agreed to by the distributor and the Ministry.

(4) The amount of a reimbursement may be subsequently adjusted by way of a reduction or increase in the amount of a subsequent reimbursement if it is subsequently determined by an inspector under section 9 of the Act or by the Ministry that the amount of the reimbursement was inaccurate.

[Drafting note for Energy Policy: Do you want to prescribe a limitation period on retroactive claims for rebate amounts and/or reimbursement for rebate amounts provided? If so, what limitation periods do you want?]

Comment [DS20]: Note for leg counsel:
Do we have authority for this?

SCHEDULE 1

1. Fort Hope No. 64.
2. Keewaywin.
3. North Spirit Lake.
4. Winisk Indian Settlement.
5. Pikangikum No. 14.
6. Poplar Hill.
7. Summer Beaver Settlement.
8. Wunnumin No.1.
9. Muskrat Dam Lake.
10. Wawakapewin.

Comment [DS21]: Note to leg counsel: This is the same Schedule that appears in the Minister's reg. Should we reproduce it here as well, or cross-reference to the Minister's reg.? I am thinking more in terms of the latter, to make things easier in case the Schedule is amended down the road.

OFA MOU → will share with IESO

IESO MOU → will want us to be market participant.

MOF MOU → have one for OCEB

Ontario Rebate for Electricity Consumers Act, 2016

ONTARIO REGULATION [ ]

INVOICING REQUIREMENTS

Comment [DS1]: Note for leg counsel: This will be a Minister's regulation made under s. 15(2) of the ORECA.

These provisions are largely taken from the invoicing provisions of 495/10 and 365/11 under the OCEBA, but includes specifics of what must be said on or with the bills that were left to Minister's letters in the context of the OCEBA.

Definitions and interpretation

1. In this Regulation,

"financial assistance" means an amount credited to an eligible account or paid to a person as financial assistance under the Act or a regulation made under the Act and includes an amount credited or paid as financial assistance in circumstances in which the person benefiting from the credit or payment is not entitled to all or part of the amount;

"invoice period" means, in respect of an invoice issued by a consumer, agent of a consumer or unit sub-meter provider, the period of time to which the invoice applies;

"Minister" means the Minister of Energy;

"Ministry" means the Ministry of Energy;

"remote unlicensed distributor" means a person, corporation or organization that,

(a) distributes electricity in a remote community listed in Schedule 1;

(b) issues invoices for electricity distributed to electricity customers **[located in that remote community? Energy Policy to advise]** who are eligible to receive financial assistance under the Act;

(c) is willing to provide financial assistance to those customers as an agent of the Minister; and

(d) has complied with the prescribed eligibility requirements for taking part in the Ontario rebate for electricity consumers program.

Comment [DS2]: Note for leg counsel: Referring here to the requirements that will be set out in an LGIC reg to be made under the ORECA, as applicable to remote unlicensed distributors.

The wording "taking part in the Ontario rebate for electricity consumers program" is an adaptation of wording in s. 4(1) of 365/11 made under the OCEBA.

Invoices – electricity vendors [and remote unlicensed distributors]

2. (1) Subject to section 3, the following rules apply in the case of an invoice issued by an electricity vendor **[or remote unlicensed distributor]** for a billing period in respect of an eligible account:

1. The total amount of the credit for financial assistance for the billing period and, if applicable, the amount of any credits for financial assistance for previous billing periods that were not provided in previous billing periods must be clearly shown as a line item **[Energy Policy to confirm whether any carry-over credits from previous billing periods should be lumped into the current period's rebate, or shown separately. In that regard, see also s. 4 below.]** on the face of the invoice at an appropriate location below the itemized charges for electricity, delivery, regulatory charges, debt retirement charge and harmonized sales tax, but above the net amount of the invoice after deducting the credit. **[Energy Policy to confirm location requirement – note that the Minister's**

Comment [DS3]: Note for leg counsel: I have reproduced the same requirements (clauses 2, 3, 4, 5 and 6) in ss. 2(1) and 2(2) but I expect you might want to consolidate them. It is really only clause 1 that is different (subject to Energy Policy input).

Comment [DS4]: Note for leg counsel: Remote unlicensed distributors were prescribed as electricity vendors for the purposes of the OCEBA (see 495/10 s.2(1)). We may do the same in the ORECA LGIC reg., so we should leave in this qualifier for now.

Comment [DS5]: See comment immediately above.

letters (under OCEBA) required the OCEB line item to be "at an appropriate location among the other itemized charges"]

2. The line item must be displayed no less prominently than the itemized charges referred to in clause 1. **[Energy Policy to confirm]**
3. The credit must be labelled as follows:

   Rebate equal to Ontario's portion of HST (8%) **[Energy Policy to confirm line item wording]**
4. The invoice must set out, in a location where conservation or other utility messages to consumers are usually placed, the following statement:

   To help you with the cost of electricity, the Ontario Government has lowered your electricity costs by an amount equal to Ontario's portion of HST. **[Energy Policy to confirm information message wording]**
5. Where the invoice is provided in paper form, the envelope that contains the invoice must set out the following statement in an appropriate location on the face of the envelope:

   For residential customers, small businesses and farms: The Ontario Electricity Rebate takes an amount equal to Ontario's portion of HST (8%) off your electricity costs. Check your bill for details. **[Energy Policy to confirm]**
6. Where the invoice is provided in paper form, the invoice must be accompanied by a bill insert in the form available at the Ministry of Energy, 4th Floor, Hearst Block, 900 Bay Street, Toronto, Ontario or on the Internet through the website of the Ministry on the Ministry's website. **[Energy Policy to confirm. Do you want to require a bill insert where invoices are provided electronically?]** → ~~probably~~ Policy to consider & advise

Comment [DS6]: Note for leg counsel: If the policy decision is made to include a requirement for a bill insert, we could probably post it on the Ministry's website or otherwise make it available to bill issuers.

This approach is similar to that taken in O. Reg. 425/06 under the EA, which defines "Functional Specifications" by referring to a specific document available at the Ministry or on its website. In the present case we might prefer not to refer to a specific document unless necessary from a legislative authority perspective.

Invoices – unit sub-meter providers

(2) Subject to section 3, the following rules apply in the case of an invoice issued to a person by a unit sub-meter provider who provides unit sub-metering for a consumer to whom subsection 3 (7) of the Act applies: **[Explanatory drafting note for Energy Policy: A USMP would provide unit sub-metering for a "consumer" such as a landlord or condo corporation. The "person" who whom the USMP issues the invoice is the unit occupant (e.g. tenant).]**

1. The invoice must clearly show, as a line item on the face of the invoice at an appropriate location below the itemized charges for electricity, delivery, regulatory charges, debt retirement charge and harmonized sales tax, but above the total amount payable on the invoice,
   i. a credit equal to the sum of,
      A. the amount of the credit to which the person is entitled in respect of the financial assistance to which the consumer is entitled under the Act or a regulation made under the Act for the period to which the invoice relates, and
      B. the amount of financial assistance to which the person is entitled for that period under the Act or a regulation made under the Act in respect of any fees and charges for unit sub-metering, and
   ii. the amount of any credits to which the person was entitled for previous invoice periods that were not provided in previous invoices, and **[Energy Policy to confirm**

Comment [DS7]: Note for leg counsel: The LGIC reg. will include a provision that calculates the credit to which the "person" (e.g. unit occupant) is entitled. The unit occupant will in effect get a pro rata share of the 8% rebate based on that occupant's share of the total electricity bill for the building.

Comment [DS8]: Note for leg counsel: The LGIC reg. will address the financial assistance to which the "person" (e.g. unit occupant) is entitled. It will in effect be 8% of the USMP's fees and charges to the person.

treatment of credit carry-forwards – e.g. lumped with current period? See also s. 4 below.]

iii. the net amount of the invoice after deducting the credit.

2. The line item must be displayed no less prominently than the itemized charges referred to in clause 1. **[Energy Policy to confirm]**

3. The credit must be labelled as follows:

   Rebate equal to Ontario's portion of HST (8%) **[Energy Policy to confirm line item wording]**

4. The invoice must set out, in a location where conservation or other utility messages to consumers are usually placed, the following statement:

   To help you with the cost of electricity, the Ontario Government has lowered your electricity costs by an amount equal to Ontario's portion of HST. **[Energy Policy to confirm information message wording]**

5. Where the invoice is provided in paper form, the envelope that contains the invoice must set out the following statement in an appropriate location on the face of the envelope:

   For residential customers, small businesses and farms: The Ontario Electricity Rebate takes an amount equal to Ontario's portion of HST (8%) off your electricity costs. Check your bill for details. **[Energy Policy to confirm]**

6. Where the invoice is provided in paper form, the invoice must be accompanied by a bill insert in the form available at the Ministry of Energy, 4th Floor, Hearst Block, 900 Bay Street, Toronto, Ontario or on the Internet through the website of the Ministry on the Ministry's website. **[Energy Policy to confirm. Do you want to require a bill insert where invoices are provided electronically?]**

Exceptions for technical or operational reasons

3. If an electricity vendor**[, remote unlicensed distributor]** or unit sub-meter provider satisfies the Minister that, for technical or operational reasons, it is unable to adapt its invoices or processes to conform to the requirements of section 2, the Minister may, in writing, authorize the electricity vendor**[, remote unlicensed distributor]** or unit sub-meter provider to include on its invoice such other wording as the Minister specifies. **[Energy Policy to confirm that the exception-granting powers of the Minister should relate to all of the requirements under s. 2 (line item, information messaging, envelope messaging and bill inserts)]**

Break-down of credit between periods

4. If an invoice issued by an electricity vendor or unit sub-meter provider contains a credit for more than one billing period or invoice period, the issuer of the invoice shall provide, if requested by the person liable to pay the invoice, a break-down of the amount of the credit between periods. **[Energy Policy to confirm treatment of carry-over credits]**

Explanation of calculation of credit

5. The issuer of an invoice that includes a credit for financial assistance shall, if requested by the person liable to pay the invoice, explain how the amount of the financial assistance on the invoice has been calculated.

Comment [DS9]: Note for leg counsel: Is this appropriately within the scope of the Minister's reg-making powers (which are confined to invoices)? This section relates to the invoice but the break-down could be provided verbally.

Comment [DS10]: Note for leg counsel: Is this appropriately within the scope of the Minister's reg-making powers? This relates to the invoice but the explanation could be provided verbally.

SCHEDULE 1

[Drafting note for Energy Policy: This is taken from O. Reg. 365/11 under the OCEBA.

Does this Schedule need to be updated for ORECA purposes?]

1. Fort Hope No. 64.
2. Keewaywin.
3. North Spirit Lake.
4. Winisk Indian Settlement.
5. Pikangikum No. 14.
6. Poplar Hill.
7. Summer Beaver Settlement.
8. Wunnumin No.1.
9. Muskrat Dam Lake.
10. Wawakapewin.

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Ontario Rebate for Electricity Consumers Act, 2016

EXPLANATORY NOTE

The *Ontario Rebate for Electricity Consumers Act, 2016* authorizes financial assistance for certain Ontario electricity consumers in respect of electricity costs. Consumers receive the financial assistance by means of an 8 per cent reduction in the amount payable before tax under their electricity accounts for each billing period. The amount of financial assistance for a billing period is required to be shown on invoices issued to consumers for the billing period. ~~The Act authorizes the making of regulations to limit the financial assistance to a maximum number of kilowatt hours of electricity per account per month or other period of time.~~ The financial assistance is available with respect to invoices issued on or after January 1, ~~2017 and before such date as may be set by regulation.~~2017.

The Act authorizes the making of regulations to reimburse electricity vendors for amounts credited to consumers' accounts under the Act. The Act authorizes the making of various other regulations, including to set out other ways for consumers to receive financial assistance, to alter the default rules in the Act for how to calculate the financial assistance and to limit or alter who is entitled to financial assistance.

The Act contains administrative and enforcement provisions, including requirements relating to record keeping by electricity vendors and authorization for inspections and inquiries with respect to amounts of financial assistance provided and reimbursements to electricity vendors. The *Ontario Energy Board Act, 1998* is amended so that provisions of the *Ontario Rebate for Electricity Consumers Act, 2016* and regulations made under it will be enforceable by the Ontario Energy Board.

An Act in respect of the cost of electricity

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[TOC]

Definitions

1. (1) In this Act,

"billing period" means a period of time that is wholly or partly in the eligible period and for which an invoice in respect of an eligible account is issued; ("période de facturation")

"Board" means the Ontario Energy Board; ("Commission")

"consumer" means a person,

(a) to whom an invoice is issued in respect of an eligible account for a billing period, or

(b) who is prescribed by the regulations or who satisfies such conditions as may be prescribed by the regulations; ("consommateur")

"distribution system" has the same meaning as in section 3 of the *Ontario Energy Board Act, 1998*; ("réseau de distribution")

"electricity vendor" means the IESO, a licensed distributor, a licensed retailer or a person prescribed by the regulations; ("vendeur d'électricité")

"eligible account" means, in respect of a consumer, an account with an electricity vendor, or with a person prescribed by the regulations, for the provision of electricity in Ontario if,

(a) the consumer has a demand for electricity of 50 kilowatts or less, or such other amount of demand for electricity as may be prescribed;

(b) the consumer annually uses not more than 250,000 kilowatt hours of electricity, or such other amount of use of electricity as may be prescribed,

(c) the consumer,

(i) carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and

(ii) holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act,

(d) the account 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*, or

(e) the consumer or the account satisfies such conditions as may be prescribed by the regulations; ("compte admissible")

"eligible period" means the period commencing January 1, 2017 ~~and ending on such date as may be prescribed~~; ("période admissible")

"IESO" has the same meaning as in subsection 2 (1) of the *Electricity Act, 1998*; ("SIERE")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("distributeur titulaire d'un permis")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("détaillant titulaire d'un permis")

"market rules" means the market rules made under section 32 of the *Electricity Act, 1998*; (règles du marché")

"regulations" means the regulations made under this Act; ("règlement")

"retail" has the same meaning as in section 56 of the *Ontario Energy Board Act, 1998*; ("vendre au détail")

"unit sub-metering" means activities that are unit sub-metering for the purposes of the *Ontario Energy Board Act, 1998*; ("activités liées aux compteurs divisionnaires d'unité")

"unit sub-meter provider" means a person who is licensed to engage in unit sub-metering by the Board under Part V of the *Ontario Energy Board Act, 1998*. ("fournisseur de compteurs divisionnaires d'unité")

Eligible account

(2) For the purposes of this Act, if a consumer would, but for this subsection, have an eligible account with a licensed retailer and with a licensed distributor, but only one of them issues an invoice to the consumer for a billing period for all amounts payable by the consumer to them for the billing period,

(a) the consumer is deemed to have an eligible account for the billing period only with whichever of them issues the invoice for the billing period; and

(b) the licensed distributor or licensed retailer who issues the invoice for the billing period is deemed to be imposing all charges and other amounts payable under the invoice for the purposes of determining the amount of financial assistance to which the consumer is entitled.

Base invoice amount

2. (1) For the purposes of this Act, the base invoice amount for a billing period in respect of an eligible account is determined in accordance with the regulations and, unless

otherwise prescribed by the regulations, includes, if the invoice is issued by a licensed distributor or a licensed retailer, amounts in respect of,

(a) the commodity price of the electricity;

(b) 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* that are not required under subsection (2) or the regulations to be excluded;

[(c) any charges related to an assessment under section 26.1 of the *Ontario Energy Board Act, 1998*;]

(d) any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*;

(e) any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*; and

(f) anything else prescribed by the regulations.

Exclusions

(2) Except as otherwise prescribed by the regulations, the base invoice amount for a billing period must exclude,

(a) the balance of any amounts carried forward from previous invoices;

(b) all penalties and interest;

(c) any charges that do not relate to the consumption of electricity;

(d) the fixed monthly service charge payable by a generation facility, within the meaning of section 56 of the *Ontario Energy Board Act, 1998*, that is classified as "microFIT" in a rate order issued by the Board under subsection 78 (3) of that Act;

(e) charges labelled as "specific service charges" or "retail service charges" in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*;

(f) the amount of any harmonized sales tax payable under Part IX of the *Excise Tax Act* (Canada); and

(g) any other amounts prescribed by the regulations.

Financial assistance

3. (1) ~~Subject to subsection (2), a~~A consumer who has an eligible account during a billing period is entitled to receive financial assistance in respect of the cost of electricity during the billing period in an amount equal to 8 per cent of the base invoice amount for the billing period in respect of the eligible account.

~~**Maximums**~~

~~(2) A consumer is entitled to receive financial assistance in respect of the cost of a prescribed maximum number of kilowatt hours of electricity per eligible account per month, billing period or other prescribed period, subject to prescribed exemptions and determined in accordance with the regulations.~~

~~**Effective date**~~

~~(3) The maximums described in subsection (2) shall be in effect as of such date or during such period as may be prescribed.~~

Exception

(~~4~~2) Despite subsection (1), a consumer is not entitled to receive financial assistance under this Act,

(a) in respect of electricity consumed in generation station service;

(b) in such circumstances as may be prescribed by the regulations; or

(c) if the regulations prescribe that ~~they are~~the consumer is excluded from financial assistance.

Payment of financial assistance

(~~5~~3) The financial assistance to which a consumer is entitled under this Act shall be paid,

(a) by crediting the consumer's eligible account; or

(b) in such other manner as may be prescribed by the regulations.

Money appropriated by the Legislature

(~~6~~4) The money required for the purposes of this Act shall be paid out of the money appropriated for those purposes by the Legislature.

No assignment of financial assistance

(~~7~~5) An assignment by a consumer to another person or entity, including a licensed retailer, of the consumer's entitlement to any payment, rebate or credit does not apply to

any financial assistance to which the consumer is entitled under this Act, whether the assignment was made before or after this subsection comes into force.

Same

(~~8~~6) Subsection (~~9~~7) applies if,

(a) a consumer provides to another person electricity in respect of which the consumer is entitled to financial assistance under subsection (1); and

(b) an invoice for the electricity is issued to the person by the consumer, by an agent of the consumer or by a unit sub-meter provider providing unit sub-metering for the consumer.

Requirement to pass on benefit

(~~9~~7) Despite subsections (1) and (~~7~~5), the consumer and every unit sub-meter provider providing unit sub-metering for the consumer shall ensure that each person who is liable to pay an invoice referred to in clause (~~8~~6) (b) receives a credit, determined in the manner prescribed by the regulations, in respect of the financial assistance to which the consumer is entitled with respect to electricity the consumer provides to the person.

Invoices

4. (1) ~~Subject to~~Unless otherwise prescribed by the regulations, every electricity vendor who issues an invoice for a billing period to a consumer in respect of an eligible account shall clearly show on the invoice,

(a) a credit equal to the amount of the financial assistance provided to the consumer for the billing period; and

(b) the net amount of the invoice after the credit.

Invoice issued by consumer, etc.

(2) An invoice that is issued by a consumer, an agent of a consumer, a unit sub-meter provider or another person prescribed by the regulations must be in the form required by the regulations and contain or be accompanied by the information required by the regulations.

Transitional

(3) If, for technical or operational reasons, an electricity vendor or a person referred to in subsection (2) is unable to adapt its invoices to comply with this Act and the regulations by the time it issues its first invoice for electricity consumed in 2017 in respect of an eligible account,

(a) the electricity vendor or person shall adapt its invoices as soon as possible and, in any event, no later than July 1, 2017; and

(b) consumers continue to be entitled to receive the financial assistance to which they are entitled under this Act and may receive it as a lump sum credit on the invoice for the first billing period after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Financial arrangements

Purposes

5. (1) The purposes of this section are,

(a) to ensure that financial assistance under this Act and the regulations is provided to those persons entitled to receive it; and

(b) to authorize the making of financial arrangements to reimburse electricity vendors, and other persons prescribed by the regulations, for financial assistance provided under this Act and the regulations.

Regulations

(2) The Lieutenant Governor in Council may, for the purpose of this section, make regulations,

(a) authorizing the Minister of Energy to make payments to persons who are electricity vendors or persons prescribed by the regulations in respect of the amount of financial assistance to which consumers are entitled under this Act and prescribing methods for determining the amounts payable;

(b) requiring the IESO to make payments to licensed distributors, or to persons prescribed by the regulations, in respect of financial assistance provided under this Act or the regulations and prescribing methods for determining the amounts payable;

(c) requiring a licensed distributor to make payments to other licensed distributors or licensed retailers in respect of financial assistance under this Act and prescribing methods for determining the amounts payable;

(d) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments in respect of financial assistance to consumers or other persons entitled to receive the financial assistance and prescribing the circumstances in which such payments are to be made and methods for determining the amounts payable;

(e) authorizing the Minister of Energy to make payments of financial assistance directly to consumers and prescribing the circumstances when such payments are to be made;

(f) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments to the Minister of Finance in respect of amounts received by them or in circumstances prescribed by the regulations and prescribing methods for determining the amounts payable;

(g) authorizing payments referred to in clause (a), (b), (c), (d) or (f) to be made by way of set-offs and credits and prescribing conditions entitling or requiring amounts to be set off or credited;

(h) governing the payments required under clause (a), (b), (c), (d) or (f), including methods for paying the amounts payable and when the payments must be made, and governing methods for determining amounts to be set off or credited, including the times within which amounts must or may be set off or credited;

(i) for the purposes of this Act and the regulations, requiring persons who are electricity vendors or persons prescribed by the regulations to provide information to the Minister of Energy, the Minister of Finance, the IESO, the Board or licensed distributors and prescribing the information to be provided and when it must be provided;

(j) governing the establishment and maintenance of variance accounts required for the purposes of this Act.

Conflict with market rules and codes

(3) In the event of a conflict, a regulation made under subsection (2) prevails over the market rules to the extent of the conflict and prevails over a code issued by the Board under section 70.1 of the *Ontario Energy Board Act, 1998* to the extent of the conflict.

Provision of information

(4) A person may do anything required by a regulation made under clause (2) (i) despite any agreement to the contrary and, if the person does so,

(a) the person is not liable for doing the thing in contravention of any agreement to the contrary; and

(b) doing the thing is deemed not to constitute a breach, termination, repudiation or frustration of any contract.

Cut-off dates and limitation periods for financial assistance, reimbursement
Financial assistance

6. (1) Despite any entitlement of consumers to financial assistance under this Act, no financial assistance is payable to a consumer after a date or after a limitation period ~~of time~~ prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after a date or limitation period ~~of time~~ prescribed by the regulations in respect of the electricity vendor or other person, other than in such circumstances as may be prescribed by the regulations.

Definition

7. In sections 8, 9 and 10,

"Minister" means the Minister of Finance or such other member of the Executive Council to whom the administration of those sections is assigned under the *Executive Council Act*.

Records

8. (1) Every electricity vendor and every person prescribed by the regulations shall keep at a location in Ontario such records as are necessary to determine and verify compliance with this Act and the regulations and any records required by the regulations to be kept.

Electronic records

(2) If a person keeps records in an electronic form, the person shall ensure that, from the time the records are first made and for as long as they are required to be retained,

(a) they remain complete and unaltered, apart from any changes or additions made in the normal course of communication, storage or display; and

(b) they are capable of being printed and of being produced in electronically readable format for inspection, examination or audit.

Retention of records

(3) Records required to be kept under subsection (1) shall not be destroyed unless authorization has been given in writing by the Minister.

Offence

(4) Every person who fails to keep records in accordance with this section is guilty of an offence and, on conviction, is liable to a fine of not less than $50 and not more than $5,000.

Inspections and inquiries

9. (1) The Minister may appoint one or more inspectors who are authorized to exercise any of the powers and perform any of the duties of a person authorized by the Minister under subsection 31 (1) of the *Retail Sales Tax Act* for any purpose related to the administration and enforcement of this Act.

Same

(2) Subsections 31 (1), (2), (2.1) and (2.2) of the *Retail Sales Tax Act* apply, with necessary modifications, with respect to the administration and enforcement of this Act.

Admission of evidence

(3) The Minister, or a person authorized by the Minister, may, for any purpose related to the administration of this Act or the regulations, reproduce from original data stored electronically any information previously submitted as required under this Act or the regulations in any form by any person, and the electronically reproduced document shall be admissible in evidence and shall have the same probative force as the original document would have had if it had been proved in the ordinary way.

Inquiry

(4) The Minister may, for any purpose related to the administration of this Act or the regulations, authorize any person, whether or not the person is an employee in the Ministry of the Minister, to make such inquiry as the Minister considers necessary with reference to anything relating to the administration of this Act or the regulations.

Copies

(5) If a book, record or other document is examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry may make, or cause to be made, one or more copies of it, and a document purporting to be certified by the person to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if proved in the ordinary way.

Compliance

(6) No person shall hinder or molest or interfere with any person doing anything that the person is authorized by this section to do or prevent or attempt to prevent any person doing any such thing.

Same

(7) Despite any other law to the contrary, every person shall, unless the person is unable to do so, do everything he, she or it is required by this section to do.

Administration of oaths

(8) Declarations or affidavits in connection with statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee for doing so.

Application of Public Inquiries Act, 2009

(9) Section 33 of the *Public Inquiries Act, 2009* applies to an inquiry under subsection (4).

Recovery of overpayments

Definitions

10. (1) In this section,

"inspector" means an inspector referred to in section 9; ("inspecteur")

"overpayment" means an amount received by a person in excess of any reimbursement to which the person is entitled under this Act and the regulations. ("trop-perçu")

Notice of overpayment

(2) If it appears to an inspector that a person has received an overpayment, the Minister may send a written notice to the person advising the person of the following:

1. That the person has received an overpayment.

2. The amount of the overpayment and how it was calculated.

3. The required steps to be taken by the person with respect to the overpayment.

4. The date, not more than six months after the date of the notice, by which these steps must be completed.

5. That the Minister has the authority to assess the person for the amount of the overpayment, plus interest, if the person fails to complete the required steps by the specified date.

Calculation of amount of overpayment

(3) For the purposes of this section, an inspector shall calculate an overpayment or the outstanding balance of an overpayment in the manner and form and using such procedures as the Minister considers adequate and expedient.

Assessment

(4) If a person fails to complete the steps required in a notice under subsection (2) within the time specified in the notice, and any additional time requested by the person and permitted by the Minister, the Minister may assess or reassess the amount of the overpayment, or the outstanding balance of the overpayment, based on the inspector's calculation described in subsection (3).

Penalty

(5) If the Minister makes an assessment or reassessment under subsection (4) and is satisfied that the person's non-compliance with the required steps in the notice was attributable to neglect, carelessness, wilful default or fraud, the Minister may assess a penalty against the person equal to the outstanding balance of the overpayment when the penalty is assessed.

Time limit

(6) The Minister shall not assess or reassess under subsection (4) more than 48 months after the end of the month in which the person received the overpayment.

Exception, where misrepresentation, etc.

(7) Subsection (6) does not apply if the Minister establishes that the person has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in supplying information under this Act or the regulations or in omitting to disclose information.

Deemed debt retirement charge

(8) An amount assessed or reassessed by the Minister under this section is deemed for the purposes of the administration and enforcement of this Act to be a debt retirement charge, as defined in subsection 85 (1) of the *Electricity Act, 1998*, that has been collected, on the last day of the month in which the person received the overpayment, by the person as a collector appointed under subsection 85.3 (1) of the *Electricity Act, 1998* and, for those purposes,

(a) sections 85.11, 85.12, 85.14, 85.17 and 85.30 of that Act apply with necessary modifications;

(b) in the application of sections 85.11 and 85.14 of that Act and without limiting the generality of clause (a), references to the Financial Corporation are read as

references to the Minister of Finance and references to the Minister of Finance are read as references to the Minister as defined in section 7 of this Act;

(c) the regulations made under that Act for the purposes of calculating the rate or rates of interest payable under section 85.11 of that Act and the manner of calculating the amount of interest apply with necessary modifications; and

(d) sections 23 and 36, subsections 37 (1), (1.1) and (2) and sections 37.1, 38 and 39 of the *Retail Sales Tax Act* apply with necessary modifications.

Disposition of repaid amounts

(9) If all or part of an overpayment is repaid to the Minister of Finance, the Minister of Energy shall make such financial arrangements and payments as may be necessary to ensure that any electricity vendor or other person entitled to all or part of the overpayment receives the appropriate amount.

Confidentiality

11. (1) Except as authorized by this section, no person employed by the Government of Ontario shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister of Energy or the Minister of Finance for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Testimony

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

(a) to give evidence relating to any information obtained by or on behalf of the Minister of Energy or Minister of Finance for the purposes of this Act; or

(b) to produce any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Exception

(3) Subsections (1) and (2) do not apply in respect of,

(a) criminal proceedings under any Act of the Parliament of Canada;

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

(c) proceedings relating to the administration or enforcement of this Act or Part V.1 or VI of the *Electricity Act, 1998*.

Communication

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,

(a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law or to an employee of the Board information obtained by or on behalf of either Minister for the purposes of this Act; and

(b) allow another person employed by the Government of Ontario in the administration or enforcement of any law or an employee of the Board to inspect or have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Reciprocal communication

(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to that Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of information

(6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

Same

(7) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to,

(a) the person from whom the information, record or thing was obtained;

(b) any person by whom an amount is payable or has been paid under this Act; or

(c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.

Information

(8) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to any person employed by any government if,

(a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and

(b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

Offence

(9) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than $2,000.

Offences

False statements, etc., and fraud

12. (1) Every person who engages in any of the following acts or omissions is guilty of an offence:

1. Making, participating in, assenting to or acquiescing in the making of a false or deceptive statement in any document or answer required or submitted under this Act or the regulations.

2. Destroying, altering, mutilating, hiding or otherwise disposing of information or records of an electricity vendor or other person, for the purpose of evading compliance with this Act or the regulations.

3. Making, assenting to or acquiescing in the making of a false or deceptive entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

4. Omitting to make or assenting to or acquiescing in the omission of an entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

5. Wilfully evading or attempting to evade, in any manner, compliance with an obligation under this Act or the regulations.

Penalty upon conviction

(2) A person convicted of an offence under subsection (1) is liable to either or both of the following penalties in addition to any other penalty assessed under this Act:

1. A fine in an amount that is not less than $1,000 and not more than $10,000.

2. Imprisonment for a term of not more than two years.

General offence

(3) Every person who contravenes, by any act or omission, a requirement imposed under this Act is guilty of an offence and, on conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than $50 and not more than $5,000.

Limitation period

13. A proceeding to prosecute an offence under this Act must be commenced within six years after the date on which the matter of the offence arose.

Payment of fines

14. Fines imposed on conviction of an offence under this Act are payable to the Minister of Finance on behalf of the Crown in right of Ontario.

Regulations

15. (1) The Lieutenant Governor in Council may make regulations,

~~**Note from the Office of Legislative Counsel:** Under s. 82 of the *Legislation Act, 2006*, a power to make a regulation includes the power to create classes and create different rules for different classes. For example, the power to cap financial assistance includes the power to impose different caps on different classes of consumers.~~

~~Also, regulations can be made in respect of multiple periods of time.~~

~~A question was asked about a general regulation-making power to exempt anyone from any provision of the Act. Although some Ontario statutes do have such a provision, it is not recommended. On its face, it is a sweeping power to negate the will of the Legislature. This is sometimes called a "Henry VIII clause". If an exemption power may be needed, it is better to identify which provisions may be affected and then provide in those provisions that the rule is subject to exceptions set out in regulation (as in s. 3 (2) of this draft), rather than by a more sweeping power.~~

~~It is also important to note that regulations are only authorized to the extent that they are consistent with the purposes of the Act. Therefore, a general power to grant an exemption may be less useful than it seems: a regulation made under a sweeping general power may seem less consistent with the purposes of the Act than a regulation made under a specific power contemplated in the substantive provisions of the Act.~~

(a) prescribing anything required to be or referred to in this Act as being prescribed by the regulations;

(b) defining any word or expression used in this Act that is not already expressly defined in this Act;

(c) requiring any person to take such action or refrain from taking such action as may be necessary for the purposes of or in connection with any regulation made under this Act;

(d) prescribing information that must or may be included on invoices issued to consumers or that must or may accompany invoices issued to consumers or payments of financial assistance under this Act;

(e) governing the presentation of financial assistance under this Act on invoices issued to consumers;

(f) governing information that must or may be provided to consumers concerning this Act and eligibility for financial assistance under it;

(g) governing the determination of the base invoice amount for a billing period with respect to a class of electricity vendors or a class of consumers;

~~(h) governing the determination of the maximum financial assistance to which a consumer is entitled under subsection 3 (2) in respect of a month, billing period or other specified period, including,~~

~~(i) prescribing what constitutes a month or other specified period for the purposes of the maximum,~~

~~(ii) prescribing the method for determining the number of kilowatt hours of electricity consumed per month, billing period or other specified period, and~~

~~(iii) prescribing exemptions for the purposes of that subsection;~~ ~~(i)~~ prescribing a method of paying or crediting to a consumer an amount of financial assistance to which the consumer is entitled under this Act and the circumstances in which the method applies;

(ii) requiring a unit sub-meter provider to provide financial assistance in respect of the cost of electricity and prescribing,

(i) the circumstances in which the financial assistance is to be provided,

(ii) the person or class of persons entitled to receive the financial assistance,

(iii) the method of determining the amount of the financial assistance to be provided,

(iv) the manner for paying or otherwise providing the financial assistance;

(~~kj~~) setting out one or more dates or limitation periods for the purposes of subsection 6 (1) or (2), and governing the circumstances in which that subsection does not apply;

(~~lk~~) respecting records to be kept by electricity vendors or by persons prescribed by the regulations;

(~~ml~~) providing for matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of this Act and the regulations.

Retroactive regulations

(2) A regulation made under this Act is, if it so provides, effective with reference to a period before it is filed.

Subdelegation

(3) A regulation under this Act may authorize a person to require, authorize, prescribe or otherwise determine any matter that may be required, authorized, prescribed or otherwise determined by the Lieutenant Governor in Council under this Act.

Repeal

16. On the day this section comes into force, this Act is repealed.

Ontario Clean Energy Benefit Act, 2010

17. (1) The *Ontario Clean Energy Benefit Act, 2010* is amended by adding the following section:

Cut-off dates for financial assistance, reimbursement

Financial assistance

6.1 (1) Despite any entitlement of consumers to financial assistance under this Act, no financial assistance is payable to a consumer after the date prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after the date prescribed by the regulations in respect of the electricity vendor or other person, other than in such circumstances as may be prescribed by the regulations.

(2) Subsection 15 (1) of the Act is amended by adding the following clause:

(i.1) setting out one or more dates for the purposes of subsection 6.1 (1) or (2), and governing the circumstances in which that subsection does not apply;

Ontario Energy Board Act, 1998

~~16.~~**18. (1) The definition of "enforceable provision" in section 3 of the *Ontario ~~Clean~~ Energy Board Act, 1998* is amended by adding the following clause:**

(c.2) a provision of the *Ontario Rebate for Electricity Consumers Act, 2016* or the regulations made under it,

(2) On the day this subsection comes into force, clause (c.2) of the definition of "enforceable provision" in section 3 of the Act, as made by subsection (1), is repealed.

(3) Section 70 of the Act is amended by adding the following subsection:

Deemed condition of licences, unit sub-meter provider, *Ontario Rebate for Electricity Consumers Act, 2016*

(2.3) Every licence issued to a unit sub-meter provider is deemed to contain the condition that the unit sub-meter provider is required to comply with the *Ontario Rebate for Electricity Consumers Act, 2016* and the regulations made under it.

~~**Repeal**~~

~~**17. This Act is repealed on a day to be named by proclamation of the Lieutenant Governor.**~~ **(4) On the day this subsection comes into force, subsection 70 (2.3) of the Act, as made by subsection (3), is repealed.**

Commencement

~~**18. This**~~**19. (1) Subject to subsection (2), this Act comes into force on the later of January 1, 2017 and the day it receives Royal Assent.**

(2) Section 16 and subsections 18 (2) and (4) come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

~~19.~~**20.** **The short title of this Act is the *Ontario Rebate for Electricity Consumers Act, 2016*.**

Document comparison by Workshare Compare on August-31-16 22:15:06

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Document 2 ID	file://K:\2016\FIN\Clean Energy Rebate (GOV2016.091)\GOV2016.091.e04 (Clean Energy Rebate).docx
Description	GOV2016.091.e04 (Clean Energy Rebate)
Rendering set	Standard

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Deletions	81
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	127

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General Key Messages on Bill 13

- **On Sept X, 2016, the government introduced legislation that, if passed, would bring into force the *Ontario Rebate for Electricity Consumers Act* which would provide an eight per cent (8%) rebate on monthly electricity bills for nearly 5 million residential consumers, small businesses and farms,**

- **This measure will give Ontario's residential and business consumers more ways to manage their electricity costs while we continue to make the critical investments needed to maintain our energy system**

- **We're doing this because we know that families need help with the cost of everyday living. Despite consistent economic growth since the global recession, many families aren't feeling Ontario's resurgence in their everyday lives.**

- **We also recognize that rebuilding and cleaning up Ontario's electricity system has come at a cost. Over the last decade we've rebuilt our transmission and distribution grid, we've invested in clean generation, and we've closed the last dirty coal-fired power plant. But we need to take the next step in ensuring that clean, reliable system is affordable.**

- **We're able to take action now because years of careful management is leading to a balanced budget in 2017-18; and we believe that Ontarians should be the first to benefit from the province's fiscal discipline.**

- **Recognizing this, we are introducing new measures that would take effect January 1, 2017, including:**

    - **Rebating provincial portion of the HST to reduce eligible residential, small business and farm electricity bills by 8% ($130 annually)**
    - **Providing eligible rural ratepayers with additional relief, decreasing total electricity bills by an average of $540 a year or $45 each month**
    - **Empowering additional large electricity consumers to reduce bills by up to one third through the Industrial Conservation Initiative**

- **Taken together, it will provide needed assistance to consumers of all sizes, and it targets support to those that need it most.**

Additional Background:

- **The proposed HST rebate and RRRP increase would be in addition to the existing programs that provide support to Ontario families in paying their bills:**
    - **The Ontario Energy and Property Tax Credit saves qualifying individuals up to $1,008 per year, with a maximum of $1,148 per year for qualifying seniors.**
    - **The Low-Income Energy Assistance Program provides emergency financial support of up to $600 for families and individuals having trouble paying their bills.**
    - **The saveONenergy Home Assistance Program was developed to help income-eligible homeowners and tenants manage their energy use and costs by offering detailed in-home energy assessments and installing energy-saving measures at no cost. Social and assisted housing providers also qualify for assistance in making their buildings more energy efficient.**
    - **The Northern Ontario Energy Credit helps families and individuals in Northern Ontario by providing tax credits for low- to middle-income families and individuals living in northern Ontario. The maximum annual credit for a single person is $146, and for a family (including single parents), is $224.**
- **In addition, the government removed the Debt Retirement Charge (DRC) from residential electricity bills as of January 1, 2016. This will save a typical residential electricity ratepayer who uses 750 kilowatt hours per month about $65 per year.**

ONTARIO ELECTRICITY SUPPORT PROGRAM:

- **The government recognizes that that the price of electricity can be difficult for those that pay a higher share of their income towards the bill – particularly low-income families and seniors on a fixed income. For many low-income Ontarians, paying their electricity bill can be a challenge, with this monthly expense representing a greater portion of their income.**
- **That is why the OEB developed the Ontario Electricity Support Program (OESP), which provides an ongoing rate reduction directly on the bills of low-income electricity consumers who have applied and meet the eligibility requirements.**

- **OESP monthly credits range from $30 to $50. A household receiving the lowest OESP credit would receive$360/ year off their bills, or $430/ year when combined with the removal of the DRC.**

- **OESP customers with unique electricity needs could be eligible for a higher level of assistance.**

Bill 13: Ontario Rebate for Electricity Consumers Act, 2016

An Act in respect of the cost of electricity

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. (1) In this Act,

"billing period" means a period of time that is wholly or partly in the eligible period and for which an invoice in respect of an eligible account is issued; ("période de facturation")

"Board" means the Ontario Energy Board; ("Commission")

"consumer" means a person,

(a) to whom an invoice is issued in respect of an eligible account for a billing period, or

(b) who is prescribed by the regulations or who satisfies such conditions as may be prescribed by the regulations; ("consommateur")

"distribution system" has the same meaning as in section 3 of the Ontario Energy Board Act, 1998; ("réseau de distribution")

"electricity vendor" means the IESO, a licensed distributor, a licensed retailer or a person prescribed by the regulations; ("vendeur d'électricité")

"eligible account" means, in respect of a consumer, an account with an electricity vendor, or with a person prescribed by the regulations, for the provision of electricity in Ontario if,

(a) the consumer has a demand for electricity of 50 kilowatts or less, or such other amount of demand for electricity as may be prescribed,

(b) the consumer annually uses not more than 250,000 kilowatt hours of electricity, or such other amount of use of electricity as may be prescribed,

(c) the consumer,

(i) carries on a business that is a farming business for the purposes of the Farm Registration and Farm Organizations Funding Act, 1993, and

(ii) holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act,

(d) the account 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, or

(e) the consumer or the account satisfies such conditions as may be prescribed by the regulations; ("compte admissible")

"eligible period" means the period commencing January 1, 2017; ("période admissible")

"IESO" has the same meaning as in subsection 2 (1) of the Electricity Act, 1998; ("SIERE")

"licensed distributor" means a person licensed under Part V of the Ontario Energy Board Act, 1998 to own or operate a distribution system; ("distributeur titulaire d'un permis")

"licensed retailer" means a person who is licensed under Part V of the Ontario Energy Board Act, 1998 to retail electricity; ("détaillant titulaire d'un permis")

"market rules" means the market rules made under section 32 of the Electricity Act, 1998; (règles du marché")

"regulations" means the regulations made under this Act; ("règlement")

"retail" has the same meaning as in section 56 of the Ontario Energy Board Act, 1998; ("vendre au détail")

"unit sub-metering" means activities that are unit sub-metering for the purposes of the Ontario Energy Board Act, 1998; ("activités liées aux compteurs divisionnaires d'unité")

"unit sub-meter provider" means a person who is licensed to engage in unit sub-metering by the Board under Part V of the Ontario Energy Board Act, 1998. ("fournisseur de compteurs divisionnaires d'unité")

Eligible account

(2) For the purposes of this Act, if a consumer would, but for this subsection, have an eligible account with a licensed retailer and with a licensed distributor, but only one of them issues an invoice to the consumer for a billing period for all amounts payable by the consumer to them for the billing period,

(a) the consumer is deemed to have an eligible account for the billing period only with whichever of them issues the invoice for the billing period; and

(b) the licensed distributor or licensed retailer who issues the invoice for the billing period is deemed to be imposing all charges and other amounts payable under the invoice for the purposes of determining the amount of financial assistance to which the consumer is entitled.

Explanation

Subsection 1(1) defines key terms such as "electricity vendor", "eligible account" and "unit submeter provider". Certain terms, such as "IESO", "licensed distributor" and "licensed retailer", are defined by reference to their definitions in other statutes, such as the *Electricity Act, 1998* or the *Ontario Energy Board Act, 1998*.

Subsection 1(2) provides rules for determining the entity with whom a consumer is deemed to have an "eligible account" where the consumer is under contract with a licensed retailer but only one of the electricity retailer or electricity distributor issues an invoice to the consumer.

Base invoice amount

2. (1) For the purposes of this Act, the base invoice amount for a billing period in respect of an eligible account is determined in accordance with the regulations and, unless otherwise prescribed by the regulations, includes, if the invoice is issued by a licensed distributor or a licensed retailer, amounts in respect of,

(a) the commodity price of the electricity;

(b) 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 that are not required under subsection (2) or the regulations to be excluded;

(c) any adjustment on the invoice required pursuant to section 25.33 of the Electricity Act, 1998;

(d) any debt retirement charge payable by the consumer under subsection 85 (4) of the Electricity Act, 1998; and

(e) anything else prescribed by the regulations.

Exclusions

(2) Except as otherwise prescribed by the regulations, the base invoice amount for a billing period must exclude,

(a) the balance of any amounts carried forward from previous invoices;

(b) all penalties and interest;

(c) any charges that do not relate to the consumption of electricity;

(d) the fixed monthly service charge payable by a generation facility, within the meaning of section 56 of the Ontario Energy Board Act, 1998, that is classified as "microFIT" in a rate order issued by the Board under subsection 78 (3) of that Act;

(e) charges labelled as "specific service charges" or "retail service charges" in the applicable rate order issued by the Board under subsection 78 (3) of the Ontario Energy Board Act, 1998;

(f) the amount of any harmonized sales tax payable under Part IX of the Excise Tax Act (Canada); and

(g) any other amounts prescribed by the regulations.

Explanation

Subsections 2(1) and (2) outline what constitutes the "base invoice amount", which is used in calculating the amount of financial assistance to which a consumer is entitled under section 3.

Subject to the regulations, subsection 2(1) provides for elements which are to be included in the "base invoice amount", and subsection 2(2) provides for elements which are to be excluded.

Financial assistance

3. (1) A consumer who has an eligible account during a billing period is entitled to receive financial assistance in respect of the cost of electricity during the billing period in an amount equal to 8 per cent of the base invoice amount for the billing period in respect of the eligible account.

Exception

(2) Despite subsection (1), a consumer is not entitled to receive financial assistance under this Act,

(a) in respect of electricity consumed in generation station service;

(b) in such circumstances as may be prescribed by the regulations; or

(c) if the regulations prescribe that the consumer is not entitled to receive financial assistance.

Payment of financial assistance

(3) The financial assistance to which a consumer is entitled under this Act shall be paid,

(a) by crediting the consumer's eligible account; or

(b) in such other manner as may be prescribed by the regulations.

Money appropriated by the Legislature

(4) The money required for the purposes of this Act shall be paid out of the money appropriated for those purposes by the Legislature.

No assignment of financial assistance

(5) An assignment by a consumer to another person or entity, including a licensed retailer, of the consumer's entitlement to any payment, rebate or credit does not apply to any financial assistance to which the consumer is entitled under this Act, whether the assignment was made before or after this subsection comes into force.

Same

(6) Subsection (7) applies if,

(a) a consumer provides to another person electricity in respect of which the consumer is entitled to financial assistance under subsection (1); and

(b) an invoice for the electricity is issued to the person by the consumer, by an agent of the consumer or by a unit sub-meter provider providing unit sub-metering for the consumer.

Requirement to pass on benefit

(7) Despite subsections (1) and (5), the consumer and every unit sub-meter provider providing unit sub-metering for the consumer shall ensure that each person who is liable to pay an invoice referred to in clause (6) (b) receives a credit, determined in the manner prescribed by the regulations, in respect of the financial assistance to which the consumer is entitled with respect to electricity the consumer provides to the person.

Explanation

Subsection 3(1) entitles consumers to receive financial assistance under the Act if they have an eligible account during a billing period. The financial assistance is equal to 8% of the base invoice amount for the billing period in respect of the eligible account.

Subsection 3(2) addresses exclusions from financial assistance. Subsection 3(3) provides for the manner in which the financial assistance is to be paid. Subsection 3(4) provides that the financial assistance is to be funded out of the money appropriated for that purpose by the Legislature. Subsection 3(5) does not allow a consumer to assign to anyone else the consumer's entitlement to the financial assistance. Subsections (6) and (7) together provide rules that ensure that consumers served by unit sub-metering providers would also receive the financial assistance.

Invoices

4. (1) Unless otherwise prescribed by the regulations, every electricity vendor who issues an invoice for a billing period to a consumer in respect of an eligible account shall clearly show on the invoice,

(a) a credit equal to the amount of the financial assistance provided to the consumer for the billing period; and

(b) the net amount of the invoice after the credit.

Invoice issued by consumer, etc.

(2) An invoice that is issued by a consumer, an agent of a consumer, a unit sub-meter provider or another person prescribed by the regulations must be in the form required by the regulations and contain or be accompanied by the information required by the regulations.

Transitional

(3) If, for technical or operational reasons, an electricity vendor or a person referred to in subsection (2) is unable to adapt its invoices to comply with this Act and the regulations by the time it issues its first invoice for electricity consumed in 2017 in respect of an eligible account,

(a) the electricity vendor or person shall adapt its invoices as soon as possible and, in any event, no later than July 1, 2017; and

(b) consumers continue to be entitled to receive the financial assistance to which they are entitled under this Act and may receive it as a lump sum credit on the invoice for the first billing period after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Explanation

Section 4 prescribes the manner in which electricity vendors must present the invoice. Subsection 4(1) requires electricity vendors to include both the amount of the credit provided to the consumer as well as the net amount of the invoice after the application of the credit. Subsection 4(2) requires that invoices issued by consumers (e.g. unit sub-meter providers) who issue invoices to other consumers must meet the requirements provided for in the Regulations. Subsection 4(3) requires that all electricity vendors who are unable for technical or operational reasons to issue invoices which meet the requirements of this Act must do so by no later than July 1st, 2017. Consumers continue to be entitled to financial assistance for the period commencing on January 1st, 2017, and will be entitled to a retroactive lump sum in these circumstances.

Financial arrangements

Purposes

5. (1) The purposes of this section are,

(a) to ensure that financial assistance under this Act and the regulations is provided to those persons entitled to receive it; and

(b) to authorize the making of financial arrangements to reimburse electricity vendors, and other persons prescribed by the regulations, for financial assistance provided under this Act and the regulations.

Regulations

(2) The Lieutenant Governor in Council may, for the purpose of this section, make regulations,

(a) authorizing the Minister of Energy to make payments to persons who are electricity vendors or persons prescribed by the regulations in respect of the amount of financial assistance to which consumers are entitled under this Act and prescribing methods for determining the amounts payable;

(b) requiring the IESO to make payments to licensed distributors, or to persons prescribed by the regulations, in respect of financial assistance provided under this Act or the regulations and prescribing methods for determining the amounts payable;

(c) requiring a licensed distributor to make payments to other licensed distributors or licensed retailers in respect of financial assistance under this Act and prescribing methods for determining the amounts payable;

(d) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments in respect of financial assistance to consumers or other persons entitled to receive the financial assistance and prescribing the circumstances in which such payments are to be made and methods for determining the amounts payable;

(e) authorizing the Minister of Energy to make payments of financial assistance directly to consumers and prescribing the circumstances when such payments are to be made;

(f) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments to the Minister of Finance in respect of amounts received by them or in circumstances prescribed by the regulations and prescribing methods for determining the amounts payable;

(g) authorizing payments referred to in clause (a), (b), (c), (d) or (f) to be made by way of set-offs and credits and prescribing conditions entitling or requiring amounts to be set off or credited;

(h) governing the payments required under clause (a), (b), (c), (d) or (f), including methods for paying the amounts payable and when the payments must be made, and governing methods for determining amounts to be set off or credited, including the times within which amounts must or may be set off or credited;

(i) for the purposes of this Act and the regulations, requiring persons who are electricity vendors or persons prescribed by the regulations to provide information to the Minister of Energy, the Minister of Finance, the IESO, the Board or licensed distributors and prescribing the information to be provided and when it must be provided;

(j) governing the establishment and maintenance of variance accounts required for the purposes of this Act.

Conflict with market rules and codes

(3) In the event of a conflict, a regulation made under subsection (2) prevails over the market rules to the extent of the conflict and prevails over a code issued by the Board under section 70.1 of the Ontario Energy Board Act, 1998 to the extent of the conflict.

Provision of information

(4) A person may do anything required by a regulation made under clause (2) (i) despite any agreement to the contrary and, if the person does so,

(a) the person is not liable for doing the thing in contravention of any agreement to the contrary; and

(b) doing the thing is deemed not to constitute a breach, termination, repudiation or frustration of any contract.

Explanation

Section 5 creates the financial arrangement scheme that is to be used for the reimbursement of electricity vendors and other persons prescribed by the regulations. Subsection 5(1) authorizes the LGIC to make various regulations relating to the reimbursements. This includes prescribing methods for determining the amounts of payments, requiring payments to be made by the IESO, licensed distributors, and electricity vendors, and prescribing when the Minister may make direct payments to consumers. Subsection 5(2) gives these regulations primacy in the event of a conflict with a market rule or a code issued by the Ontario Energy Board.

Limitation periods for financial assistance, reimbursement

Financial assistance

6. (1) Despite any past entitlement of a consumer to financial assistance under this Act, no financial assistance is payable to a consumer after a limitation period prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after a limitation period prescribed by the regulations in respect of the electricity vendor or other person, where such reimbursement is based on a consumer's past entitlement not yet paid or reimbursed under this Act, other than in such circumstances as may be prescribed by the regulations.

Explanation

Section 6 envisions the creation of a limitation period for the reimbursement by way of a regulation. A temporal limitation is to be imposed on access to past entitlements for both consumers and electricity vendors.

Definition

7. In sections 8, 9 and 10,

"Minister" means the Minister of Finance or such other member of the Executive Council to whom the administration of those sections is assigned under the Executive Council Act.

Explanation

Section 7 establishes that the Ministry of Finance will be the ministry which has carriage over the parts of the program relating to sections 8-10.

Records

8. (1) Every electricity vendor and every person prescribed by the regulations shall keep at a location in Ontario such records as are necessary to determine and verify compliance with this Act and the regulations and any records required by the regulations to be kept.

Electronic records

(2) If a person keeps records in an electronic form, the person shall ensure that, from the time the records are first made and for as long as they are required to be retained,

(a) they remain complete and unaltered, apart from any changes or additions made in the normal course of communication, storage or display; and

(b) they are capable of being printed and of being produced in electronically readable format for inspection, examination or audit.

Retention of records

(3) Records required to be kept under subsection (1) shall not be destroyed unless authorization has been given in writing by the Minister.

Offence

(4) Every person who fails to keep records in accordance with this section is guilty of an offence and, on conviction, is liable to a fine of not less than $50 and not more than $5,000.

Explanation

Section 8 creates a record keeping and electronic record retention requirements on electricity vendors and persons prescribed by the regulations for an indefinite period of time (as long as the Minister of Finance deems). Subsection 8(4) creates an offence, punishable by fine of up to

$5,000, for persons who fail to keep and maintain records as required under subsections 8(1), 8(2), and 8(3).

Inspections and inquiries

9. (1) The Minister may appoint one or more inspectors who are authorized to exercise any of the powers and perform any of the duties of a person authorized by the Minister under subsection 31 (1) of the Retail Sales Tax Act for any purpose related to the administration and enforcement of this Act.

Same

(2) Subsections 31 (1), (2), (2.1) and (2.2) of the Retail Sales Tax Act apply, with necessary modifications, with respect to the administration and enforcement of this Act.

Admission of evidence

(3) The Minister, or a person authorized by the Minister, may, for any purpose related to the administration of this Act or the regulations, reproduce from original data stored electronically any information previously submitted as required under this Act or the regulations in any form by any person, and the electronically reproduced document shall be admissible in evidence and shall have the same probative force as the original document would have had if it had been proved in the ordinary way.

Inquiry

(4) The Minister may, for any purpose related to the administration of this Act or the regulations, authorize any person, whether or not the person is an employee in the Ministry of the Minister, to make such inquiry as the Minister considers necessary with reference to anything relating to the administration of this Act or the regulations.

Copies

(5) If a book, record or other document is examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry may make, or cause to be made, one or more copies of it, and a document purporting to be certified by the person to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if proved in the ordinary way.

Compliance

(6) No person shall hinder or molest or interfere with any person doing anything that the person is authorized by this section to do or prevent or attempt to prevent any person doing any such thing.

Same

(7) Despite any other law to the contrary, every person shall, unless the person is unable to do so, do everything he, she or it is required by this section to do.

Administration of oaths

(8) Declarations or affidavits in connection with statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee for doing so.

Application of Public Inquiries Act, 2009

(9) Section 33 of the Public Inquiries Act, 2009 applies to an inquiry under subsection (4).

Explanation

Section 9 authorizes the Minister of Finance to carry out inspections and inquiries necessary for the administration and enforcement of this Act. Subsection 9(1) specifies that the powers and duties of inspectors authorized under this section will be the same as those authorized under subsection 31(1) of the Retail Sales Tax Act. power authorized under this section is the same as that authorized under the Retail Sales Tax Act. Subsection 9(6) makes it an offence for a person to impede inspections and inquiries performed under this section.

Recovery of overpayments

Definitions

10. (1) In this section,

"inspector" means an inspector referred to in section 9; ("inspecteur")

"overpayment" means an amount received by a person in excess of any reimbursement to which the person is entitled under this Act and the regulations. ("trop-perçu")

Notice of overpayment

(2) If it appears to an inspector that a person has received an overpayment, the Minister may send a written notice to the person advising the person of the following:

1. That the person has received an overpayment.

2. The amount of the overpayment and how it was cal culated.

3. The required steps to be taken by the person with respect to the overpayment.

4. The date, not more than six months after the date of the notice, by which these steps must be completed.

5. That the Minister has the authority to assess the person for the amount of the overpayment, plus interest, if the person fails to complete the required steps by the specified date.

Calculation of amount of overpayment

(3) For the purposes of this section, an inspector shall calculate an overpayment or the outstanding balance of an overpayment in the manner and form and using such procedures as the Minister considers adequate and expedient.

Assessment

(4) If a person fails to complete the steps required in a notice under subsection (2) within the time specified in the notice, and any additional time requested by the person and permitted by the Minister, the Minister may assess or reassess the amount of the overpayment, or the outstanding balance of the overpayment, based on the inspector's calculation described in subsection (3).

Penalty

(5) If the Minister makes an assessment or reassessment under subsection (4) and is satisfied that the person's non-compliance with the required steps in the notice was attributable to neglect, carelessness, wilful default or fraud, the Minister may assess a penalty against the person equal to the outstanding balance of the overpayment when the penalty is assessed.

Time limit

(6) The Minister shall not assess or reassess under subsection (4) more than 48 months after the end of the month in which the person received the overpayment.

Exception, where misrepresentation, etc.

(7) Subsection (6) does not apply if the Minister establishes that the person has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in supplying information under this Act or the regulations or in omitting to disclose information.

Deemed debt retirement charge

(8) An amount assessed or reassessed by the Minister under this section is deemed for the purposes of the administration and enforcement of this Act to be a debt retirement charge, as defined in subsection 85 (1) of the Electricity Act, 1998, that has been collected, on the last day of the month in which the person received the overpayment, by the person as a collector appointed under subsection 85.3 (1) of the Electricity Act, 1998 and, for those purposes,

(a) sections 85.11, 85.12, 85.14, 85.17 and 85.30 of that Act apply with necessary modifications;

(b) in the application of sections 85.11 and 85.14 of that Act and without limiting the generality of clause (a), references to the Financial Corporation are read as references to the Minister of Finance and references to the Minister of Finance are read as references to the Minister as defined in section 7 of this Act;

(c) the regulations made under that Act for the purposes of calculating the rate or rates of interest payable under section 85.11 of that Act and the manner of calculating the amount of interest apply with necessary modifications; and

(d) sections 23 and 36, subsections 37 (1), (1.1) and (2) and sections 37.1, 38 and 39 of the Retail Sales Tax Act apply with necessary modifications.

Disposition of repaid amounts

(9) If all or part of an overpayment is repaid to the Minister of Finance, the Minister of Energy shall make such financial arrangements and payments as may be necessary to ensure that any electricity vendor or other person entitled to all or part of the overpayment receives the appropriate amount.

Explanation

Section 10 outlines the process through which overpayments to consumers are to be addressed. Subsection 10(2) provides how a consumer will be notified and instructed of steps to follow in the event that it appears to the inspector that the consumer had received an overpayment. Section 10(3) grants the Minister of Finance full discretion to determine the manne,r form, and procedure through which overpayment will be calculated. Subsection 10(5) contemplates possible penalties for non-compliance. Subsection 10(8) describes how overpayments are to be treated as part of the debt retirement charge. Subsection 10(9) delineates the Ministry of Energy's role in ensuring electricity vendors receive their full share of any overpayment once an overpayment is repaid.

Confidentiality

11. (1) Except as authorized by this section, no person employed by the Government of Ontario shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister of Energy or the Minister of Finance for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Testimony

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

(a) to give evidence relating to any information obtained by or on behalf of the Minister of Energy or Minister of Finance for the purposes of this Act; or

(b) to produce any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Exception

(3) Subsections (1) and (2) do not apply in respect of,

(a) criminal proceedings under any Act of the Parliament of Canada;

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

(c) proceedings relating to the administration or enforcement of this Act or Part V.1 or VI of the Electricity Act, 1998.

Communication

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,

(a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law or to an employee of the Board information obtained by or on behalf of either Minister for the purposes of this Act; and

(b) allow another person employed by the Government of Ontario in the administration or enforcement of any law or an employee of the Board to inspect or have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Reciprocal communication

(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to that Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of information

(6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

Same

(7) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to,

(a) the person from whom the information, record or thing was obtained;

(b) any person by whom an amount is payable or has been paid under this Act; or

(c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.

Information

(8) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to any person employed by any government if,

(a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and

(b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

Offence

(9) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than $2,000.

Explanation

Section 11 imposes strict confidentiality requirements on all government staff, whether they be Ministry of Finance or Energy employees, to hold all information collected for the purpose of this Act in confidence. Subsection 11(1) and 11(4) collectively restrict the communication of the information such gathered to government actors working under their lawful mandate. Subsection 11(6) allows such information to be shared on a reciprocal basis among government branches in furtherance of the program. Subsection 11(9) creates an offence with a maximum fine of $2,000 for any person who violates the confidentiality of information required under this section.

Offences

False statements, etc., and fraud

12. (1) Every person who engages in any of the following acts or omissions is guilty of an offence:

1. Making, participating in, assenting to or acquiescing in the making of a false or deceptive statement in any document or answer required or submitted under this Act or the regulations.

2. Destroying, altering, mutilating, hiding or otherwise disposing of information or records of an electricity vendor or other person, for the purpose of evading compliance with this Act or the regulations.

3. Making, assenting to or acquiescing in the making of a false or deceptive entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

4. Omitting to make or assenting to or acquiescing in the omission of an entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

5. Wilfully evading or attempting to evade, in any manner, compliance with an obligation under this Act or the regulations.

Penalty upon conviction

(2) A person convicted of an offence under subsection (1) is liable to either or both of the following penalties in addition to any other penalty assessed under this Act:

1. A fine in an amount that is not less than $1,000 and not more than $10,000.

2. Imprisonment for a term of not more than two years.

General offence

(3) Every person who contravenes, by any act or omission, a requirement imposed under this Act is guilty of an offence and, on conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than $50 and not more than $5,000.

Explanation

Section 12 creates two types of provincial offences in relation to the rebate program. Subsection 12(1) creates specific offences related to false statements and fraud. Subsection 12(3) creates general offences for evading compliance or omitting to do anything that is required under the Act. Specific offences listed in subsection 12(1) are punishable by fine up to $10,000 or two years of imprisonment under subsection 12(2). The penalties for general offences under subsection 12(3) range from $50 to $5000.

Limitation period

13. A proceeding to prosecute an offence under this Act must be commenced within six years after the date on which the matter of the offence arose.

Explanation

Section 13 creates a 6 year time limit for the prosecution of any offence listed in this Act.

Payment of fines

14. Fines imposed on conviction of an offence under this Act are payable to the Minister of Finance on behalf of the Crown in right of Ontario.

Explanation

Section 14 designates that fines paid as a result of the breach of any offence under this Act are to be paid into the Consolidated Revenue Fund.

Regulations

15. (1) The Lieutenant Governor in Council may make regulations,

(a) subject to the Minister of Energy's powers under subsection (2), prescribing anything required to be or referred to in this Act as being prescribed by the regulations;

(b) defining any word or expression used in this Act that is not already expressly defined in this Act;

(c) requiring any person to take such action or refrain from taking such action as may be necessary for the purposes of or in connection with any regulation made under this Act;

(d) governing information that must or may be provided to consumers concerning this Act and eligibility for financial assistance under it;

(e) governing the determination of the base invoice amount for a billing period with respect to a class of electricity vendors or a class of consumers;

(f) prescribing a method of paying or crediting to a consumer an amount of financial assistance to which the consumer is entitled under this Act and the circumstances in which the method applies;

(g) requiring a unit sub-meter provider to provide financial assistance in respect of the cost of electricity and prescribing,

(i) the circumstances in which the financial assistance is to be provided,

(ii) the person or class of persons entitled to receive the financial assistance,

(iii) the method of determining the amount of the financial assistance to be provided,

(iv) the manner for paying or otherwise providing the financial assistance;

(h) setting out one or more limitation periods for the purposes of subsection 6 (1) or (2), and governing the circumstances in which that subsection does not apply;

(i) respecting records to be kept by electricity vendors or by persons prescribed by the regulations;

(j) providing for matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of this Act and the regulations.

Regulations, Minister of Energy

(2) The Minister of Energy may make regulations,

(a) prescribing information that must or may be included on invoices issued to consumers or that must or may accompany invoices issued to consumers or payments of financial assistance under this Act;

(b) governing the presentation of financial assistance under this Act on invoices issued to consumers;

(c) prescribing anything required to be or referred to in section 4 as being prescribed by the regulations.

Retroactive regulations

(3) A regulation made under this Act is, if it so provides, effective with reference to a period before it is filed.

Subdelegation

(4) The Lieutenant Governor in Council may, by regulation, delegate to the Minister of Energy the power to make some or all of the regulations under subsection (1).

Explanation

Section 15 provides extensive regulation making powers to the LGIC and the Minister of Energy. Subsection 15(1) authorizes the LGIC to make regulations in relation to financial matters, record keeping, limitation periods, and anything else necessary to implement the program. Subsection 15(2) authorizes the Minister of Energy to create regulations in relation to the presentation of customer invoices. Subsection 15(4) further provides allows the LGIC to delegate some or all of its regulation making powers under subsection 15(1) to the Minister of Energy. Subsection 15(3) provides that these regulations may have retroactive effect.

The section amends the *Ontario Clean Energy Benefit Act, 2010* to add section 6.1 and adding section 15(1.1).

Ontario Clean Energy Benefit Act, 2010

16. (1) The Ontario Clean Energy Benefit Act, 2010 is amended by adding the following section:

Cut-off dates for financial assistance, reimbursement

Financial assistance

6.1 (1) Despite any entitlement of consumers to financial assistance under this Act, no financial assistance is payable to a consumer after the date prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after the date prescribed by the regulations in

respect of the electricity vendor or other person, other than in such circumstances as may be prescribed by the regulations.

(2) Subsection 15 (1) of the Act is amended by adding the following clause:

(i.1) setting out one or more dates for the purposes of subsection 6.1 (1) or (2), and governing the circumstances in which that subsection does not apply;

Explanation

Section 16 amends the *OCEBA,* 2010to add cut-off dates for financial assistance and reimbursement. Subsection 16(1) adds s. 6.1, which deals with limitation periods for financial assistance under OCEBA and reimbursement for such assistance. Subsection 16(2) adds s. 15(1.1), which enables the creation of a regulation pertaining to the limitation periods discussed in the newly added s. 6.1.

The section amends the *Ontario Energy Board Act, 1998* section 3 to incorporate c.2 into section 3 and adds subsection 2.3 to section 70 of the *OEBA, 1998*.

Ontario Energy Board Act, 1998

17. (1) The definition of "enforceable provision" in section 3 of the Ontario Energy Board Act, 1998 is amended by adding the following clause:

(c.2) a provision of the Ontario Rebate for Electricity Consumers Act, 2016 or the regulations made under it,

(2) Section 70 of the Act is amended by adding the following subsection:

Deemed condition of licences, unit sub-meter provider, Ontario Rebate for Electricity Consumers Act, 2016

(2.3) Every licence issued to a unit sub-meter provider is deemed to contain the condition that the unit sub-meter provider is required to comply with the Ontario Rebate for Electricity Consumers Act, 2016 and the regulations made under it.

Explanation

Section 17 amends the Ontario Energy Board Act, 1998. Subsection 17(1) amends section 3 to incorporate c.2 into the definition of "enforceable provision" which references the definition provided in the *Ontario Rebate for Electricity Consumers Act, 2016.* Subsection 17(2) imports into section 70section 2.3 of the Ontario Rebates for Electricity Consumer Act, which provides conditions for licensed, unit-sub-meter providers.

Commencement

18. This Act comes into force on the later of January 1, 2017 and the day it receives Royal Assent.

Explanation

Section 18 proclaims the Act into force on the later of the contemplated commencement date, January 1st, 2017, and the date the Lt. Governor provides Royal Assent.

Short title

19. The short title of this Act is the Ontario Rebate for Electricity Consumers Act, 2016.

Explanation

Section 19 clarifies that this Act will henceforth be known as the *Ontario Rebate for Electricity Consumers Act, 2016.*

EXPLANATORY NOTE

The Ontario Rebate for Electricity Consumers Act, 2016authorizes financial assistance for certain Ontario electricity consumers in respect of electricity costs. Consumers receive the financial assistance by means of an 8 per cent reduction in the amount payable before tax under their electricity accounts for each billing period. The amount of financial assistance for a billing period is required to be shown on invoices issued to consumers for the billing period.

The Act authorizes the making of regulations to reimburse electricity vendors for amounts credited to consumers' accounts under the Act. The Act authorizes the making of various other regulations, including to set out other ways for consumers to receive financial assistance, to alter the default rules in the Act for how to calculate the financial assistance and to limit or alter who is entitled to financial assistance.

The Act contains administrative and enforcement provisions, including requirements relating to record keeping by electricity vendors and authorization for inspections and inquiries with respect to amounts of financial assistance provided and reimbursements to electricity vendors. The Ontario Energy Board Act, 1998 is amended so that provisions of the Ontario Rebate for Electricity Consumers Act, 2016 and regulations made under it will be enforceable by the Ontario Energy Board.

The Act also amends the Ontario Clean Energy Benefit Act, 2010 to authorize the making of regulations under that Act in respect of cut-off dates for financial assistance under that Act.

1

NDP Motion
v. 1

Bill 13

An Act in respect of the cost of electricity

Motion to be moved in Committee

M_____

Section 0.1

I move that the Bill be amended by adding the following section:

Purpose

0.1 The purpose of this Act is to provide financial assistance in respect of electricity costs.

(2)

NDP Motion
v. 1

Bill 13

An Act in respect of the cost of electricity

Motion to be moved in Committee

M_____

Subsection 3 (2)

I move that clause 3 (2) (c) of the Bill be struck out.

NDP Motion
v. 1

Bill 13

An Act in respect of the cost of electricity

NOTICE

Section 4

The New Democratic Party recommends voting against section 4.

Reason for notice rather than motion: If the Committee wishes to remove an entire section from the Bill, the rules of parliamentary procedure require that the Committee vote against the section, rather than pass a motion to delete it.

(3)

NDP Motion
v. 3

Bill 13

An Act in respect of the cost of electricity

Motion to be moved in Committee

M_____

Section 5.1

I move that the Bill be amended by adding the following section:

Duty to consult First Nations

5.1 (1) The Minister shall identify the First Nations that have unlicensed distributors who own or operate distribution systems on their reserves and shall consult with those First Nations and the unlicensed distributors to determine whether the unlicensed distributors are willing to enter into an arrangement with the Minister to provide the financial assistance provided for in this Act.

Results of consultation

(2) The Minister shall publish the results of the consultation within six months after this Act receives Royal Assent.

(4)

NDP Motion
v. 1

Bill 13

An Act in respect of the cost of electricity

Motion to be moved in Committee

M_____

Subsection 15 (2)

I move that subsection 15 (2) of the Bill be struck out.

(5)

PC Motion

Bill 13

An Act in respect of the cost of electricity

Motion to be moved in Committee

M_____

Section 19

I move that section 19 of the Bill be struck out and the following substituted:

Short title

19. The short title of this Act is the *Raymond Cho MPP Hydro Benefit Act, 2016.*

Motion 1 (NDP)

Section 0.1

I move that the Bill be amended by adding the following section:

Purpose

0.1 The purpose of this Act is to provide financial assistance in respect of electricity costs.

RECOMMENDATION: OPPOSE

Analysis/Summary

The proposed motion would add a new section to the bill which would outline the purpose of the Act.

Proposed Response and Rationale

I recommend voting **AGAINST** this motion because:

- The proposed new section is not necessary. The purpose of the Act is already evident from the provisions of the Bill.
- Adding a new section does not add anything to the interpretation of the Act's provisions.

Key Messages

- This legislation, if passed, would bring into force the *Ontario Rebate for Electricity Consumers Act* which would provide an eight per cent (8%) rebate on monthly electricity costs for nearly 5 million residential consumers, small businesses and farms

- The government has introduced this legislation because we know that families need help with the cost of everyday living.

Motion 2 (NDP)

Subsection 3(2)

I move that clause 3(2)(c) of the Bill be struck out

RECOMMENDATION: OPPOSE

Analysis/Summary

The proposed motion would strike the clause that provides the government with the authority to prescribe in regulation that a consumer is not entitled to receive financial assistance.

Proposed Response and Rational

I recommend voting **AGAINST** this motion because:

- The proposed motion restricts the government's authority to prescribe consumers who are not entitled to receive the financial assistance.
- Authority to prescribe through regulation consumers who are not entitled to receive the financial assistance enables the government to address any issues that may arise over eligibility.

Key Messages

- This legislation, if passed, would bring into force the *Ontario Rebate for Electricity Consumers Act* which would provide an eight

per cent (8%) rebate on monthly electricity bills for nearly 5 million residential consumers, small businesses and farms

- The government has introduced this legislation because we know that families need help with the cost of everyday living.

Notice to vote against Section 4 (NDP)

An Act in respect of the cost of electricity

4. Invoices

The New Democratic Party has submitted NOTICE to vote against Section 4 of the Bill.

THERE IS NO VOTE ON THE NOTICE.

Vote to carry Section 4.

Analysis/Summary

Section 4 of the bill would provide requirements for electricity vendors and unit sub-meter providers who issue invoices to clearly display on the invoice a credit equal to the amount of the financial assistance provided to the customer and the net amount of the invoice after the credit. Additionally this section provides a transitional period for electricity vendors and unit sub-meter providers who, for technical reasons, are unable to adapt their invoices in time for January 1, 2017 to have their invoices adapted by no later than July 1, 2017.

Proposed Response and Rationale

- Section 4 of the Act provides important direction for electricity vendors and unit sub-meter providers to ensure that all consumers across Ontario receive accurate information about the financial assistance they are receiving.

- This will ensure that consumers know exactly the amount of financial assistance they are receiving as well as the net amount of the invoice after the credit.

- This will also enable consumers to verify that they are getting the full rebate to which they are entitled.

- This section also provides important transitional provisions for electricity vendors or unit sub-meter providers who may be unable for technical reasons to adapt their invoices to provide the financial assistance to consumers as of January 1, 2017.

Key Messages

- If passed, this legislation would provide an 8% rebate for residential consumers, small businesses and farms, as of January 1, 2017.

- The government is committed to transparency and ensuring that all customers get access to the same information about the 8% rebate.

Motion 3 (NDP)

Subsection 5.1

I move that the Bill be amended by adding the following section:

Duty to consult First Nations

5.1 (1) The Minister shall identify the First Nations that have unlicensed distributors who own or operate distribution systems on their reserves and shall consult with those First Nations and the unlicensed distributors to determine whether the unlicensed distributors are willing to enter in to an arrangement with the Minister to provide the financial assistance provided for in this Act.

Results of consultation

(2) The Minister shall publish the results of the consultation within six months after this Act receives Royal Assent.

RECOMMENDATION: OPPOSE

Analysis/Summary

This proposed motion would require the Minister to consult with First Nations that have unlicensed distributors who own or operate distribution systems on their reserves to determine whether the unlicensed distributors are willing to enter in to an arrangement with the Minister to provide the financial assistance provided for in this Act. Additionally the Minister would be required to publish the results of the consultation within six months of this Act receiving Royal Assent.

Proposed Response and Rational

I recommend voting **AGAINST** this motion because:

- There are existing provisions within the Act that allow the Lietuenant Governor in Council, through regulation, to provide First Nations consumers served by an unlicensed distributor – known as Independent Power Authorities – with the financial assistance provided for in this Act.

- The Ministry has existing agreements with a number of Independent Power Authorities to provide their eligible customers with the Ontario Clean Energy Benefit.

- Through regulation, the government intends to establish a similar process which would allow those consumers to receive the financial assistance provided for in the Act.

- Additionally, on June 27, 2016, the Minister asked the Ontario Energy Board to examine and report back on developing an appropriate electricity rate (or rate assistance) for on-reserve First Nations consumers.

Key Messages

- Our government recognizes that the price of electricity can be a particular challenge for those that pay a higher share of their income towards the bill - particularly for on-reserve First Nations consumers.

- We have heard concerns about high electricity costs from First Nations leaders across Ontario and understand on-reserve First Nations consumers often face unique challenges that lead to higher electricity consumption and higher costs that impact electricity affordability.

- Given these unique challenges, the Minister of Energy committed to look at options for addressing First Nations electricity costs. That's why under s.35 of the Ontario Energy Board Act, 1998 the Minister of Energy requested that the Ontario Energy Board (OEB) investigate appropriate rate assistance options for on-reserve First Nations electricity consumers.

- Through regulation, our government intends to establish a process that will enable First Nations consumers who are served by independent power authorities to receive the financial assistance provided for through Bill 13.

Motion 4 (NDP)

Subsection 15 (2)

I move that subsection 15(2) of the Bill be struck out

RECOMMENDATION: OPPOSE

Analysis/Summary

Subsection 15 (2) of the Act would provide the Minister of Energy with the authority to make regulations that prescribe information that must be included on or with invoices and govern the presentation of the financial assistance.

Proposed Response and Rational

I recommend voting **AGAINST** this motion because:

- Subsection 15(2) provides the Minister with necessary authority to issue regulations prescribing information that must be included on or with invoices issued to consumers who receive payments of financial assistance under this Act.

- In order to ensure that consumers receive accurate information about the financial assistance they are receiving under this Act, the Minister must have authority to prescribe to electricity vendors and sub-meter providers what that information should include.

- Requiring electricity vendors and unit sub-meter providers to set out prescribed information ensures that all consumers across the provide receive information that is accurate and easy to understand.

Key Messages

- If passed, this legislation would provide an 8% rebate for residential consumers, small businesses and farms, as of January 1, 2017.

- The government is committed to transparency and ensuring that all customers get access to the same information about the 8% rebate.

Motion 5 (PC)

Section 19

I move that section 19 of the Bill be struck out and the following substituted:

Short title

19. The short title of this Act is the *Raymond Cho MPP Hydro Benefit Act, 2016*

RECOMMENDATION: OPPOSE

Analysis/Summary

This motion would replace the existing short title of the Act - the *Ontario Rebate for Electricity Consumers Act, 2016* - with *Raymond Cho MPP Hydro Benefit Act, 2016*

Proposed Response and Rational

I recommend voting **AGAINST** this motion because:

- The short title of the Act under section 19 of the Bill follows the standard convention for short titles; provides a simple and accurate description of the Act and should be maintained.

Key Messages

- This legislation, if passed, would bring into force the *Ontario Rebate for Electricity Consumers Act* which would provide an eight per cent (8%) rebate on monthly electricity bills for nearly 5 million residential consumers, small businesses and farms

- The government has introduced this legislation because we know that families need help with the cost of everyday living.

Motion (amendment) #	Section (clause)	Party	Vote
1	Motion to amend Section 0.1	NDP	OPPOSE
	Section 1		CARRY
	Section 2		CARRY
2	Motion to amend Subsection 3(2)	NDP	OPPOSE
	Section 3		CARRY
	Notice to vote against Section 4	NDP	
	Section 4		CARRY
3	Motion to amend Subsection 5.1	NDP	OPPOSE
	Section 5		CARRY
	Section 6		CARRY
	Section 7		CARRY
	Section 8		CARRY
	Section 9		CARRY
	Section 10		CARRY
	Section 11		CARRY
	Section 12		CARRY
	Section 13		CARRY
	Section 14		CARRY
4	Motion to amend Subsection 15 (2)	NDP	OPPOSE
	Section 15		CARRY
	Section 16		CARRY
	Section 17		CARRY
	Section 18		CARRY
5	Motion to amend Section 19	PC	OPPOSE
	Section 19		CARRY

"eligible account" means, in respect of a consumer, an account with an electricity vendor, or with a person prescribed by the regulations, for the provision of electricity in Ontario if,

(a) the consumer has a demand for electricity of 50 kilowatts or less,

(b) the consumer annually uses not more than 250,000 kilowatt hours of electricity,

(c) the consumer,

(i) carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and

(ii) holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act,

(d) the account 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*,

(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*, or

(e) the consumer or the account satisfies such conditions as may be prescribed by the regulations; ("compte admissible")

Shear, Dan (ENERGY/MEDEI/MRI)

From: Ranalli, David (ENERGY/MEDEI/MRI)
Sent: October-25-16 12:41 PM
To: Shear, Dan (ENERGY/MEDEI/MRI)
Subject: FW: Bill insert langauge

From: Ranalli, David (ENERGY/MEDEI/MRI)
Sent: Tuesday, October 25, 2016 12:25 PM
To: Chamney, Eric (MAG)
Cc: Rehob, James (ENERGY/MEDEI/MRI)
Subject: Bill insert langauge

Hi Eric –

See below.

more in your pocket

Wording to be included in 8% bill <u>for all bills</u>:

Ontario is helping reduce your electricity costs.

Ontario's government is reducing electricity costs by rebating an amount equal to the provincial portion of the HST on your monthly hydro bill. That's an 8% rebate for Ontario families, and an average savings of $130 each year.

Across Ontario, about five million residential consumers, farms and small businesses will benefit from this rebate.

[LDC name] will implement these savings onto your bill by July 1, 2017. Applicable savings will be retroactive to January 1, 2017.

To learn more visit Ontario.ca/energy

<u>Wording to be included in RRRP regulation (just for RRRP customers):</u>

You will also receive additional relief that will decrease your total electricity bill by an average of $540 a year or $45 a month. This decrease will be reflected in the delivery charge, as a result of the enhanced Rural or Remote Rate Protection (RRRP).

David Ranalli
Counsel, Ministry of the Attorney General
Legal Services Branch

Ministry of Energy, Ministry of Economic Development and Growth, Ministry of Research, Innovation & Science, Ministry of Infrastructure, Accessibility Directorate of Ontario

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Notice

This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. Any dissemination or use of this information by others than the intended recipient(s) is prohibited. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

Shear, Dan (ENERGY/MEDEI/MRI)

From: Lewis, Shannon (MOF)
Sent: October-11-16 3:20 PM
To: Shear, Dan (ENERGY/MEDEI/MRI)
Cc: Waterston, Michael (MOF)
Subject: FW: Proposed wording in reg on Electricity Bill

Dan:

As discussed, please find below some of our legal concerns with certain phrases that could be required by ORECA regulations to be included on electricity bills:

1) "Provincial Tax Rebate (8%)"
   - There are no provincial taxes that apply to hydro bills - the statement mischaracterizes the tax imposed by the *Excise Tax Act* as a provincial tax.
   - This statement does not accurately reflect the content of the ORECA legislation, which does not refer to a link to taxes. Calling the rebate a tax rebate when it isn't a tax rebate is misleading and violates the rule of law.
   - In order to say in a regulation that Ontario is providing a tax rebate, the rebate must be a tax rebate in law. The legal treatment of existing HST rebates is as follows:
     - Provided for by the *Excise Tax Act*. The *Excise Tax Act* imposes HST and any rebate is required to have a foundation in that Act.
     - Listed in CITCA. Existing tax rebates of the provincial portion of the HST are dealt with in CITCA. A tax rebate of this kind would not meet the various requirements set out in that agreement.
     - Provided for in the *Retail Sales Tax Act*. Existing tax rebates of the provincial portion of the HST are set out in the *Retail Sales Tax Act*.
   - In my opinion, there appears to be a lack of authority to make regulations that characterize the rebate as a rebate of tax given that the authorizing legislation does not refer to the rebate as a tax rebate. This should be confirmed with legislative counsel.

2) "Rebate of Ontario's Portion of HST (8%)"
   - This statement does not accurately reflect the content of the ORECA legislation, which does not refer to a link to taxes. Calling the rebate a tax rebate when it isn't a tax rebate is misleading and violates the rule of law.
   - In order to say in a regulation that Ontario is providing a tax rebate, the rebate must be a tax rebate in law. The legal treatment of existing HST rebates is as follows:
     - Provided for by the *Excise Tax Act*. The *Excise Tax Act* imposes HST and any rebate is required to have a foundation in that Act.
     - Listed in CITCA. Existing tax rebates of the provincial portion of the HST are dealt with in CITCA. A tax rebate of this kind would not meet the various requirements set out in that agreement.
     - Provided for in the *Retail Sales Tax Act*. Existing tax rebates of the provincial portion of the HST are set out in the *Retail Sales Tax Act*.
   - In my opinion, there appears to be a lack of authority to make regulations that characterize the rebate as a rebate of tax given that the authorizing legislation does not refer to the rebate as a tax rebate. This should be confirmed with legislative counsel.

3) "8% Provincial Rebate"

As discussed, if Energy proceeds with option 1 or 2 I think it would be useful if I discussed the ins and outs of tax rebates with legislative counsel since I am not sure Ralph is as familiar on that issue as our finance drafters are.

Shannon Lewis
Counsel
Legal Services Branch
Ministry of Finance
Ministry of the Attorney General

777 Bay Street, 11th Floor
Toronto, ON M5G 2C8

Tel: 416-212-0287
Fax: 416-325-1460
Email: Shannon.Lewis@ontario.ca

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Maksymuik, Amanda (ENERGY/MEDEI/MRI)

From: Shear, Dan (ENERGY/MEDEI/MRI)
Sent: October-17-16 1:01 PM
To: Khatri, Anupa (ENERGY/MEDEI/MRI); Maksymuik, Amanda (ENERGY/MEDEI/MRI)
Subject: FW: Bill 13 Clause-by-Clause Preparation
Attachments: Tab 1_Table of Contents.docx; Tab 2_General Key Messages.docx; Tab 3_Clause-by-Clause.docx; Tab 4_Bill 13_Motions Package.pdf; Tab 5_Motion and Notice Analysis Bill 13_final (3).docx; TAB 6 Bill 13 Voting Chart.docx

Importance: High

Would one of you please print this package for me? I will need to leave in about 10 minutes or so to go the Legislative Assembly.

From: Latto-Hall, Arla (ENERGY)
Sent: October-17-16 12:55 PM
To: Shear, Dan (ENERGY/MEDEI/MRI)
Subject: FW: Bill 13 Clause-by-Clause Preparation

Here is the original package we sent to DMO.

From: Latto-Hall, Arla (ENERGY)
Sent: October-12-16 2:47 PM
To: Dier, Kirby (ENERGY)
Cc: Katona, Keley (ENERGY); Calwell, Carolyn (ENERGY/MEDEI/MRI)
Subject: RE: Bill 13 Clause-by-Clause Preparation

Hi Kirby,

Attached is the full binder, approved by legal and SNAP ADM-approved.

Thank you,
Arla

From: Dier, Kirby (ENERGY)
Sent: October-11-16 3:39 PM
To: Latto-Hall, Arla (ENERGY)
Cc: Katona, Keley (ENERGY)
Subject: FW: Bill 13 Clause-by-Clause Preparation

Hi Arla,

Attached are the amendments for Bill 13. Could you please evaluate for 2:30 p.m. tomorrow latest?

Thanks,

Kirby

From: Campbell, David (ENERGY)
Sent: October-11-16 3:01 PM
To: Kourakos, Georgina (ENERGY)
Subject: Bill 13 Clause-by-Clause Preparation

Hi Georgina,

Today we received the amendments proposed for Bill 13. With clause-by-clause coming up next week, we are on a pretty tight timeline to evaluate these amendments and prepare for committee. Fortunately, there are very few amendments (six in total) and not all of them are even serious proposals.

In any case, I'm hoping the Ministry can help put together some analysis of the proposed amendments, attached. I've also included the amendment analysis template which will be used to brief the members – if our analysis could be framed in this format, it would be tremendously helpful to me. Lastly, I've also included a template for the suggested voting guide to provide to members – I'm not sure if this is something the Ministry could normally helpful with, but again it would be very helpful!

The goal is to have this prepared by Thursday mid-day. If we could have it for MO by **Thursday morning**, that would be ideal to provide some time for review.

Thanks for your help,
David

David Campbell
Legislative Assistant and Issues Manager
Office of the Hon. Glenn Thibeault | Minister of Energy
416.314.0704 | 647.649.3739

2nd SESSION, 41ST LEGISLATURE, ONTARIO
65 ELIZABETH II, 2016

Bill 13

An Act in respect of the cost of electricity

The Hon. G. Thibeault
Minister of Energy

Government Bill

1st Reading	September 15, 2016
2nd Reading	
3rd Reading	
Royal Assent	

Printed by the Legislative Assembly of Ontario

2e SESSION, 41e LÉGISLATURE, ONTARIO
65 ELIZABETH II, 2016

Projet de loi 13

Loi concernant le coût de l'électricité

L'honorable G. Thibeault
Ministre de l'Énergie

Projet de loi du gouvernement

1re lecture	15 septembre 2016
2e lecture	
3e lecture	
Sanction royale	

Imprimé par l'Assemblée législative de l'Ontario

EXPLANATORY NOTE

The *Ontario Rebate for Electricity Consumers Act, 2016* authorizes financial assistance for certain Ontario electricity consumers in respect of electricity costs. Consumers receive the financial assistance by means of an 8 per cent reduction in the amount payable before tax under their electricity accounts for each billing period. The amount of financial assistance for a billing period is required to be shown on invoices issued to consumers for the billing period.

The Act authorizes the making of regulations to reimburse electricity vendors for amounts credited to consumers' accounts under the Act. The Act authorizes the making of various other regulations, including to set out other ways for consumers to receive financial assistance, to alter the default rules in the Act for how to calculate the financial assistance and to limit or alter who is entitled to financial assistance.

The Act contains administrative and enforcement provisions, including requirements relating to record keeping by electricity vendors and authorization for inspections and inquiries with respect to amounts of financial assistance provided and reimbursements to electricity vendors. The *Ontario Energy Board Act, 1998* is amended so that provisions of the *Ontario Rebate for Electricity Consumers Act, 2016* and regulations made under it will be enforceable by the Ontario Energy Board.

The Act also amends the *Ontario Clean Energy Benefit Act, 2010* to authorize the making of regulations under that Act in respect of cut-off dates for financial assistance under that Act.

NOTE EXPLICATIVE

La *Loi de 2016 sur la remise de l'Ontario pour les consommateurs d'électricité* autorise le versement d'une aide financière à certains consommateurs d'électricité de l'Ontario en ce qui concerne les frais d'électricité. Les consommateurs reçoivent cette aide financière sous forme d'une réduction de 8 % du montant, avant taxes, à payer au titre de leur compte d'électricité pour chaque période de facturation. Le montant de l'aide financière doit être indiqué sur la facture émise au consommateur pour la période.

La Loi autorise la prise de règlements visant le remboursement, aux vendeurs d'électricité, des montants crédités sur les comptes des consommateurs en vertu de la Loi. La Loi autorise la prise de divers autres règlements, notamment pour prévoir d'autres façons de fournir l'aide financière aux consommateurs, pour modifier les règles figurant dans la Loi qui s'appliquent par défaut pour calculer l'aide financière et pour modifier les critères d'admissibilité à l'aide financière.

La Loi comporte des dispositions d'application et d'exécution qui prévoient notamment les obligations des vendeurs d'électricité en matière de conservation de documents et qui autorisent des inspections et des enquêtes à l'égard des montants d'aide financière fournis et des remboursements faits aux vendeurs d'électricité. La *Loi de 1998 sur la Commission de l'énergie de l'Ontario* est modifiée de sorte que les dispositions de la *Loi de 2016 sur la remise de l'Ontario pour les consommateurs d'électricité* et de ses règlements puissent être appliquées par la Commission de l'énergie de l'Ontario.

La Loi modifie également la *Loi de 2010 sur la prestation ontarienne pour l'énergie propre* pour autoriser la prise, en vertu de celle-ci, de règlements ayant trait aux dates limites pour l'aide financière qui y est prévue.

Bill 13 **2016**

An Act in respect of the cost of electricity

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2. Base invoice amount
3. Financial assistance
4. Invoices
5. Financial arrangements
6. Limitation periods for financial assistance, reimbursement
7. Definition
8. Records
9. Inspections and inquiries
10. Recovery of overpayments
11. Confidentiality
12. Offences
13. Limitation period
14. Payment of fines
15. Regulations
16. Ontario Clean Energy Benefit Act, 2010
17. Ontario Energy Board Act, 1998
18. Commencement
19. Short title

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. (1) In this Act,

"billing period" means a period of time that is wholly or partly in the eligible period and for which an invoice in respect of an eligible account is issued; ("période de facturation")

"Board" means the Ontario Energy Board; ("Commission")

"consumer" means a person,

(a) to whom an invoice is issued in respect of an eligible account for a billing period, or

(b) who is prescribed by the regulations or who satisfies such conditions as may be prescribed by the regulations; ("consommateur")

"distribution system" has the same meaning as in section

Project de loi 13 **2016**

Loi concernant le coût de l'électricité

SOMMAIRE

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2. Montant de base de la facture
3. Aide financière
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10. Recouvrement des trop-perçus
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14. Paiement des amendes
15. Règlements
16. Loi de 2010 sur la prestation ontarienne pour l'énergie propre
17. Loi de 1998 sur la Commission de l'énergie de l'Ontario
18. Entrée en vigueur
19. Titre abrégé

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Définitions

1. (1) Les définitions qui suivent s'appliquent à la présente loi.

«activités liées aux compteurs divisionnaires d'unité» Activités qui sont des activités liées aux compteurs divisionnaires d'unité pour l'application de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*. («unit sub-metering»)

«Commission» La Commission de l'énergie de l'Ontario. («Board»)

«compte admissible» À l'égard d'un consommateur, compte ouvert auprès d'un vendeur d'électricité, ou d'une personne prescrite par règlement, pour la fourniture d'électricité en Ontario dans l'un ou l'autre des cas suivants :

a) la demande d'électricité du consommateur est de 50 kilowatts ou moins, ou tout autre nombre pres-

3 of the *Ontario Energy Board Act, 1998*; ("réseau de distribution")

"electricity vendor" means the IESO, a licensed distributor, a licensed retailer or a person prescribed by the regulations; ("vendeur d'électricité")

"eligible account" means, in respect of a consumer, an account with an electricity vendor, or with a person prescribed by the regulations, for the provision of electricity in Ontario if,

(a) the consumer has a demand for electricity of 50 kilowatts or less, or such other amount of demand for electricity as may be prescribed,

(b) the consumer annually uses not more than 250,000 kilowatt hours of electricity, or such other amount of use of electricity as may be prescribed,

(c) the consumer,

(i) carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and

(ii) holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act,

(d) the account 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*, or

(e) the consumer or the account satisfies such conditions as may be prescribed by the regulations; ("compte admissible")

"eligible period" means the period commencing January 1, 2017; ("période admissible")

"IESO" has the same meaning as in subsection 2 (1) of the *Electricity Act, 1998*; ("SIERE")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("distributeur titulaire d'un permis")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("détaillant titulaire d'un permis")

"market rules" means the market rules made under section 32 of the *Electricity Act, 1998*; (règles du marché")

crit;

b) le consommateur n'utilise pas plus de 250 000 kilowatts-heures d'électricité par année, ou tout autre nombre prescrit;

c) le consommateur :

(i) exploite une entreprise qui constitue une entreprise agricole pour l'application de la *Loi de 1993 sur l'inscription des entreprises agricoles et le financement des organismes agricoles*,

(ii) possède un numéro d'inscription valide qui lui a été attribué en application de cette loi ou a été dispensé, conformément à une ordonnance rendue en application du paragraphe 22 (6) de la même loi, de l'obligation de déposer une formule d'inscription d'entreprise agricole;

d) le compte se rapporte :

(i) soit à un logement,

(ii) soit à une propriété au sens de la *Loi de 1998 sur les condominiums*,

(iii) soit à un ensemble d'habitation au sens du paragraphe 2 (1) de la *Loi de 2006 sur la location à usage d'habitation*, sans égard à l'article 5 de cette loi,

(iv) soit à un bien comptant un ou plusieurs logements et dont une coopérative au sens de la *Loi sur les sociétés coopératives* est propriétaire ou preneur à bail;

e) le consommateur ou le compte remplit les conditions prescrites par règlement. («eligible account»)

«consommateur» Personne :

a) soit à laquelle une facture est émise relativement à un compte admissible pour une période de facturation;

b) soit qui est prescrite par règlement ou qui remplit les conditions prescrites par règlement. («consumer»)

«détaillant titulaire d'un permis» Personne à laquelle a été délivré, en vertu de la partie V de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*, un permis l'autorisant à vendre de l'électricité au détail. («licensed retailer»)

«distributeur titulaire d'un permis» Personne à laquelle a été délivré, en vertu de la partie V de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*, un permis l'autorisant à être propriétaire ou exploitant d'un réseau de distribution. («licensed distributor»)

«fournisseur de compteurs divisionnaires d'unité» Personne à laquelle un permis l'autorisant à exercer des activités liées aux compteurs divisionnaires d'unité a été délivré par la Commission en vertu de la partie V de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*. («unit sub-meter provider»)

«période admissible» La période qui commence le

"regulations" means the regulations made under this Act; ("règlement")

"retail" has the same meaning as in section 56 of the *Ontario Energy Board Act, 1998*; ("vendre au détail")

"unit sub-metering" means activities that are unit sub-metering for the purposes of the *Ontario Energy Board Act, 1998*; ("activités liées aux compteurs divisionnaires d'unité")

"unit sub-meter provider" means a person who is licensed to engage in unit sub-metering by the Board under Part V of the *Ontario Energy Board Act, 1998*. ("fournisseur de compteurs divisionnaires d'unité")

1er janvier 2017. («eligible period»)

«période de facturation» Période dont la totalité ou une partie est comprise dans la période admissible et pour laquelle une facture est émise relativement à un compte admissible. («billing period»)

«règlement» Règlement pris en vertu de la présente loi. («regulations»)

«règles du marché» Les règles du marché établies en vertu de l'article 32 de la *Loi de 1998 sur l'électricité*. («market rules»)

«réseau de distribution» S'entend au sens de l'article 3 de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*. («distribution system»)

«SIERE» S'entend au sens du paragraphe 2 (1) de la *Loi de 1998 sur l'électricité*. («IESO»)

«vendeur d'électricité» S'entend de la SIERE, d'un distributeur titulaire d'un permis, d'un détaillant titulaire d'un permis ou d'une personne prescrite par règlement. («electricity vendor»)

«vendre au détail» S'entend au sens de l'article 56 de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*. («retail»)

Eligible account

(2) For the purposes of this Act, if a consumer would, but for this subsection, have an eligible account with a licensed retailer and with a licensed distributor, but only one of them issues an invoice to the consumer for a billing period for all amounts payable by the consumer to them for the billing period,

(a) the consumer is deemed to have an eligible account for the billing period only with whichever of them issues the invoice for the billing period; and

(b) the licensed distributor or licensed retailer who issues the invoice for the billing period is deemed to be imposing all charges and other amounts payable under the invoice for the purposes of determining the amount of financial assistance to which the consumer is entitled.

Compte admissible

(2) Pour l'application de la présente loi, dans les cas où, sans le présent paragraphe, un consommateur aurait un compte admissible auprès d'un détaillant titulaire d'un permis et d'un distributeur titulaire d'un permis, mais qu'un seul d'entre eux émet, pour une période de facturation, une facture au consommateur à l'égard de tous les montants qui leur sont payables par ce dernier pour la période de facturation :

a) le consommateur est réputé avoir un compte admissible, pour cette période, seulement auprès de celui du détaillant et du distributeur qui émet la facture;

b) le détaillant ou le distributeur qui émet la facture pour cette période est réputé facturer tous les frais et autres montants payables au titre de la facture pour déterminer le montant d'aide financière auquel a droit le consommateur.

Base invoice amount

2. (1) For the purposes of this Act, the base invoice amount for a billing period in respect of an eligible account is determined in accordance with the regulations and, unless otherwise prescribed by the regulations, includes, if the invoice is issued by a licensed distributor or a licensed retailer, amounts in respect of,

(a) the commodity price of the electricity;

(b) 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* that are not required under subsection (2) or the regulations to be excluded;

Montant de base de la facture

2. (1) Pour l'application de la présente loi, le montant de base de la facture pour une période de facturation à l'égard d'un compte admissible est déterminé conformément aux règlements et, sauf prescription contraire de ceux-ci, il comprend les montants suivants si la facture est émise par un distributeur titulaire d'un permis ou un détaillant titulaire d'un permis :

a) le coût de l'électricité;

b) les tarifs et les frais qui sont fixés dans l'ordonnance tarifaire pertinente rendue par la Commission en vertu du paragraphe 78 (3) de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario* et dont l'exclusion prévue par le paragraphe (2) ou les règlements n'est pas exigée;

(c) any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*;

(d) any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*; and

(e) anything else prescribed by the regulations.

Exclusions

(2) Except as otherwise prescribed by the regulations, the base invoice amount for a billing period must exclude,

(a) the balance of any amounts carried forward from previous invoices;

(b) all penalties and interest;

(c) any charges that do not relate to the consumption of electricity;

(d) the fixed monthly service charge payable by a generation facility, within the meaning of section 56 of the *Ontario Energy Board Act, 1998*, that is classified as "microFIT" in a rate order issued by the Board under subsection 78 (3) of that Act;

(e) charges labelled as "specific service charges" or "retail service charges" in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*;

(f) the amount of any harmonized sales tax payable under Part IX of the *Excise Tax Act* (Canada); and

(g) any other amounts prescribed by the regulations.

Financial assistance

3. (1) A consumer who has an eligible account during a billing period is entitled to receive financial assistance in respect of the cost of electricity during the billing period in an amount equal to 8 per cent of the base invoice amount for the billing period in respect of the eligible account.

Exception

(2) Despite subsection (1), a consumer is not entitled to receive financial assistance under this Act,

(a) in respect of electricity consumed in generation station service;

(b) in such circumstances as may be prescribed by the regulations; or

(c) if the regulations prescribe that the consumer is not entitled to receive financial assistance.

Payment of financial assistance

(3) The financial assistance to which a consumer is entitled under this Act shall be paid,

(a) by crediting the consumer's eligible account; or

(b) in such other manner as may be prescribed by the regulations.

c) tout ajustement sur la facture exigé par l'article 25.33 de la *Loi de 1998 sur l'électricité*;

d) toute redevance de liquidation de la dette exigée du consommateur par le paragraphe 85 (4) de la *Loi de 1998 sur l'électricité*;

e) toute autre chose prescrite par règlement.

Exclusions

(2) Sauf prescription contraire des règlements, le montant de base de la facture pour une période de facturation exclut ce qui suit :

a) le solde des montants reportés de factures antérieures;

b) l'ensemble des pénalités et intérêts;

c) les frais qui ne se rapportent pas à la consommation d'électricité;

d) les frais mensuels fixes payables par une installation de production, au sens de l'article 56 de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*, qui sont désignés «microFIT» dans une ordonnance tarifaire rendue par la Commission en vertu du paragraphe 78 (3) de cette loi;

e) les frais désignés «specific service charges» ou «retail service charges» dans l'ordonnance tarifaire pertinente rendue par la Commission en vertu du paragraphe 78 (3) de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*;

f) le montant de la taxe de vente harmonisée payable en application de la partie IX de la *Loi sur la taxe d'accise* (Canada);

g) les autres montants prescrits par règlement.

Aide financière

3. (1) Le consommateur qui a un compte admissible pendant une période de facturation a le droit de recevoir, à l'égard du coût de l'électricité pendant cette période, une aide financière égale à 8 % du montant de base de la facture pour cette période relativement au compte admissible.

Exception

(2) Malgré le paragraphe (1), le consommateur n'a pas droit à l'aide financière prévue par la présente loi dans les cas suivants :

a) à l'égard de l'électricité consommée par les centrales;

b) dans les circonstances prescrites par règlement;

c) si les règlements prescrivent que le consommateur n'a pas droit à l'aide financière.

Versement de l'aide financière

(3) L'aide financière à laquelle a droit le consommateur en vertu de la présente loi est versée :

a) soit en créditant son compte admissible;

b) soit de l'autre manière prescrite par règlement.

Money appropriated by the Legislature

(4) The money required for the purposes of this Act shall be paid out of the money appropriated for those purposes by the Legislature.

No assignment of financial assistance

(5) An assignment by a consumer to another person or entity, including a licensed retailer, of the consumer's entitlement to any payment, rebate or credit does not apply to any financial assistance to which the consumer is entitled under this Act, whether the assignment was made before or after this subsection comes into force.

Same

(6) Subsection (7) applies if,

(a) a consumer provides to another person electricity in respect of which the consumer is entitled to financial assistance under subsection (1); and

(b) an invoice for the electricity is issued to the person by the consumer, by an agent of the consumer or by a unit sub-meter provider providing unit sub-metering for the consumer.

Requirement to pass on benefit

(7) Despite subsections (1) and (5), the consumer and every unit sub-meter provider providing unit sub-metering for the consumer shall ensure that each person who is liable to pay an invoice referred to in clause (6) (b) receives a credit, determined in the manner prescribed by the regulations, in respect of the financial assistance to which the consumer is entitled with respect to electricity the consumer provides to the person.

Invoices

4. (1) Unless otherwise prescribed by the regulations, every electricity vendor who issues an invoice for a billing period to a consumer in respect of an eligible account shall clearly show on the invoice,

(a) a credit equal to the amount of the financial assistance provided to the consumer for the billing period; and

(b) the net amount of the invoice after the credit.

Invoice issued by consumer, etc.

(2) An invoice that is issued by a consumer, an agent of a consumer, a unit sub-meter provider or another person prescribed by the regulations must be in the form required by the regulations and contain or be accompanied by the information required by the regulations.

Transitional

(3) If, for technical or operational reasons, an electricity vendor or a person referred to in subsection (2) is unable to adapt its invoices to comply with this Act and the regulations by the time it issues its first invoice for electricity consumed in 2017 in respect of an eligible account,

Crédits affectés par la Législature

(4) Les sommes nécessaires à l'application de la présente loi sont prélevées sur les crédits affectés à cette fin par la Législature.

Cession de l'aide financière interdite

(5) Qu'elle soit antérieure ou postérieure à l'entrée en vigueur du présent paragraphe, la cession, par un consommateur, de son droit à un paiement, à une remise ou à un crédit à une autre personne ou entité, y compris un détaillant titulaire d'un permis, ne touche pas l'aide financière à laquelle il a droit en vertu de la présente loi.

Idem

(6) Le paragraphe (7) s'applique si les conditions suivantes sont remplies :

a) un consommateur fournit à une autre personne de l'électricité à l'égard de laquelle il a droit à l'aide financière prévue au paragraphe (1);

b) une facture d'électricité est émise à la personne par le consommateur, par le mandataire du consommateur ou par un fournisseur de compteurs divisionnaires d'unité qui exerce des activités liées à ces compteurs pour le compte du consommateur.

Obligation de transmettre la prestation

(7) Malgré les paragraphes (1) et (5), le consommateur et chaque fournisseur de compteurs divisionnaires d'unité qui exerce des activités liées à ces compteurs pour le compte du consommateur veillent à ce que toute personne qui est tenue d'acquitter une facture visée à l'alinéa (6) b) reçoive un crédit, établi de la manière prescrite par règlement, à l'égard de l'aide financière à laquelle le consommateur a droit relativement à l'électricité qu'il fournit à la personne.

Factures

4. (1) Sauf prescription contraire des règlements, le vendeur d'électricité qui émet une facture pour une période de facturation à un consommateur relativement à un compte admissible indique clairement sur la facture :

a) un crédit égal à l'aide financière fournie au consommateur pour la période de facturation;

b) le montant net de la facture après imputation du crédit.

Facture émise par le consommateur

(2) La facture qui est émise par un consommateur, le mandataire d'un consommateur, un fournisseur de compteurs divisionnaires d'unité ou une autre personne prescrite par règlement doit se présenter sous la forme exigée par règlement et comporter les renseignements également exigés par règlement ou en être accompagnée.

Disposition transitoire

(3) Si, pour des raisons techniques ou opérationnelles, un vendeur d'électricité ou une personne visée au paragraphe (2) n'a pas pu adapter ses factures pour les rendre conformes à la présente loi et aux règlements avant l'émission de sa première facture pour l'électricité consommé en 2017 relativement à un compte admissible :

(a) the electricity vendor or person shall adapt its invoices as soon as possible and, in any event, no later than July 1, 2017; and

(b) consumers continue to be entitled to receive the financial assistance to which they are entitled under this Act and may receive it as a lump sum credit on the invoice for the first billing period after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Financial arrangements

Purposes

5. (1) The purposes of this section are,

(a) to ensure that financial assistance under this Act and the regulations is provided to those persons entitled to receive it; and

(b) to authorize the making of financial arrangements to reimburse electricity vendors, and other persons prescribed by the regulations, for financial assistance provided under this Act and the regulations.

Regulations

(2) The Lieutenant Governor in Council may, for the purpose of this section, make regulations,

(a) authorizing the Minister of Energy to make payments to persons who are electricity vendors or persons prescribed by the regulations in respect of the amount of financial assistance to which consumers are entitled under this Act and prescribing methods for determining the amounts payable;

(b) requiring the IESO to make payments to licensed distributors, or to persons prescribed by the regulations, in respect of financial assistance provided under this Act or the regulations and prescribing methods for determining the amounts payable;

(c) requiring a licensed distributor to make payments to other licensed distributors or licensed retailers in respect of financial assistance under this Act and prescribing methods for determining the amounts payable;

(d) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments in respect of financial assistance to consumers or other persons entitled to receive the financial assistance and prescribing the circumstances in which such payments are to be made and methods for determining the amounts payable;

(e) authorizing the Minister of Energy to make payments of financial assistance directly to consumers and prescribing the circumstances when such payments are to be made;

(f) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments to the Minister of Finance in respect of amounts received by them or in circumstances pre-

a) le vendeur ou la personne adapte ses factures dès que possible, mais dans tous les cas au plus tard le 1er juillet 2017;

b) les consommateurs continuent d'avoir droit à l'aide financière prévue par la présente loi et ils peuvent la recevoir sous forme de crédit forfaitaire indiqué sur la facture pour la première période de facturation postérieure à l'adaptation des factures ou par tout autre moyen prescrit par règlement.

Arrangements financiers

Objets

5. (1) Le présent article a pour objet :

a) de faire en sorte que l'aide financière prévue par la présente loi et les règlements soit fournie aux personnes qui y ont droit;

b) d'autoriser la prise d'arrangements financiers afin de rembourser aux vendeurs d'électricité, et aux autres personnes prescrites par règlement, l'aide financière fournie en application de la présente loi et des règlements.

Règlements

(2) Pour l'application du présent article, le lieutenant-gouverneur en conseil peut, par règlement :

a) autoriser le ministre de l'Énergie à faire des paiements aux vendeurs d'électricité ou aux personnes prescrites par règlement à l'égard de l'aide financière à laquelle les consommateurs ont droit en vertu de la présente loi et prescrire les méthodes à utiliser pour en établir le montant;

b) exiger que la SIERE fasse des paiements aux distributeurs titulaires d'un permis ou aux personnes prescrites par règlement à l'égard de l'aide financière fournie en application de la présente loi ou des règlements et prescrire les méthodes à utiliser pour en établir le montant;

c) exiger qu'un distributeur titulaire d'un permis fasse des paiements à d'autres distributeurs titulaires d'un permis ou à des détaillants titulaires d'un permis à l'égard de l'aide financière prévue par la présente loi et prescrire les méthodes à utiliser pour en établir le montant;

d) exiger qu'un vendeur d'électricité ou une personne prescrite par règlement fasse des paiements à l'égard de l'aide financière aux consommateurs ou aux autres personnes qui ont le droit de recevoir cette aide et prescrire les circonstances dans lesquelles ces paiements doivent être faits et les méthodes à utiliser pour en établir le montant;

e) autoriser le ministre de l'Énergie à faire des paiements d'aide financière directement aux consommateurs et prescrire les circonstances dans lesquelles ces paiements doivent être faits;

f) exiger qu'un vendeur d'électricité ou une personne prescrite par règlement fasse des paiements au ministre des Finances à l'égard des sommes qu'ils reçoivent ou dans les circonstances prescrites par rè-

scribed by the regulations and prescribing methods for determining the amounts payable;

(g) authorizing payments referred to in clause (a), (b), (c), (d) or (f) to be made by way of set-offs and credits and prescribing conditions entitling or requiring amounts to be set off or credited;

(h) governing the payments required under clause (a), (b), (c), (d) or (f), including methods for paying the amounts payable and when the payments must be made, and governing methods for determining amounts to be set off or credited, including the times within which amounts must or may be set off or credited;

(i) for the purposes of this Act and the regulations, requiring persons who are electricity vendors or persons prescribed by the regulations to provide information to the Minister of Energy, the Minister of Finance, the IESO, the Board or licensed distributors and prescribing the information to be provided and when it must be provided;

(j) governing the establishment and maintenance of variance accounts required for the purposes of this Act.

Conflict with market rules and codes

(3) In the event of a conflict, a regulation made under subsection (2) prevails over the market rules to the extent of the conflict and prevails over a code issued by the Board under section 70.1 of the *Ontario Energy Board Act, 1998* to the extent of the conflict.

Provision of information

(4) A person may do anything required by a regulation made under clause (2) (i) despite any agreement to the contrary and, if the person does so,

(a) the person is not liable for doing the thing in contravention of any agreement to the contrary; and

(b) doing the thing is deemed not to constitute a breach, termination, repudiation or frustration of any contract.

Limitation periods for financial assistance, reimbursement

Financial assistance

6. (1) Despite any past entitlement of a consumer to financial assistance under this Act, no financial assistance is payable to a consumer after a limitation period prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after a limitation period prescribed by the regulations in respect of the electricity vendor or other person, where such reimbursement is based on a consumer's past entitlement not yet paid or reimbursed under this

glement et prescrire les méthodes à utiliser pour en établir le montant;

g) autoriser le versement des paiements visés à l'alinéa a), b), c), d) ou f) par voie de déduction ou de crédit et prescrire les conditions qui permettent ou exigent que des montants soient ainsi déduits ou crédités;

h) régir les paiements exigés par l'alinéa a), b), c), d) ou f), notamment leur mode de versement et le moment où ils doivent être faits, et régir les méthodes à utiliser pour établir les montants à déduire ou à créditer, y compris les délais dans lesquels ils doivent ou peuvent l'être;

i) pour l'application de la présente loi et des règlements, exiger que les vendeurs d'électricité ou les personnes prescrites par règlement communiquent des renseignements au ministre de l'Énergie, au ministre des Finances, à la SIERE, à la Commission ou aux distributeurs titulaires d'un permis et prescrire quels renseignements doivent être communiqués et le moment où ils doivent l'être;

j) régir la création et la tenue des comptes d'écart exigés pour l'application de la présente loi.

Incompatibilité avec les règles du marché et les codes

(3) En cas d'incompatibilité, les règlements pris en vertu du paragraphe (2) l'emportent sur les règles du marché ainsi que sur tout code produit par la Commission en vertu de l'article 70.1 de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*.

Communication de renseignements

(4) Une personne peut faire toute chose qu'exige un règlement pris en vertu de l'alinéa (2) i) malgré toute entente à l'effet contraire, auquel cas :

a) elle ne peut pas être tenue responsable d'avoir fait la chose en contravention avec une telle entente;

b) faire cette chose est réputé ne pas constituer une violation, une résiliation, une répudiation ou une impossibilité d'exécution d'un contrat.

Aide financière, remboursement : délais de prescription

Aide financière

6. (1) Malgré tout droit antérieur d'un consommateur à l'aide financière prévue par la présente loi, aucune aide ne lui est payable après un délai de prescription prescrit par règlement à son égard, si ce n'est dans les circonstances prescrites par règlement.

Remboursement

(2) Malgré toute obligation prévue par la présente loi de rembourser aux vendeurs d'électricité ou à d'autres personnes l'aide financière qu'ils fournissent aux consommateurs, aucun remboursement n'est payable à un vendeur d'électricité ou à une autre personne après un délai de prescription prescrit par règlement à son égard lorsque le remboursement se fonde sur le droit antérieur d'un consommateur à une somme qui n'a pas été encore

Act, other than in such circumstances as may be prescribed by the regulations.

Definition

7. In sections 8, 9 and 10,

"Minister" means the Minister of Finance or such other member of the Executive Council to whom the administration of those sections is assigned under the *Executive Council Act*.

Records

8. (1) Every electricity vendor and every person prescribed by the regulations shall keep at a location in Ontario such records as are necessary to determine and verify compliance with this Act and the regulations and any records required by the regulations to be kept.

Electronic records

(2) If a person keeps records in an electronic form, the person shall ensure that, from the time the records are first made and for as long as they are required to be retained,

(a) they remain complete and unaltered, apart from any changes or additions made in the normal course of communication, storage or display; and

(b) they are capable of being printed and of being produced in electronically readable format for inspection, examination or audit.

Retention of records

(3) Records required to be kept under subsection (1) shall not be destroyed unless authorization has been given in writing by the Minister.

Offence

(4) Every person who fails to keep records in accordance with this section is guilty of an offence and, on conviction, is liable to a fine of not less than $50 and not more than $5,000.

Inspections and inquiries

9. (1) The Minister may appoint one or more inspectors who are authorized to exercise any of the powers and perform any of the duties of a person authorized by the Minister under subsection 31 (1) of the *Retail Sales Tax Act* for any purpose related to the administration and enforcement of this Act.

Same

(2) Subsections 31 (1), (2), (2.1) and (2.2) of the *Retail Sales Tax Act* apply, with necessary modifications, with respect to the administration and enforcement of this Act.

Admission of evidence

(3) The Minister, or a person authorized by the Minister, may, for any purpose related to the administration of this Act or the regulations, reproduce from original data stored electronically any information previously submitted as required under this Act or the regulations in any

versée ou remboursée en application de la présente loi, si ce n'est dans les circonstances prescrites par règlement.

Définition

7. La définition qui suit s'applique aux articles 8, 9 et 10.

«ministre» Le ministre des Finances ou l'autre membre du Conseil exécutif à qui la responsabilité de l'application de ces articles est confiée en vertu de la *Loi sur le Conseil exécutif*.

Documents

8. (1) Tout vendeur d'électricité et toute personne prescrite par règlement conserve, dans un lieu situé en Ontario, les documents nécessaires pour permettre d'établir et de vérifier que la présente loi et les règlements sont respectés, ainsi que les documents exigés par les règlements.

Documents électroniques

(2) La personne qui conserve des documents sous forme électronique veille à ce que ces documents, dès leur création et pour la durée obligatoire de leur conservation :

a) demeurent complets et inchangés, mis à part les modifications ou les ajouts apportés dans le cours normal de leur communication, de leur stockage ou de leur affichage;

b) puissent être imprimés et produits sur un support électronique intelligible aux fins d'inspection, d'examen ou de vérification.

Conservation des documents

(3) Sauf autorisation écrite du ministre, les documents qui doivent être conservés en application du paragraphe (1) ne doivent pas être détruits.

Infraction

(4) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende de 50 $ à 5 000 $ quiconque ne conserve pas des documents conformément au présent article.

Inspections et enquêtes

9. (1) Le ministre peut nommer un ou plusieurs inspecteurs qui sont autorisés à exercer, aux fins liées à l'application et à l'exécution de la présente loi, les pouvoirs et les fonctions d'une personne autorisée par lui en vertu du paragraphe 31 (1) de la *Loi sur la taxe de vente au détail*.

Idem

(2) Les paragraphes 31 (1), (2), (2.1) et (2.2) de la *Loi sur la taxe de vente au détail* s'appliquent, avec les adaptations nécessaires, à l'égard de l'application et de l'exécution de la présente loi.

Admissibilité en preuve

(3) À toute fin liée à l'application de la présente loi et des règlements, le ministre ou la personne qu'il autorise peut reproduire à partir de données déjà stockées sur support électronique des renseignements déjà fournis sous quelque forme que ce soit par une personne comme

form by any person, and the electronically reproduced document shall be admissible in evidence and shall have the same probative force as the original document would have had if it had been proved in the ordinary way.

Inquiry

(4) The Minister may, for any purpose related to the administration of this Act or the regulations, authorize any person, whether or not the person is an employee in the Ministry of the Minister, to make such inquiry as the Minister considers necessary with reference to anything relating to the administration of this Act or the regulations.

Copies

(5) If a book, record or other document is examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry may make, or cause to be made, one or more copies of it, and a document purporting to be certified by the person to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if proved in the ordinary way.

Compliance

(6) No person shall hinder or molest or interfere with any person doing anything that the person is authorized by this section to do or prevent or attempt to prevent any person doing any such thing.

Same

(7) Despite any other law to the contrary, every person shall, unless the person is unable to do so, do everything he, she or it is required by this section to do.

Administration of oaths

(8) Declarations or affidavits in connection with statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee for doing so.

Application of *Public Inquiries Act, 2009*

(9) Section 33 of the *Public Inquiries Act, 2009* applies to an inquiry under subsection (4).

Recovery of overpayments

Definitions

10. (1) In this section,

"inspector" means an inspector referred to in section 9; ("inspecteur")

"overpayment" means an amount received by a person in excess of any reimbursement to which the person is entitled under this Act and the regulations. ("trop-perçu")

Notice of overpayment

(2) If it appears to an inspector that a person has received an overpayment, the Minister may send a written notice to the person advising the person of the following:

l'exigent la présente loi ou les règlements. La reproduction électronique est admissible en preuve et a la même valeur probante qu'aurait eu l'original si la preuve en avait été faite de la façon habituelle.

Enquête

(4) À toute fin liée à l'application de la présente loi ou des règlements, le ministre peut autoriser une personne, qu'elle soit ou non employée dans le ministère du ministre, à mener l'enquête qu'il estime nécessaire sur quoi que ce soit qui se rapporte à l'application de la présente loi ou des règlements.

Copies

(5) La personne à laquelle un livre ou un autre document a été produit ou qui en a effectué l'examen en vertu du présent article, ou un fonctionnaire du ministère, peut en tirer ou en faire tirer une ou plusieurs copies. Le document qui se présente comme étant attesté par cette personne en tant que copie tirée conformément au présent article est admissible en preuve et a la même valeur probante qu'aurait eu l'original si la preuve en avait été faite de la façon habituelle.

Observation

(6) Nul ne doit gêner ni entraver une personne dans l'exécution de ce que le présent article l'autorise à faire, ni l'empêcher ou tenter de l'empêcher de le faire.

Idem

(7) Malgré toute autre règle de droit à l'effet contraire, quiconque est tenu par le présent article de faire une chose doit la faire, sauf s'il ne le peut pas.

Prestation de serment

(8) Toute personne habilitée à faire prêter serment et toute personne qui y est expressément autorisée par le lieutenant-gouverneur en conseil peut recevoir des déclarations solennelles ou des affidavits portant sur les renseignements fournis conformément au présent article. Toutefois, les personnes expressément autorisées ne doivent pas exiger d'honoraires.

Application de la *Loi de 2009 sur les enquêtes publiques*

(9) L'article 33 de la *Loi de 2009 sur les enquêtes publiques* s'applique à une enquête visée au paragraphe (4).

Recouvrement des trop-perçus

Définitions

10. (1) Les définitions qui suivent s'appliquent au présent article.

«inspecteur» Inspecteur visé à l'article 9. («inspector»)

«trop-perçu» Somme reçue par une personne en sus du remboursement auquel elle a droit en vertu de la présente loi et des règlements. («overpayment»)

Avis de trop-perçu

(2) S'il semble à l'inspecteur qu'une personne a reçu un trop-perçu, le ministre peut envoyer à cette dernière un avis écrit l'informant de ce qui suit :

1. That the person has received an overpayment.
2. The amount of the overpayment and how it was calculated.
3. The required steps to be taken by the person with respect to the overpayment.
4. The date, not more than six months after the date of the notice, by which these steps must be completed.
5. That the Minister has the authority to assess the person for the amount of the overpayment, plus interest, if the person fails to complete the required steps by the specified date.

Calculation of amount of overpayment

(3) For the purposes of this section, an inspector shall calculate an overpayment or the outstanding balance of an overpayment in the manner and form and using such procedures as the Minister considers adequate and expedient.

Assessment

(4) If a person fails to complete the steps required in a notice under subsection (2) within the time specified in the notice, and any additional time requested by the person and permitted by the Minister, the Minister may assess or reassess the amount of the overpayment, or the outstanding balance of the overpayment, based on the inspector's calculation described in subsection (3).

Penalty

(5) If the Minister makes an assessment or reassessment under subsection (4) and is satisfied that the person's non-compliance with the required steps in the notice was attributable to neglect, carelessness, wilful default or fraud, the Minister may assess a penalty against the person equal to the outstanding balance of the overpayment when the penalty is assessed.

Time limit

(6) The Minister shall not assess or reassess under subsection (4) more than 48 months after the end of the month in which the person received the overpayment.

Exception, where misrepresentation, etc.

(7) Subsection (6) does not apply if the Minister establishes that the person has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in supplying information under this Act or the regulations or in omitting to disclose information.

Deemed debt retirement charge

(8) An amount assessed or reassessed by the Minister under this section is deemed for the purposes of the administration and enforcement of this Act to be a debt retirement charge, as defined in subsection 85 (1) of the *Electricity Act, 1998*, that has been collected, on the last day of the month in which the person received the overpayment, by the person as a collector appointed under subsection 85.3 (1) of the *Electricity Act, 1998* and, for those purposes,

1. Le fait que la personne a reçu un trop-perçu.
2. Le montant du trop-perçu et la façon dont il a été calculé.
3. Les mesures que la personne doit prendre à l'égard du trop-perçu.
4. La date à laquelle ces mesures doivent avoir été prises, cette date devant tomber dans les six mois qui suivent la date de l'avis.
5. Le fait que le ministre a le pouvoir d'établir une cotisation à l'égard de la personne pour le montant du trop-perçu, majoré des intérêts, si elle n'a pas pris les mesures exigées au plus tard à la date fixée.

Calcul du trop-perçu

(3) Pour l'application du présent article, l'inspecteur calcule un trop-perçu ou le solde impayé d'un trop-perçu de la manière, sous la forme et selon les règles que le ministre estime adéquates et opportunes.

Cotisation

(4) Si une personne ne prend pas les mesures exigées dans un avis visé au paragraphe (2) dans le délai qui y est fixé et dans tout délai supplémentaire demandé par elle et accordé par le ministre, ce dernier peut établir une cotisation ou une nouvelle cotisation pour le trop-perçu ou le solde impayé de celui-ci en se fondant sur le calcul effectué par l'inspecteur en application du paragraphe (3).

Pénalité

(5) S'il établit une cotisation ou une nouvelle cotisation en vertu du paragraphe (4) et qu'il est convaincu que le non-respect, par la personne, de l'obligation de prendre les mesures exigées dans l'avis était attribuable à une négligence, à un manque de diligence, à une omission volontaire ou à une fraude, le ministre peut imposer à la personne une pénalité égale au montant auquel s'élève le solde impayé du trop-perçu lorsque la pénalité est imposée.

Délai

(6) Le ministre ne doit pas établir de cotisation ou de nouvelle cotisation en vertu du paragraphe (4) plus de 48 mois après la fin du mois pendant lequel la personne a reçu le trop-perçu.

Exception : présentation inexacte des faits

(7) Le paragraphe (6) ne s'applique pas si le ministre établit que la personne a fait une présentation inexacte des faits par négligence, manque de diligence ou omission volontaire, ou a commis une fraude en communiquant des renseignements en application de la présente loi ou des règlements ou en ne divulguant pas des renseignements.

Assimilation à une redevance de liquidation de la dette

(8) Le montant d'une cotisation ou d'une nouvelle cotisation établie par le ministre en vertu du présent article est réputé, pour l'application et l'exécution de la présente loi, une redevance de liquidation de la dette, au sens du paragraphe 85 (1) de la *Loi de 1998 sur l'électricité*, que la personne a perçue, le dernier jour du mois pendant lequel elle a reçu le trop-perçu, en qualité de percepteur nommé en application du paragraphe 85.3 (1) de cette loi et, à ces fins :

(a) sections 85.11, 85.12, 85.14, 85.17 and 85.30 of that Act apply with necessary modifications;

(b) in the application of sections 85.11 and 85.14 of that Act and without limiting the generality of clause (a), references to the Financial Corporation are read as references to the Minister of Finance and references to the Minister of Finance are read as references to the Minister as defined in section 7 of this Act;

(c) the regulations made under that Act for the purposes of calculating the rate or rates of interest payable under section 85.11 of that Act and the manner of calculating the amount of interest apply with necessary modifications; and

(d) sections 23 and 36, subsections 37 (1), (1.1) and (2) and sections 37.1, 38 and 39 of the *Retail Sales Tax Act* apply with necessary modifications.

Disposition of repaid amounts

(9) If all or part of an overpayment is repaid to the Minister of Finance, the Minister of Energy shall make such financial arrangements and payments as may be necessary to ensure that any electricity vendor or other person entitled to all or part of the overpayment receives the appropriate amount.

Confidentiality

11. (1) Except as authorized by this section, no person employed by the Government of Ontario shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister of Energy or the Minister of Finance for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Testimony

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

(a) to give evidence relating to any information obtained by or on behalf of the Minister of Energy or Minister of Finance for the purposes of this Act; or

(b) to produce any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Exception

(3) Subsections (1) and (2) do not apply in respect of,

a) les articles 85.11, 85.12, 85.14, 85.17 et 85.30 de cette loi s'appliquent, avec les adaptations nécessaires;

b) pour l'application des articles 85.11 et 85.14 de cette loi et sans préjudice de la portée générale de l'alinéa a), les mentions de la Société financière valent mention du ministre des Finances et les mentions du ministre des Finances valent mention du ministre au sens de l'article 7 de la présente loi;

c) les règlements de cette loi qui visent le calcul du ou des taux d'intérêt payables en application de l'article 85.11 de la même loi et le mode de calcul des intérêts s'appliquent, avec les adaptations nécessaires;

d) les articles 23 et 36, les paragraphes 37 (1), (1.1) et (2) et les articles 37.1, 38 et 39 de la *Loi sur la taxe de vente au détail* s'appliquent, avec les adaptations nécessaires.

Disposition des montants remboursés

(9) Si la totalité ou une partie d'un trop-perçu est remboursée au ministre des Finances, le ministre de l'Énergie prend les arrangements financiers et effectue les paiements nécessaires pour faire en sorte qu'un vendeur d'électricité ou une autre personne qui a droit à la totalité ou à une partie du trop-perçu reçoive la somme appropriée.

Renseignements confidentiels

11. (1) Sauf si elle y est autorisée par le présent article, aucune personne employée par le gouvernement de l'Ontario ne doit :

a) communiquer sciemment ou permettre sciemment que soient communiqués à qui que ce soit des renseignements obtenus par le ministre de l'Énergie ou le ministre des Finances ou pour son compte pour l'application de la présente loi;

b) permettre sciemment à quiconque d'inspecter un document ou une chose obtenus par l'un ou l'autre ministre ou pour son compte pour l'application de la présente loi, ou d'y avoir accès.

Témoignage

(2) Aucune personne employée par le gouvernement de l'Ontario ne peut être tenue, dans le cadre d'une instance judiciaire :

a) de témoigner au sujet d'un renseignement obtenu par le ministre de l'Énergie ou le ministre des Finances ou pour son compte pour l'application de la présente loi;

b) de produire un document ou une chose obtenus par l'un ou l'autre ministre ou pour son compte pour l'application de la présente loi.

Exceptions

(3) Les paragraphes (1) et (2) ne s'appliquent pas à l'égard des instances suivantes :

(a) criminal proceedings under any Act of the Parliament of Canada;

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

(c) proceedings relating to the administration or enforcement of this Act or Part V.1 or VI of the *Electricity Act, 1998*.

Communication

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,

(a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law or to an employee of the Board information obtained by or on behalf of either Minister for the purposes of this Act; and

(b) allow another person employed by the Government of Ontario in the administration or enforcement of any law or an employee of the Board to inspect or have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Reciprocal communication

(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to that Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of information

(6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

Same

(7) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to,

(a) the person from whom the information, record or thing was obtained;

(b) any person by whom an amount is payable or has been paid under this Act; or

(c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.

Information

(8) The Minister of Finance may permit information or

a) les instances criminelles introduites en vertu d'une loi du Parlement du Canada;

b) les instances rattachées au procès d'une personne pour infraction à une loi de la Législature;

c) les instances relatives à l'application ou à l'exécution de la présente loi ou de la partie V.1 ou VI de la *Loi de 1998 sur l'électricité*.

Communication

(4) Une personne employée par le gouvernement de l'Ontario peut, dans l'exercice de ses fonctions dans le cadre de l'application ou de l'exécution de la présente loi :

a) communiquer ou permettre que soient communiqués à une autre personne employée par le gouvernement de l'Ontario affectée à l'application ou à l'exécution d'une loi, ou à un employé de la Commission, des renseignements obtenus par l'un ou l'autre ministre ou pour son compte pour l'application de la présente loi;

b) permettre à une autre personne employée par le gouvernement de l'Ontario affectée à l'application ou à l'exécution d'une loi ou à un employé de la Commission d'inspecter un document ou une chose obtenus par l'un ou l'autre ministre ou pour son compte pour l'application de la présente loi, ou d'y avoir accès.

Réciprocité

(5) La personne qui reçoit des renseignements ou a accès à des documents ou à des choses en vertu du paragraphe (4) est tenue de communiquer ou de fournir à ce ministre, à titre réciproque, les renseignements, les documents ou les choses qu'elle a obtenus et qui ont une incidence sur l'application ou l'exécution de la présente loi.

Utilisation des renseignements

(6) Les renseignements, les documents ou les choses communiqués ou fournis en vertu du présent article ne peuvent être utilisés qu'aux fins d'application ou de l'exécution de la présente loi ou d'une loi à l'application ou à l'exécution de laquelle veille la personne qui les reçoit.

Idem

(7) Le ministre des Finances peut autoriser la remise de renseignements ou de la copie d'un document ou d'une chose obtenus par lui ou pour son compte pour l'application de la présente loi aux personnes suivantes :

a) la personne qui a fourni les renseignements, le document ou la chose;

b) la personne qui doit payer ou a payé une somme payable en application de la présente loi;

c) le représentant légal de la personne mentionnée à l'alinéa a) ou b) ou le mandataire de celle-ci autorisé par écrit à agir comme tel.

Communication autorisée

(8) Le ministre des Finances peut autoriser la remise de

a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to any person employed by any government if,

(a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and

(b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

Offence

(9) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than $2,000.

Offences

False statements, etc., and fraud

12. (1) Every person who engages in any of the following acts or omissions is guilty of an offence:

1. Making, participating in, assenting to or acquiescing in the making of a false or deceptive statement in any document or answer required or submitted under this Act or the regulations.
2. Destroying, altering, mutilating, hiding or otherwise disposing of information or records of an electricity vendor or other person, for the purpose of evading compliance with this Act or the regulations.
3. Making, assenting to or acquiescing in the making of a false or deceptive entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.
4. Omitting to make or assenting to or acquiescing in the omission of an entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.
5. Wilfully evading or attempting to evade, in any manner, compliance with an obligation under this Act or the regulations.

Penalty upon conviction

(2) A person convicted of an offence under subsection (1) is liable to either or both of the following penalties in addition to any other penalty assessed under this Act:

1. A fine in an amount that is not less than $1,000 and not more than $10,000.
2. Imprisonment for a term of not more than two years.

General offence

(3) Every person who contravenes, by any act or omis-

renseignements ou de la copie d'un document ou d'une chose obtenus par lui ou pour son compte pour l'application de la présente loi à une personne employée par tout gouvernement si :

a) les renseignements, le document ou la chose obtenus par ce gouvernement pour l'application d'une loi qui fixe une taxe ou des droits sont communiqués ou fournis à titre réciproque au ministre;

b) les renseignements, le document ou la chose ne sont utilisés qu'aux fins de l'application ou l'exécution d'une loi qui fixe une taxe ou des droits.

Infraction

(9) Quiconque contrevient à une disposition du présent article est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende maximale de 2 000 $.

Infractions

Déclarations fausses et fraude

12. (1) Est coupable d'une infraction toute personne qui commet les omissions ou les actes suivants :

1. Faire une déclaration fausse ou trompeuse dans un document ou dans une réponse exigés ou présentés en application de la présente loi ou des règlements, y participer, y consentir ou y acquiescer.
2. Détruire, altérer, mutiler, cacher les renseignements ou les documents d'un vendeur d'électricité ou d'une autre personne, ou en disposer autrement, dans le but d'éluder l'observation de la présente loi ou des règlements.
3. Faire, dans un document d'un vendeur d'électricité ou d'une autre personne qui est tenu de conserver des documents pour l'application de la présente loi, une inscription fausse ou trompeuse concernant un détail important, y consentir ou y acquiescer.
4. Omettre de faire, dans un document d'un vendeur d'électricité ou d'une autre personne qui est tenu de conserver des documents pour l'application de la présente loi, une inscription concernant un détail important, y consentir ou y acquiescer.
5. Délibérément et par quelque moyen que ce soit, se soustraire ou tenter de se soustraire au respect d'une obligation prévue par la présente loi ou les règlements.

Peine suivant une déclaration de culpabilité

(2) Toute personne déclarée coupable d'une infraction prévue au paragraphe (1) est passible des peines suivantes, ou d'une seule de ces peines, outre les autres pénalités imposées en vertu de la présente loi :

1. Une amende de 1 000 $ à 10 000 $.
2. Un emprisonnement maximal de deux ans.

Infraction générale

(3) Toute personne qui, en commettant un acte ou une

sion, a requirement imposed under this Act is guilty of an offence and, on conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than $50 and not more than $5,000.

Limitation period

13. A proceeding to prosecute an offence under this Act must be commenced within six years after the date on which the matter of the offence arose.

Payment of fines

14. Fines imposed on conviction of an offence under this Act are payable to the Minister of Finance on behalf of the Crown in right of Ontario.

Regulations

15. (1) The Lieutenant Governor in Council may make regulations,

(a) subject to the Minister of Energy's powers under subsection (2), prescribing anything required to be or referred to in this Act as being prescribed by the regulations;

(b) defining any word or expression used in this Act that is not already expressly defined in this Act;

(c) requiring any person to take such action or refrain from taking such action as may be necessary for the purposes of or in connection with any regulation made under this Act;

(d) governing information that must or may be provided to consumers concerning this Act and eligibility for financial assistance under it;

(e) governing the determination of the base invoice amount for a billing period with respect to a class of electricity vendors or a class of consumers;

(f) prescribing a method of paying or crediting to a consumer an amount of financial assistance to which the consumer is entitled under this Act and the circumstances in which the method applies;

(g) requiring a unit sub-meter provider to provide financial assistance in respect of the cost of electricity and prescribing,

(i) the circumstances in which the financial assistance is to be provided,

(ii) the person or class of persons entitled to receive the financial assistance,

(iii) the method of determining the amount of the financial assistance to be provided,

(iv) the manner for paying or otherwise providing the financial assistance;

(h) setting out one or more limitation periods for the purposes of subsection 6 (1) or (2), and governing the circumstances in which that subsection does not apply;

omission, contrevient à une exigence imposée en vertu de la présente loi est coupable d'une infraction et passible, sur déclaration de culpabilité, si aucune autre peine n'est prévue pour l'infraction, d'une amende de 50 $ à 5 000 $.

Délai de prescription

13. Les poursuites portant sur une infraction prévue par la présente loi doivent être engagées dans les six ans qui suivent la date de l'objet de l'infraction.

Paiement des amendes

14. Les amendes imposées sur déclaration de culpabilité pour une infraction prévue par la présente loi sont payables au ministre des Finances pour le compte de Sa Majesté du chef de l'Ontario.

Règlements

15. (1) Le lieutenant-gouverneur en conseil peut, par règlement :

a) sous réserve des pouvoirs que le paragraphe (2) confère au ministre de l'Énergie, prescrire tout ce que la présente loi exige de prescrire par règlement ou mentionne comme étant prescrit par règlement;

b) définir les termes utilisés dans la présente loi qui n'y sont pas déjà expressément définis;

c) exiger qu'une personne prenne ou s'abstienne de prendre une mesure lorsque cela est nécessaire pour l'application d'un règlement pris en vertu de la présente loi ou relativement à celui-ci;

d) régir les renseignements qui doivent ou peuvent être communiqués aux consommateurs en ce qui concerne la présente loi et l'admissibilité à l'aide financière prévue par celle-ci;

e) régir le calcul du montant de base de la facture pour une période de facturation en ce qui concerne une catégorie de vendeurs d'électricité ou une catégorie de consommateurs;

f) prescrire une méthode pour payer ou créditer à un consommateur le montant d'aide financière auquel il a droit en vertu de la présente loi et les circonstances dans lesquelles s'applique cette méthode;

g) exiger qu'un fournisseur de compteurs divisionnaires d'unité fournisse une aide financière à l'égard du coût de l'électricité et prescrire :

(i) les circonstances dans lesquelles cette aide doit être fournie,

(ii) la personne ou la catégorie de personnes qui a le droit de la recevoir,

(iii) la méthode à utiliser pour en établir le montant,

(iv) la manière dont elle doit être versée ou autrement fournie;

h) fixer un ou plusieurs délais de prescription pour l'application du paragraphe 6 (1) ou (2) et régir les circonstances dans lesquelles l'un ou l'autre paragraphe ne s'applique pas;

(i) respecting records to be kept by electricity vendors or by persons prescribed by the regulations;

(j) providing for matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of this Act and the regulations.

Regulations, Minister of Energy

(2) The Minister of Energy may make regulations,

(a) prescribing information that must or may be included on invoices issued to consumers or that must or may accompany invoices issued to consumers or payments of financial assistance under this Act;

(b) governing the presentation of financial assistance under this Act on invoices issued to consumers;

(c) prescribing anything required to be or referred to in section 4 as being prescribed by the regulations.

Retroactive regulations

(3) A regulation made under this Act is, if it so provides, effective with reference to a period before it is filed.

Subdelegation

(4) The Lieutenant Governor in Council may, by regulation, delegate to the Minister of Energy the power to make some or all of the regulations under subsection (1).

Ontario Clean Energy Benefit Act, 2010

16. (1) The *Ontario Clean Energy Benefit Act, 2010* is amended by adding the following section:

Cut-off dates for financial assistance, reimbursement

Financial assistance

6.1 (1) Despite any entitlement of consumers to financial assistance under this Act, no financial assistance is payable to a consumer after the date prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after the date prescribed by the regulations in respect of the electricity vendor or other person, other than in such circumstances as may be prescribed by the regulations.

(2) Subsection 15 (1) of the Act is amended by adding the following clause:

(i.1) setting out one or more dates for the purposes of subsection 6.1 (1) or (2), and governing the circ-

i) traiter des documents que doivent conserver les vendeurs d'électricité ou les personnes prescrites par règlement;

j) prévoir les questions qui, à son avis, sont nécessaires ou souhaitables pour faciliter la mise en application de la présente loi et des règlements.

Règlements : ministre de l'Énergie

(2) Le ministre de l'Énergie peut, par règlement :

a) prescrire les renseignements qui doivent ou peuvent figurer sur les factures émises aux consommateurs ou qui doivent ou peuvent accompagner ces factures ou les paiements d'aide financière faits dans le cadre de la présente loi;

b) régir la présentation de l'aide financière prévue par la présente loi sur les factures émises aux consommateurs;

c) prescrire tout ce que l'article 4 exige de prescrire par règlement ou mentionne comme étant prescrit par règlement.

Rétroactivité

(3) Les règlements pris en vertu de la présente loi qui comportent une disposition en ce sens ont un effet rétroactif.

Subdélégation

(4) Le lieutenant-gouverneur en conseil peut, par règlement, déléguer au ministre de l'Énergie le pouvoir de prendre certains ou la totalité des règlements visés au paragraphe (1).

Loi de 2010 sur la prestation ontarienne pour l'énergie propre

16. (1) La *Loi de 2010 sur la prestation ontarienne pour l'énergie propre* est modifiée par adjonction de l'article suivant :

Aide financière, remboursement : dates limites

Aide financière

6.1 (1) Malgré tout droit des consommateurs à l'aide financière prévue par la présente loi, aucune aide n'est payable à un consommateur après la date prescrite par règlement à son égard, si ce n'est dans les circonstances prescrites par règlement.

Remboursement

(2) Malgré toute obligation prévue par la présente loi de rembourser aux vendeurs d'électricité ou à d'autres personnes l'aide financière qu'ils fournissent aux consommateurs, aucun remboursement n'est payable à un vendeur d'électricité ou à une autre personne après la date prescrite par règlement à son égard, si ce n'est dans les circonstances prescrites par règlement.

(2) Le paragraphe 15 (1) de la Loi est modifié par adjonction de l'alinéa suivant :

i.1) fixer une ou plusieurs dates pour l'application du paragraphe 6.1 (1) ou (2) et régir les circonstances

cumstances in which that subsection does not apply;

Ontario Energy Board Act, 1998

17. (1) The definition of "enforceable provision" in section 3 of the *Ontario Energy Board Act, 1998* is amended by adding the following clause:

(c.2) a provision of the *Ontario Rebate for Electricity Consumers Act, 2016* or the regulations made under it,

(2) Section 70 of the Act is amended by adding the following subsection:

Deemed condition of licences, unit sub-meter provider, *Ontario Rebate for Electricity Consumers Act, 2016*

(2.3) Every licence issued to a unit sub-meter provider is deemed to contain the condition that the unit sub-meter provider is required to comply with the *Ontario Rebate for Electricity Consumers Act, 2016* and the regulations made under it.

Commencement

18. This Act comes into force on the later of January 1, 2017 and the day it receives Royal Assent.

Short title

19. The short title of this Act is the *Ontario Rebate for Electricity Consumers Act, 2016*.

dans lesquelles l'un ou l'autre paragraphe ne s'applique pas;

Loi de 1998 sur la Commission de l'énergie de l'Ontario

17. (1) La définition de «disposition exécutoire» à l'article 3 de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario* est modifiée par adjonction de l'alinéa suivant :

c.2) une disposition de la *Loi de 2016 sur la remise de l'Ontario pour les consommateurs d'électricité* ou de ses règlements d'application;

(2) L'article 70 de la Loi est modifié par adjonction du paragraphe suivant :

Conditions réputées rattachées aux permis des fournisseurs de compteurs divisionnaires d'unité : *Loi de 2016 sur la remise de l'Ontario pour les consommateurs d'électricité*

(2.3) Chaque permis délivré à un fournisseur de compteurs divisionnaires d'unité est réputé contenir la condition voulant que le fournisseur est tenu de se conformer à la *Loi de 2016 sur la remise de l'Ontario pour les consommateurs d'électricité* et à ses règlements.

Entrée en vigueur

18. La présente loi entre en vigueur le dernier en date du 1er janvier 2017 et du jour où elle reçoit la sanction royale.

Titre abrégé

19. Le titre abrégé de la présente loi est *Loi de 2016 sur la remise de l'Ontario pour les consommateurs d'électricité*.

2ND SESSION, 41ST LEGISLATURE, ONTARIO
65 ELIZABETH II, 2016

Bill 13

(Chapter 19
Statutes of Ontario, 2016)

An Act in respect of the cost of electricity

The Hon. G. Thibeault
Minister of Energy

1st Reading	September 15, 2016
2nd Reading	September 29, 2016
3rd Reading	October 19, 2016
Royal Assent	November 2, 2016

Printed by the Legislative Assembly
of Ontario

2e SESSION, 41e LÉGISLATURE, ONTARIO
65 ELIZABETH II, 2016

Projet de loi 13

(Chapitre 19
Lois de l'Ontario de 2016)

Loi concernant le coût de l'électricité

L'honorable G. Thibeault
Ministre de l'Énergie

1re lecture	15 septembre 2016
2e lecture	29 septembre 2016
3e lecture	19 octobre 2016
Sanction royale	2 novembre 2016

Imprimé par l'Assemblée législative
de l'Ontario

EXPLANATORY NOTE

This Explanatory Note was written as a reader's aid to Bill 13 and does not form part of the law. Bill 13 has been enacted as Chapter 19 of the Statutes of Ontario, 2016.

The *Ontario Rebate for Electricity Consumers Act, 2016* authorizes financial assistance for certain Ontario electricity consumers in respect of electricity costs. Consumers receive the financial assistance by means of an 8 per cent reduction in the amount payable before tax under their electricity accounts for each billing period. The amount of financial assistance for a billing period is required to be shown on invoices issued to consumers for the billing period.

The Act authorizes the making of regulations to reimburse electricity vendors for amounts credited to consumers' accounts under the Act. The Act authorizes the making of various other regulations, including to set out other ways for consumers to receive financial assistance, to alter the default rules in the Act for how to calculate the financial assistance and to limit or alter who is entitled to financial assistance.

The Act contains administrative and enforcement provisions, including requirements relating to record keeping by electricity vendors and authorization for inspections and inquiries with respect to amounts of financial assistance provided and reimbursements to electricity vendors. The *Ontario Energy Board Act, 1998* is amended so that provisions of the *Ontario Rebate for Electricity Consumers Act, 2016* and regulations made under it will be enforceable by the Ontario Energy Board.

The Act also amends the *Ontario Clean Energy Benefit Act, 2010* to authorize the making of regulations under that Act in respect of cut-off dates for financial assistance under that Act.

NOTE EXPLICATIVE

La note explicative, rédigée à titre de service aux lecteurs du projet de loi 13, ne fait pas partie de la loi. Le projet de loi 13 a été édicté et constitue maintenant le chapitre 19 des Lois de l'Ontario de 2016.

La *Loi de 2016 sur la remise de l'Ontario pour les consommateurs d'électricité* autorise le versement d'une aide financière à certains consommateurs d'électricité de l'Ontario en ce qui concerne les frais d'électricité. Les consommateurs reçoivent cette aide financière sous forme d'une réduction de 8 % du montant, avant taxes, à payer au titre de leur compte d'électricité pour chaque période de facturation. Le montant de l'aide financière doit être indiqué sur la facture émise au consommateur pour la période.

La Loi autorise la prise de règlements visant le remboursement, aux vendeurs d'électricité, des montants crédités sur les comptes des consommateurs en vertu de la Loi. La Loi autorise la prise de divers autres règlements, notamment pour prévoir d'autres façons de fournir l'aide financière aux consommateurs, pour modifier les règles figurant dans la Loi qui s'appliquent par défaut pour calculer l'aide financière et pour modifier les critères d'admissibilité à l'aide financière.

La Loi comporte des dispositions d'application et d'exécution qui prévoient notamment les obligations des vendeurs d'électricité en matière de conservation de documents et qui autorisent des inspections et des enquêtes à l'égard des montants d'aide financière fournis et des remboursements faits aux vendeurs d'électricité. La *Loi de 1998 sur la Commission de l'énergie de l'Ontario* est modifiée de sorte que les dispositions de la *Loi de 2016 sur la remise de l'Ontario pour les consommateurs d'électricité* et de ses règlements puissent être appliquées par la Commission de l'énergie de l'Ontario.

La Loi modifie également la *Loi de 2010 sur la prestation ontarienne pour l'énergie propre* pour autoriser la prise, en vertu de celle-ci, de règlements ayant trait aux dates limites pour l'aide financière qui y est prévue.

Bill 13 **2016**

An Act in respect of the cost of electricity

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17. Ontario Energy Board Act, 1998
18. Commencement
19. Short title

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. (1) In this Act,

"billing period" means a period of time that is wholly or partly in the eligible period and for which an invoice in respect of an eligible account is issued; ("période de facturation")

"Board" means the Ontario Energy Board; ("Commission")

"consumer" means a person,

(a) to whom an invoice is issued in respect of an eligible account for a billing period, or

(b) who is prescribed by the regulations or who satisfies such conditions as may be prescribed by the regulations; ("consommateur")

"distribution system" has the same meaning as in section

Projet de loi 13 **2016**

Loi concernant le coût de l'électricité

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Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Définitions

1. (1) Les définitions qui suivent s'appliquent à la présente loi.

«activités liées aux compteurs divisionnaires d'unité» Activités qui sont des activités liées aux compteurs divisionnaires d'unité pour l'application de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*. («unit sub-metering»)

«Commission» La Commission de l'énergie de l'Ontario. («Board»)

«compte admissible» À l'égard d'un consommateur, compte ouvert auprès d'un vendeur d'électricité, ou d'une personne prescrite par règlement, pour la fourniture d'électricité en Ontario dans l'un ou l'autre des cas suivants :

a) la demande d'électricité du consommateur est de 50 kilowatts ou moins, ou tout autre nombre prescrit;

3 of the *Ontario Energy Board Act, 1998*; ("réseau de distribution")

"electricity vendor" means the IESO, a licensed distributor, a licensed retailer or a person prescribed by the regulations; ("vendeur d'électricité")

"eligible account" means, in respect of a consumer, an account with an electricity vendor, or with a person prescribed by the regulations, for the provision of electricity in Ontario if,

(a) the consumer has a demand for electricity of 50 kilowatts or less, or such other amount of demand for electricity as may be prescribed,

(b) the consumer annually uses not more than 250,000 kilowatt hours of electricity, or such other amount of use of electricity as may be prescribed,

(c) the consumer,

(i) carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and

(ii) holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act,

(d) the account 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*, or

(e) the consumer or the account satisfies such conditions as may be prescribed by the regulations; ("compte admissible")

"eligible period" means the period commencing January 1, 2017; ("période admissible")

"IESO" has the same meaning as in subsection 2 (1) of the *Electricity Act, 1998*; ("SIERE")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("distributeur titulaire d'un permis")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("détaillant titulaire d'un permis")

"market rules" means the market rules made under section 32 of the *Electricity Act, 1998*; (règles du marché")

b) le consommateur n'utilise pas plus de 250 000 kilowatts-heures d'électricité par année, ou tout autre nombre prescrit;

c) le consommateur :

(i) exploite une entreprise qui constitue une entreprise agricole pour l'application de la *Loi de 1993 sur l'inscription des entreprises agricoles et le financement des organismes agricoles*,

(ii) possède un numéro d'inscription valide qui lui a été attribué en application de cette loi ou a été dispensé, conformément à une ordonnance rendue en application du paragraphe 22 (6) de la même loi, de l'obligation de déposer une formule d'inscription d'entreprise agricole;

d) le compte se rapporte :

(i) soit à un logement,

(ii) soit à une propriété au sens de la *Loi de 1998 sur les condominiums*,

(iii) soit à un ensemble d'habitation au sens du paragraphe 2 (1) de la *Loi de 2006 sur la location à usage d'habitation*, sans égard à l'article 5 de cette loi,

(iv) soit à un bien comptant un ou plusieurs logements et dont une coopérative au sens de la *Loi sur les sociétés coopératives* est propriétaire ou preneur à bail;

e) le consommateur ou le compte remplit les conditions prescrites par règlement. («eligible account»)

«consommateur» Personne :

a) soit à laquelle une facture est émise relativement à un compte admissible pour une période de facturation;

b) soit qui est prescrite par règlement ou qui remplit les conditions prescrites par règlement. («consumer»)

«détaillant titulaire d'un permis» Personne à laquelle a été délivré, en vertu de la partie V de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*, un permis l'autorisant à vendre de l'électricité au détail. («licensed retailer»)

«distributeur titulaire d'un permis» Personne à laquelle a été délivré, en vertu de la partie V de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*, un permis l'autorisant à être propriétaire ou exploitant d'un réseau de distribution. («licensed distributor»)

«fournisseur de compteurs divisionnaires d'unité» Personne à laquelle un permis l'autorisant à exercer des activités liées aux compteurs divisionnaires d'unité a été délivré par la Commission en vertu de la partie V de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*. («unit sub-meter provider»)

«période admissible» La période qui commence le 1er janvier 2017. («eligible period»)

"regulations" means the regulations made under this Act; ("règlement")

"retail" has the same meaning as in section 56 of the *Ontario Energy Board Act, 1998*; ("vendre au détail")

"unit sub-metering" means activities that are unit sub-metering for the purposes of the *Ontario Energy Board Act, 1998*; ("activités liées aux compteurs divisionnaires d'unité")

"unit sub-meter provider" means a person who is licensed to engage in unit sub-metering by the Board under Part V of the *Ontario Energy Board Act, 1998*. ("fournisseur de compteurs divisionnaires d'unité")

«période de facturation» Période dont la totalité ou une partie est comprise dans la période admissible et pour laquelle une facture est émise relativement à un compte admissible. («billing period»)

«règlement» Règlement pris en vertu de la présente loi. («regulations»)

«règles du marché» Les règles du marché établies en vertu de l'article 32 de la *Loi de 1998 sur l'électricité*. («market rules»)

«réseau de distribution» S'entend au sens de l'article 3 de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*. («distribution system»)

«SIERE» S'entend au sens du paragraphe 2 (1) de la *Loi de 1998 sur l'électricité*. («IESO»)

«vendeur d'électricité» S'entend de la SIERE, d'un distributeur titulaire d'un permis, d'un détaillant titulaire d'un permis ou d'une personne prescrite par règlement. («electricity vendor»)

«vendre au détail» S'entend au sens de l'article 56 de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*. («retail»)

Eligible account

(2) For the purposes of this Act, if a consumer would, but for this subsection, have an eligible account with a licensed retailer and with a licensed distributor, but only one of them issues an invoice to the consumer for a billing period for all amounts payable by the consumer to them for the billing period,

(a) the consumer is deemed to have an eligible account for the billing period only with whichever of them issues the invoice for the billing period; and

(b) the licensed distributor or licensed retailer who issues the invoice for the billing period is deemed to be imposing all charges and other amounts payable under the invoice for the purposes of determining the amount of financial assistance to which the consumer is entitled.

Compte admissible

(2) Pour l'application de la présente loi, dans les cas où, sans le présent paragraphe, un consommateur aurait un compte admissible auprès d'un détaillant titulaire d'un permis et d'un distributeur titulaire d'un permis, mais qu'un seul d'entre eux émet, pour une période de facturation, une facture au consommateur à l'égard de tous les montants qui leur sont payables par ce dernier pour la période de facturation :

a) le consommateur est réputé avoir un compte admissible, pour cette période, seulement auprès de celui du détaillant et du distributeur qui émet la facture;

b) le détaillant ou le distributeur qui émet la facture pour cette période est réputé facturer tous les frais et autres montants payables au titre de la facture pour déterminer le montant d'aide financière auquel a droit le consommateur.

Base invoice amount

2. (1) For the purposes of this Act, the base invoice amount for a billing period in respect of an eligible account is determined in accordance with the regulations and, unless otherwise prescribed by the regulations, includes, if the invoice is issued by a licensed distributor or a licensed retailer, amounts in respect of,

(a) the commodity price of the electricity;

(b) 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* that are not required under subsection (2) or the regulations to be excluded;

Montant de base de la facture

2. (1) Pour l'application de la présente loi, le montant de base de la facture pour une période de facturation à l'égard d'un compte admissible est déterminé conformément aux règlements et, sauf prescription contraire de ceux-ci, il comprend les montants suivants si la facture est émise par un distributeur titulaire d'un permis ou un détaillant titulaire d'un permis :

a) le coût de l'électricité;

b) les tarifs et les frais qui sont fixés dans l'ordonnance tarifaire pertinente rendue par la Commission en vertu du paragraphe 78 (3) de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario* et dont l'exclusion prévue par le paragraphe (2) ou les règlements n'est pas exigée;

(c) any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*;

(d) any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*; and

(e) anything else prescribed by the regulations.

Exclusions

(2) Except as otherwise prescribed by the regulations, the base invoice amount for a billing period must exclude,

(a) the balance of any amounts carried forward from previous invoices;

(b) all penalties and interest;

(c) any charges that do not relate to the consumption of electricity;

(d) the fixed monthly service charge payable by a generation facility, within the meaning of section 56 of the *Ontario Energy Board Act, 1998*, that is classified as "microFIT" in a rate order issued by the Board under subsection 78 (3) of that Act;

(e) charges labelled as "specific service charges" or "retail service charges" in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*;

(f) the amount of any harmonized sales tax payable under Part IX of the *Excise Tax Act* (Canada); and

(g) any other amounts prescribed by the regulations.

Financial assistance

3. (1) A consumer who has an eligible account during a billing period is entitled to receive financial assistance in respect of the cost of electricity during the billing period in an amount equal to 8 per cent of the base invoice amount for the billing period in respect of the eligible account.

Exception

(2) Despite subsection (1), a consumer is not entitled to receive financial assistance under this Act,

(a) in respect of electricity consumed in generation station service;

(b) in such circumstances as may be prescribed by the regulations; or

(c) if the regulations prescribe that the consumer is not entitled to receive financial assistance.

Payment of financial assistance

(3) The financial assistance to which a consumer is entitled under this Act shall be paid,

(a) by crediting the consumer's eligible account; or

(b) in such other manner as may be prescribed by the regulations.

c) tout ajustement sur la facture exigé par l'article 25.33 de la *Loi de 1998 sur l'électricité*;

d) toute redevance de liquidation de la dette exigée du consommateur par le paragraphe 85 (4) de la *Loi de 1998 sur l'électricité*;

e) toute autre chose prescrite par règlement.

Exclusions

(2) Sauf prescription contraire des règlements, le montant de base de la facture pour une période de facturation exclut ce qui suit :

a) le solde des montants reportés de factures antérieures;

b) l'ensemble des pénalités et intérêts;

c) les frais qui ne se rapportent pas à la consommation d'électricité;

d) les frais mensuels fixes payables par une installation de production, au sens de l'article 56 de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*, qui sont désignés «microFIT» dans une ordonnance tarifaire rendue par la Commission en vertu du paragraphe 78 (3) de cette loi;

e) les frais désignés «specific service charges» ou «retail service charges» dans l'ordonnance tarifaire pertinente rendue par la Commission en vertu du paragraphe 78 (3) de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*;

f) le montant de la taxe de vente harmonisée payable en application de la partie IX de la *Loi sur la taxe d'accise* (Canada);

g) les autres montants prescrits par règlement.

Aide financière

3. (1) Le consommateur qui a un compte admissible pendant une période de facturation a le droit de recevoir, à l'égard du coût de l'électricité pendant cette période, une aide financière égale à 8 % du montant de base de la facture pour cette période relativement au compte admissible.

Exception

(2) Malgré le paragraphe (1), le consommateur n'a pas droit à l'aide financière prévue par la présente loi dans les cas suivants :

a) à l'égard de l'électricité consommée par les centrales;

b) dans les circonstances prescrites par règlement;

c) si les règlements prescrivent que le consommateur n'a pas droit à l'aide financière.

Versement de l'aide financière

(3) L'aide financière à laquelle a droit le consommateur en vertu de la présente loi est versée :

a) soit en créditant son compte admissible;

b) soit de l'autre manière prescrite par règlement.

Money appropriated by the Legislature

(4) The money required for the purposes of this Act shall be paid out of the money appropriated for those purposes by the Legislature.

No assignment of financial assistance

(5) An assignment by a consumer to another person or entity, including a licensed retailer, of the consumer's entitlement to any payment, rebate or credit does not apply to any financial assistance to which the consumer is entitled under this Act, whether the assignment was made before or after this subsection comes into force.

Same

(6) Subsection (7) applies if,

(a) a consumer provides to another person electricity in respect of which the consumer is entitled to financial assistance under subsection (1); and

(b) an invoice for the electricity is issued to the person by the consumer, by an agent of the consumer or by a unit sub-meter provider providing unit sub-metering for the consumer.

Requirement to pass on benefit

(7) Despite subsections (1) and (5), the consumer and every unit sub-meter provider providing unit sub-metering for the consumer shall ensure that each person who is liable to pay an invoice referred to in clause (6) (b) receives a credit, determined in the manner prescribed by the regulations, in respect of the financial assistance to which the consumer is entitled with respect to electricity the consumer provides to the person.

Invoices

4. (1) Unless otherwise prescribed by the regulations, every electricity vendor who issues an invoice for a billing period to a consumer in respect of an eligible account shall clearly show on the invoice,

(a) a credit equal to the amount of the financial assistance provided to the consumer for the billing period; and

(b) the net amount of the invoice after the credit.

Invoice issued by consumer, etc.

(2) An invoice that is issued by a consumer, an agent of a consumer, a unit sub-meter provider or another person prescribed by the regulations must be in the form required by the regulations and contain or be accompanied by the information required by the regulations.

Transitional

(3) If, for technical or operational reasons, an electricity vendor or a person referred to in subsection (2) is unable to adapt its invoices to comply with this Act and the regulations by the time it issues its first invoice for electricity consumed in 2017 in respect of an eligible account,

Crédits affectés par la Législature

(4) Les sommes nécessaires à l'application de la présente loi sont prélevées sur les crédits affectés à cette fin par la Législature.

Cession de l'aide financière interdite

(5) Qu'elle soit antérieure ou postérieure à l'entrée en vigueur du présent paragraphe, la cession, par un consommateur, de son droit à un paiement, à une remise ou à un crédit à une autre personne ou entité, y compris un détaillant titulaire d'un permis, ne touche pas l'aide financière à laquelle il a droit en vertu de la présente loi.

Idem

(6) Le paragraphe (7) s'applique si les conditions suivantes sont remplies :

a) un consommateur fournit à une autre personne de l'électricité à l'égard de laquelle il a droit à l'aide financière prévue au paragraphe (1);

b) une facture d'électricité est émise à la personne par le consommateur, par le mandataire du consommateur ou par un fournisseur de compteurs divisionnaires d'unité qui exerce des activités liées à ces compteurs pour le compte du consommateur.

Obligation de transmettre la prestation

(7) Malgré les paragraphes (1) et (5), le consommateur et chaque fournisseur de compteurs divisionnaires d'unité qui exerce des activités liées à ces compteurs pour le compte du consommateur veillent à ce que toute personne qui est tenue d'acquitter une facture visée à l'alinéa (6) b) reçoive un crédit, établi de la manière prescrite par règlement, à l'égard de l'aide financière à laquelle le consommateur a droit relativement à l'électricité qu'il fournit à la personne.

Factures

4. (1) Sauf prescription contraire des règlements, le vendeur d'électricité qui émet une facture pour une période de facturation à un consommateur relativement à un compte admissible indique clairement sur la facture :

a) un crédit égal à l'aide financière fournie au consommateur pour la période de facturation;

b) le montant net de la facture après imputation du crédit.

Facture émise par le consommateur

(2) La facture qui est émise par un consommateur, le mandataire d'un consommateur, un fournisseur de compteurs divisionnaires d'unité ou une autre personne prescrite par règlement doit se présenter sous la forme exigée par règlement et comporter les renseignements également exigés par règlement ou en être accompagnée.

Disposition transitoire

(3) Si, pour des raisons techniques ou opérationnelles, un vendeur d'électricité ou une personne visée au paragraphe (2) n'a pas pu adapter ses factures pour les rendre conformes à la présente loi et aux règlements avant l'émission de sa première facture pour l'électricité consommé en 2017 relativement à un compte admissible :

(a) the electricity vendor or person shall adapt its invoices as soon as possible and, in any event, no later than July 1, 2017; and

(b) consumers continue to be entitled to receive the financial assistance to which they are entitled under this Act and may receive it as a lump sum credit on the invoice for the first billing period after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Financial arrangements

Purposes

5. (1) The purposes of this section are,

(a) to ensure that financial assistance under this Act and the regulations is provided to those persons entitled to receive it; and

(b) to authorize the making of financial arrangements to reimburse electricity vendors, and other persons prescribed by the regulations, for financial assistance provided under this Act and the regulations.

Regulations

(2) The Lieutenant Governor in Council may, for the purpose of this section, make regulations,

(a) authorizing the Minister of Energy to make payments to persons who are electricity vendors or persons prescribed by the regulations in respect of the amount of financial assistance to which consumers are entitled under this Act and prescribing methods for determining the amounts payable;

(b) requiring the IESO to make payments to licensed distributors, or to persons prescribed by the regulations, in respect of financial assistance provided under this Act or the regulations and prescribing methods for determining the amounts payable;

(c) requiring a licensed distributor to make payments to other licensed distributors or licensed retailers in respect of financial assistance under this Act and prescribing methods for determining the amounts payable;

(d) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments in respect of financial assistance to consumers or other persons entitled to receive the financial assistance and prescribing the circumstances in which such payments are to be made and methods for determining the amounts payable;

(e) authorizing the Minister of Energy to make payments of financial assistance directly to consumers and prescribing the circumstances when such payments are to be made;

(f) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments to the Minister of Finance in respect of amounts received by them or in circumstances pre-

a) le vendeur ou la personne adapte ses factures dès que possible, mais dans tous les cas au plus tard le 1er juillet 2017;

b) les consommateurs continuent d'avoir droit à l'aide financière prévue par la présente loi et ils peuvent la recevoir sous forme de crédit forfaitaire indiqué sur la facture pour la première période de facturation postérieure à l'adaptation des factures ou par tout autre moyen prescrit par règlement.

Arrangements financiers

Objets

5. (1) Le présent article a pour objet :

a) de faire en sorte que l'aide financière prévue par la présente loi et les règlements soit fournie aux personnes qui y ont droit;

b) d'autoriser la prise d'arrangements financiers afin de rembourser aux vendeurs d'électricité, et aux autres personnes prescrites par règlement, l'aide financière fournie en application de la présente loi et des règlements.

Règlements

(2) Pour l'application du présent article, le lieutenant-gouverneur en conseil peut, par règlement :

a) autoriser le ministre de l'Énergie à faire des paiements aux vendeurs d'électricité ou aux personnes prescrites par règlement à l'égard de l'aide financière à laquelle les consommateurs ont droit en vertu de la présente loi et prescrire les méthodes à utiliser pour en établir le montant;

b) exiger que la SIERE fasse des paiements aux distributeurs titulaires d'un permis ou aux personnes prescrites par règlement à l'égard de l'aide financière fournie en application de la présente loi ou des règlements et prescrire les méthodes à utiliser pour en établir le montant;

c) exiger qu'un distributeur titulaire d'un permis fasse des paiements à d'autres distributeurs titulaires d'un permis ou à des détaillants titulaires d'un permis à l'égard de l'aide financière prévue par la présente loi et prescrire les méthodes à utiliser pour en établir le montant;

d) exiger qu'un vendeur d'électricité ou une personne prescrite par règlement fasse des paiements à l'égard de l'aide financière aux consommateurs ou aux autres personnes qui ont le droit de recevoir cette aide et prescrire les circonstances dans lesquelles ces paiements doivent être faits et les méthodes à utiliser pour en établir le montant;

e) autoriser le ministre de l'Énergie à faire des paiements d'aide financière directement aux consommateurs et prescrire les circonstances dans lesquelles ces paiements doivent être faits;

f) exiger qu'un vendeur d'électricité ou une personne prescrite par règlement fasse des paiements au ministre des Finances à l'égard des sommes qu'ils reçoivent ou dans les circonstances prescrites par rè-

scribed by the regulations and prescribing methods for determining the amounts payable;

(g) authorizing payments referred to in clause (a), (b), (c), (d) or (f) to be made by way of set-offs and credits and prescribing conditions entitling or requiring amounts to be set off or credited;

(h) governing the payments required under clause (a), (b), (c), (d) or (f), including methods for paying the amounts payable and when the payments must be made, and governing methods for determining amounts to be set off or credited, including the times within which amounts must or may be set off or credited;

(i) for the purposes of this Act and the regulations, requiring persons who are electricity vendors or persons prescribed by the regulations to provide information to the Minister of Energy, the Minister of Finance, the IESO, the Board or licensed distributors and prescribing the information to be provided and when it must be provided;

(j) governing the establishment and maintenance of variance accounts required for the purposes of this Act.

Conflict with market rules and codes

(3) In the event of a conflict, a regulation made under subsection (2) prevails over the market rules to the extent of the conflict and prevails over a code issued by the Board under section 70.1 of the *Ontario Energy Board Act, 1998* to the extent of the conflict.

Provision of information

(4) A person may do anything required by a regulation made under clause (2) (i) despite any agreement to the contrary and, if the person does so,

(a) the person is not liable for doing the thing in contravention of any agreement to the contrary; and

(b) doing the thing is deemed not to constitute a breach, termination, repudiation or frustration of any contract.

Limitation periods for financial assistance, reimbursement

Financial assistance

6. (1) Despite any past entitlement of a consumer to financial assistance under this Act, no financial assistance is payable to a consumer after a limitation period prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after a limitation period prescribed by the regulations in respect of the electricity vendor or other person, where such reimbursement is based on a consumer's past entitlement not yet paid or reimbursed under this

glement et prescrire les méthodes à utiliser pour en établir le montant;

g) autoriser le versement des paiements visés à l'alinéa a), b), c), d) ou f) par voie de déduction ou de crédit et prescrire les conditions qui permettent ou exigent que des montants soient ainsi déduits ou crédités;

h) régir les paiements exigés par l'alinéa a), b), c), d) ou f), notamment leur mode de versement et le moment où ils doivent être faits, et régir les méthodes à utiliser pour établir les montants à déduire ou à créditer, y compris les délais dans lesquels ils doivent ou peuvent l'être;

i) pour l'application de la présente loi et des règlements, exiger que les vendeurs d'électricité ou les personnes prescrites par règlement communiquent des renseignements au ministre de l'Énergie, au ministre des Finances, à la SIERE, à la Commission ou aux distributeurs titulaires d'un permis et prescrire quels renseignements doivent être communiqués et le moment où ils doivent l'être;

j) régir la création et la tenue des comptes d'écart exigés pour l'application de la présente loi.

Incompatibilité avec les règles du marché et les codes

(3) En cas d'incompatibilité, les règlements pris en vertu du paragraphe (2) l'emportent sur les règles du marché ainsi que sur tout code produit par la Commission en vertu de l'article 70.1 de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*.

Communication de renseignements

(4) Une personne peut faire toute chose qu'exige un règlement pris en vertu de l'alinéa (2) i) malgré toute entente à l'effet contraire, auquel cas :

a) elle ne peut pas être tenue responsable d'avoir fait la chose en contravention avec une telle entente;

b) faire cette chose est réputé ne pas constituer une violation, une résiliation, une répudiation ou une impossibilité d'exécution d'un contrat.

Aide financière, remboursement : délais de prescription

Aide financière

6. (1) Malgré tout droit antérieur d'un consommateur à l'aide financière prévue par la présente loi, aucune aide ne lui est payable après un délai de prescription prescrit par règlement à son égard, si ce n'est dans les circonstances prescrites par règlement.

Remboursement

(2) Malgré toute obligation prévue par la présente loi de rembourser aux vendeurs d'électricité ou à d'autres personnes l'aide financière qu'ils fournissent aux consommateurs, aucun remboursement n'est payable à un vendeur d'électricité ou à une autre personne après un délai de prescription prescrit par règlement à son égard lorsque le remboursement se fonde sur le droit antérieur d'un consommateur à une somme qui n'a pas été encore

Act, other than in such circumstances as may be prescribed by the regulations.

Definition

7. In sections 8, 9 and 10,

"Minister" means the Minister of Finance or such other member of the Executive Council to whom the administration of those sections is assigned under the *Executive Council Act*.

Records

8. (1) Every electricity vendor and every person prescribed by the regulations shall keep at a location in Ontario such records as are necessary to determine and verify compliance with this Act and the regulations and any records required by the regulations to be kept.

Electronic records

(2) If a person keeps records in an electronic form, the person shall ensure that, from the time the records are first made and for as long as they are required to be retained,

(a) they remain complete and unaltered, apart from any changes or additions made in the normal course of communication, storage or display; and

(b) they are capable of being printed and of being produced in electronically readable format for inspection, examination or audit.

Retention of records

(3) Records required to be kept under subsection (1) shall not be destroyed unless authorization has been given in writing by the Minister.

Offence

(4) Every person who fails to keep records in accordance with this section is guilty of an offence and, on conviction, is liable to a fine of not less than $50 and not more than $5,000.

Inspections and inquiries

9. (1) The Minister may appoint one or more inspectors who are authorized to exercise any of the powers and perform any of the duties of a person authorized by the Minister under subsection 31 (1) of the *Retail Sales Tax Act* for any purpose related to the administration and enforcement of this Act.

Same

(2) Subsections 31 (1), (2), (2.1) and (2.2) of the *Retail Sales Tax Act* apply, with necessary modifications, with respect to the administration and enforcement of this Act.

Admission of evidence

(3) The Minister, or a person authorized by the Minister, may, for any purpose related to the administration of this Act or the regulations, reproduce from original data stored electronically any information previously submitted as required under this Act or the regulations in any

versée ou remboursée en application de la présente loi, si ce n'est dans les circonstances prescrites par règlement.

Définition

7. La définition qui suit s'applique aux articles 8, 9 et 10.

«ministre» Le ministre des Finances ou l'autre membre du Conseil exécutif à qui la responsabilité de l'application de ces articles est confiée en vertu de la *Loi sur le Conseil exécutif*.

Documents

8. (1) Tout vendeur d'électricité et toute personne prescrite par règlement conserve, dans un lieu situé en Ontario, les documents nécessaires pour permettre d'établir et de vérifier que la présente loi et les règlements sont respectés, ainsi que les documents exigés par les règlements.

Documents électroniques

(2) La personne qui conserve des documents sous forme électronique veille à ce que ces documents, dès leur création et pour la durée obligatoire de leur conservation :

a) demeurent complets et inchangés, mis à part les modifications ou les ajouts apportés dans le cours normal de leur communication, de leur stockage ou de leur affichage;

b) puissent être imprimés et produits sur un support électronique intelligible aux fins d'inspection, d'examen ou de vérification.

Conservation des documents

(3) Sauf autorisation écrite du ministre, les documents qui doivent être conservés en application du paragraphe (1) ne doivent pas être détruits.

Infraction

(4) Est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende de 50 $ à 5 000 $ quiconque ne conserve pas des documents conformément au présent article.

Inspections et enquêtes

9. (1) Le ministre peut nommer un ou plusieurs inspecteurs qui sont autorisés à exercer, aux fins liées à l'application et à l'exécution de la présente loi, les pouvoirs et les fonctions d'une personne autorisée par lui en vertu du paragraphe 31 (1) de la *Loi sur la taxe de vente au détail*.

Idem

(2) Les paragraphes 31 (1), (2), (2.1) et (2.2) de la *Loi sur la taxe de vente au détail* s'appliquent, avec les adaptations nécessaires, à l'égard de l'application et de l'exécution de la présente loi.

Admissibilité en preuve

(3) À toute fin liée à l'application de la présente loi et des règlements, le ministre ou la personne qu'il autorise peut reproduire à partir de données déjà stockées sur support électronique des renseignements déjà fournis sous quelque forme que ce soit par une personne comme

form by any person, and the electronically reproduced document shall be admissible in evidence and shall have the same probative force as the original document would have had if it had been proved in the ordinary way.

Inquiry

(4) The Minister may, for any purpose related to the administration of this Act or the regulations, authorize any person, whether or not the person is an employee in the Ministry of the Minister, to make such inquiry as the Minister considers necessary with reference to anything relating to the administration of this Act or the regulations.

Copies

(5) If a book, record or other document is examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry may make, or cause to be made, one or more copies of it, and a document purporting to be certified by the person to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if proved in the ordinary way.

Compliance

(6) No person shall hinder or molest or interfere with any person doing anything that the person is authorized by this section to do or prevent or attempt to prevent any person doing any such thing.

Same

(7) Despite any other law to the contrary, every person shall, unless the person is unable to do so, do everything he, she or it is required by this section to do.

Administration of oaths

(8) Declarations or affidavits in connection with statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee for doing so.

Application of *Public Inquiries Act, 2009*

(9) Section 33 of the *Public Inquiries Act, 2009* applies to an inquiry under subsection (4).

Recovery of overpayments

Definitions

10. (1) In this section,

"inspector" means an inspector referred to in section 9; ("inspecteur")

"overpayment" means an amount received by a person in excess of any reimbursement to which the person is entitled under this Act and the regulations. ("trop-perçu")

Notice of overpayment

(2) If it appears to an inspector that a person has received an overpayment, the Minister may send a written notice to the person advising the person of the following:

l'exigent la présente loi ou les règlements. La reproduction électronique est admissible en preuve et a la même valeur probante qu'aurait eu l'original si la preuve en avait été faite de la façon habituelle.

Enquête

(4) À toute fin liée à l'application de la présente loi ou des règlements, le ministre peut autoriser une personne, qu'elle soit ou non employée dans le ministère du ministre, à mener l'enquête qu'il estime nécessaire sur quoi que ce soit qui se rapporte à l'application de la présente loi ou des règlements.

Copies

(5) La personne à laquelle un livre ou un autre document a été produit ou qui en a effectué l'examen en vertu du présent article, ou un fonctionnaire du ministère, peut en tirer ou en faire tirer une ou plusieurs copies. Le document qui se présente comme étant attesté par cette personne en tant que copie tirée conformément au présent article est admissible en preuve et a la même valeur probante qu'aurait eu l'original si la preuve en avait été faite de la façon habituelle.

Observation

(6) Nul ne doit gêner ni entraver une personne dans l'exécution de ce que le présent article l'autorise à faire, ni l'empêcher ou tenter de l'empêcher de le faire.

Idem

(7) Malgré toute autre règle de droit à l'effet contraire, quiconque est tenu par le présent article de faire une chose doit la faire, sauf s'il ne le peut pas.

Prestation de serment

(8) Toute personne habilitée à faire prêter serment et toute personne qui y est expressément autorisée par le lieutenant-gouverneur en conseil peut recevoir des déclarations solennelles ou des affidavits portant sur les renseignements fournis conformément au présent article. Toutefois, les personnes expressément autorisées ne doivent pas exiger d'honoraires.

Application de la *Loi de 2009 sur les enquêtes publiques*

(9) L'article 33 de la *Loi de 2009 sur les enquêtes publiques* s'applique à une enquête visée au paragraphe (4).

Recouvrement des trop-perçus

Définitions

10. (1) Les définitions qui suivent s'appliquent au présent article.

«inspecteur» Inspecteur visé à l'article 9. («inspector»)

«trop-perçu» Somme reçue par une personne en sus du remboursement auquel elle a droit en vertu de la présente loi et des règlements. («overpayment»)

Avis de trop-perçu

(2) S'il semble à l'inspecteur qu'une personne a reçu un trop-perçu, le ministre peut envoyer à cette dernière un avis écrit l'informant de ce qui suit :

1. That the person has received an overpayment.
2. The amount of the overpayment and how it was calculated.
3. The required steps to be taken by the person with respect to the overpayment.
4. The date, not more than six months after the date of the notice, by which these steps must be completed.
5. That the Minister has the authority to assess the person for the amount of the overpayment, plus interest, if the person fails to complete the required steps by the specified date.

Calculation of amount of overpayment

(3) For the purposes of this section, an inspector shall calculate an overpayment or the outstanding balance of an overpayment in the manner and form and using such procedures as the Minister considers adequate and expedient.

Assessment

(4) If a person fails to complete the steps required in a notice under subsection (2) within the time specified in the notice, and any additional time requested by the person and permitted by the Minister, the Minister may assess or reassess the amount of the overpayment, or the outstanding balance of the overpayment, based on the inspector's calculation described in subsection (3).

Penalty

(5) If the Minister makes an assessment or reassessment under subsection (4) and is satisfied that the person's non-compliance with the required steps in the notice was attributable to neglect, carelessness, wilful default or fraud, the Minister may assess a penalty against the person equal to the outstanding balance of the overpayment when the penalty is assessed.

Time limit

(6) The Minister shall not assess or reassess under subsection (4) more than 48 months after the end of the month in which the person received the overpayment.

Exception, where misrepresentation, etc.

(7) Subsection (6) does not apply if the Minister establishes that the person has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in supplying information under this Act or the regulations or in omitting to disclose information.

Deemed debt retirement charge

(8) An amount assessed or reassessed by the Minister under this section is deemed for the purposes of the administration and enforcement of this Act to be a debt retirement charge, as defined in subsection 85 (1) of the *Electricity Act, 1998*, that has been collected, on the last day of the month in which the person received the overpayment, by the person as a collector appointed under subsection 85.3 (1) of the *Electricity Act, 1998* and, for those purposes,

1. Le fait que la personne a reçu un trop-perçu.
2. Le montant du trop-perçu et la façon dont il a été calculé.
3. Les mesures que la personne doit prendre à l'égard du trop-perçu.
4. La date à laquelle ces mesures doivent avoir été prises, cette date devant tomber dans les six mois qui suivent la date de l'avis.
5. Le fait que le ministre a le pouvoir d'établir une cotisation à l'égard de la personne pour le montant du trop-perçu, majoré des intérêts, si elle n'a pas pris les mesures exigées au plus tard à la date fixée.

Calcul du trop-perçu

(3) Pour l'application du présent article, l'inspecteur calcule un trop-perçu ou le solde impayé d'un trop-perçu de la manière, sous la forme et selon les règles que le ministre estime adéquates et opportunes.

Cotisation

(4) Si une personne ne prend pas les mesures exigées dans un avis visé au paragraphe (2) dans le délai qui y est fixé et dans tout délai supplémentaire demandé par elle et accordé par le ministre, ce dernier peut établir une cotisation ou une nouvelle cotisation pour le trop-perçu ou le solde impayé de celui-ci en se fondant sur le calcul effectué par l'inspecteur en application du paragraphe (3).

Pénalité

(5) S'il établit une cotisation ou une nouvelle cotisation en vertu du paragraphe (4) et qu'il est convaincu que le non-respect, par la personne, de l'obligation de prendre les mesures exigées dans l'avis était attribuable à une négligence, à un manque de diligence, à une omission volontaire ou à une fraude, le ministre peut imposer à la personne une pénalité égale au montant auquel s'élève le solde impayé du trop-perçu lorsque la pénalité est imposée.

Délai

(6) Le ministre ne doit pas établir de cotisation ou de nouvelle cotisation en vertu du paragraphe (4) plus de 48 mois après la fin du mois pendant lequel la personne a reçu le trop-perçu.

Exception : présentation inexacte des faits

(7) Le paragraphe (6) ne s'applique pas si le ministre établit que la personne a fait une présentation inexacte des faits par négligence, manque de diligence ou omission volontaire, ou a commis une fraude en communiquant des renseignements en application de la présente loi ou des règlements ou en ne divulguant pas des renseignements.

Assimilation à une redevance de liquidation de la dette

(8) Le montant d'une cotisation ou d'une nouvelle cotisation établie par le ministre en vertu du présent article est réputé, pour l'application et l'exécution de la présente loi, une redevance de liquidation de la dette, au sens du paragraphe 85 (1) de la *Loi de 1998 sur l'électricité*, que la personne a perçue, le dernier jour du mois pendant lequel elle a reçu le trop-perçu, en qualité de percepteur nommé en application du paragraphe 85.3 (1) de cette loi et, à ces fins :

(a) sections 85.11, 85.12, 85.14, 85.17 and 85.30 of that Act apply with necessary modifications;

(b) in the application of sections 85.11 and 85.14 of that Act and without limiting the generality of clause (a), references to the Financial Corporation are read as references to the Minister of Finance and references to the Minister of Finance are read as references to the Minister as defined in section 7 of this Act;

(c) the regulations made under that Act for the purposes of calculating the rate or rates of interest payable under section 85.11 of that Act and the manner of calculating the amount of interest apply with necessary modifications; and

(d) sections 23 and 36, subsections 37 (1), (1.1) and (2) and sections 37.1, 38 and 39 of the *Retail Sales Tax Act* apply with necessary modifications.

Disposition of repaid amounts

(9) If all or part of an overpayment is repaid to the Minister of Finance, the Minister of Energy shall make such financial arrangements and payments as may be necessary to ensure that any electricity vendor or other person entitled to all or part of the overpayment receives the appropriate amount.

Confidentiality

11. (1) Except as authorized by this section, no person employed by the Government of Ontario shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister of Energy or the Minister of Finance for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Testimony

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

(a) to give evidence relating to any information obtained by or on behalf of the Minister of Energy or Minister of Finance for the purposes of this Act; or

(b) to produce any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Exception

(3) Subsections (1) and (2) do not apply in respect of,

a) les articles 85.11, 85.12, 85.14, 85.17 et 85.30 de cette loi s'appliquent, avec les adaptations nécessaires;

b) pour l'application des articles 85.11 et 85.14 de cette loi et sans préjudice de la portée générale de l'alinéa a), les mentions de la Société financière valent mention du ministre des Finances et les mentions du ministre des Finances valent mention du ministre au sens de l'article 7 de la présente loi;

c) les règlements de cette loi qui visent le calcul du ou des taux d'intérêt payables en application de l'article 85.11 de la même loi et le mode de calcul des intérêts s'appliquent, avec les adaptations nécessaires;

d) les articles 23 et 36, les paragraphes 37 (1), (1.1) et (2) et les articles 37.1, 38 et 39 de la *Loi sur la taxe de vente au détail* s'appliquent, avec les adaptations nécessaires.

Disposition des montants remboursés

(9) Si la totalité ou une partie d'un trop-perçu est remboursée au ministre des Finances, le ministre de l'Énergie prend les arrangements financiers et effectue les paiements nécessaires pour faire en sorte qu'un vendeur d'électricité ou une autre personne qui a droit à la totalité ou à une partie du trop-perçu reçoive la somme appropriée.

Renseignements confidentiels

11. (1) Sauf si elle y est autorisée par le présent article, aucune personne employée par le gouvernement de l'Ontario ne doit :

a) communiquer sciemment ou permettre sciemment que soient communiqués à qui que ce soit des renseignements obtenus par le ministre de l'Énergie ou le ministre des Finances ou pour son compte pour l'application de la présente loi;

b) permettre sciemment à quiconque d'inspecter un document ou une chose obtenus par l'un ou l'autre ministre ou pour son compte pour l'application de la présente loi, ou d'y avoir accès.

Témoignage

(2) Aucune personne employée par le gouvernement de l'Ontario ne peut être tenue, dans le cadre d'une instance judiciaire :

a) de témoigner au sujet d'un renseignement obtenu par le ministre de l'Énergie ou le ministre des Finances ou pour son compte pour l'application de la présente loi;

b) de produire un document ou une chose obtenus par l'un ou l'autre ministre ou pour son compte pour l'application de la présente loi.

Exceptions

(3) Les paragraphes (1) et (2) ne s'appliquent pas à l'égard des instances suivantes :

(a) criminal proceedings under any Act of the Parliament of Canada;

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

(c) proceedings relating to the administration or enforcement of this Act or Part V.1 or VI of the *Electricity Act, 1998*.

Communication

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,

(a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law or to an employee of the Board information obtained by or on behalf of either Minister for the purposes of this Act; and

(b) allow another person employed by the Government of Ontario in the administration or enforcement of any law or an employee of the Board to inspect or have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Reciprocal communication

(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to that Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of information

(6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

Same

(7) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to,

(a) the person from whom the information, record or thing was obtained;

(b) any person by whom an amount is payable or has been paid under this Act; or

(c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.

Information

(8) The Minister of Finance may permit information or

a) les instances criminelles introduites en vertu d'une loi du Parlement du Canada;

b) les instances rattachées au procès d'une personne pour infraction à une loi de la Législature;

c) les instances relatives à l'application ou à l'exécution de la présente loi ou de la partie V.1 ou VI de la *Loi de 1998 sur l'électricité*.

Communication

(4) Une personne employée par le gouvernement de l'Ontario peut, dans l'exercice de ses fonctions dans le cadre de l'application ou de l'exécution de la présente loi :

a) communiquer ou permettre que soient communiqués à une autre personne employée par le gouvernement de l'Ontario affectée à l'application ou à l'exécution d'une loi, ou à un employé de la Commission, des renseignements obtenus par l'un ou l'autre ministre ou pour son compte pour l'application de la présente loi;

b) permettre à une autre personne employée par le gouvernement de l'Ontario affectée à l'application ou à l'exécution d'une loi ou à un employé de la Commission d'inspecter un document ou une chose obtenus par l'un ou l'autre ministre ou pour son compte pour l'application de la présente loi, ou d'y avoir accès.

Réciprocité

(5) La personne qui reçoit des renseignements ou a accès à des documents ou à des choses en vertu du paragraphe (4) est tenue de communiquer ou de fournir à ce ministre, à titre réciproque, les renseignements, les documents ou les choses qu'elle a obtenus et qui ont une incidence sur l'application ou l'exécution de la présente loi.

Utilisation des renseignements

(6) Les renseignements, les documents ou les choses communiqués ou fournis en vertu du présent article ne peuvent être utilisés qu'aux fins d'application ou de l'exécution de la présente loi ou d'une loi à l'application ou à l'exécution de laquelle veille la personne qui les reçoit.

Idem

(7) Le ministre des Finances peut autoriser la remise de renseignements ou de la copie d'un document ou d'une chose obtenus par lui ou pour son compte pour l'application de la présente loi aux personnes suivantes :

a) la personne qui a fourni les renseignements, le document ou la chose;

b) la personne qui doit payer ou a payé une somme payable en application de la présente loi;

c) le représentant légal de la personne mentionnée à l'alinéa a) ou b) ou le mandataire de celle-ci autorisé par écrit à agir comme tel.

Communication autorisée

(8) Le ministre des Finances peut autoriser la remise de

a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to any person employed by any government if,

(a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and

(b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

Offence

(9) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than $2,000.

renseignements ou de la copie d'un document ou d'une chose obtenus par lui ou pour son compte pour l'application de la présente loi à une personne employée par tout gouvernement si :

a) les renseignements, le document ou la chose obtenus par ce gouvernement pour l'application d'une loi qui fixe une taxe ou des droits sont communiqués ou fournis à titre réciproque au ministre;

b) les renseignements, le document ou la chose ne sont utilisés qu'aux fins de l'application ou l'exécution d'une loi qui fixe une taxe ou des droits.

Infraction

(9) Quiconque contrevient à une disposition du présent article est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende maximale de 2 000 $.

Offences

False statements, etc., and fraud

12. (1) Every person who engages in any of the following acts or omissions is guilty of an offence:

1. Making, participating in, assenting to or acquiescing in the making of a false or deceptive statement in any document or answer required or submitted under this Act or the regulations.
2. Destroying, altering, mutilating, hiding or otherwise disposing of information or records of an electricity vendor or other person, for the purpose of evading compliance with this Act or the regulations.
3. Making, assenting to or acquiescing in the making of a false or deceptive entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.
4. Omitting to make or assenting to or acquiescing in the omission of an entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.
5. Wilfully evading or attempting to evade, in any manner, compliance with an obligation under this Act or the regulations.

Infractions

Déclarations fausses et fraude

12. (1) Est coupable d'une infraction toute personne qui commet les omissions ou les actes suivants :

1. Faire une déclaration fausse ou trompeuse dans un document ou dans une réponse exigés ou présentés en application de la présente loi ou des règlements, y participer, y consentir ou y acquiescer.
2. Détruire, altérer, mutiler, cacher les renseignements ou les documents d'un vendeur d'électricité ou d'une autre personne, ou en disposer autrement, dans le but d'éluder l'observation de la présente loi ou des règlements.
3. Faire, dans un document d'un vendeur d'électricité ou d'une autre personne qui est tenu de conserver des documents pour l'application de la présente loi, une inscription fausse ou trompeuse concernant un détail important, y consentir ou y acquiescer.
4. Omettre de faire, dans un document d'un vendeur d'électricité ou d'une autre personne qui est tenu de conserver des documents pour l'application de la présente loi, une inscription concernant un détail important, y consentir ou y acquiescer.
5. Délibérément et par quelque moyen que ce soit, se soustraire ou tenter de se soustraire au respect d'une obligation prévue par la présente loi ou les règlements.

Penalty upon conviction

(2) A person convicted of an offence under subsection (1) is liable to either or both of the following penalties in addition to any other penalty assessed under this Act:

1. A fine in an amount that is not less than $1,000 and not more than $10,000.
2. Imprisonment for a term of not more than two years.

Peine suivant une déclaration de culpabilité

(2) Toute personne déclarée coupable d'une infraction prévue au paragraphe (1) est passible des peines suivantes, ou d'une seule de ces peines, outre les autres pénalités imposées en vertu de la présente loi :

1. Une amende de 1 000 $ à 10 000 $.
2. Un emprisonnement maximal de deux ans.

General offence

(3) Every person who contravenes, by any act or omis-

Infraction générale

(3) Toute personne qui, en commettant un acte ou une

sion, a requirement imposed under this Act is guilty of an offence and, on conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than $50 and not more than $5,000.

Limitation period

13. A proceeding to prosecute an offence under this Act must be commenced within six years after the date on which the matter of the offence arose.

Payment of fines

14. Fines imposed on conviction of an offence under this Act are payable to the Minister of Finance on behalf of the Crown in right of Ontario.

Regulations

15. (1) The Lieutenant Governor in Council may make regulations,

(a) subject to the Minister of Energy's powers under subsection (2), prescribing anything required to be or referred to in this Act as being prescribed by the regulations;

(b) defining any word or expression used in this Act that is not already expressly defined in this Act;

(c) requiring any person to take such action or refrain from taking such action as may be necessary for the purposes of or in connection with any regulation made under this Act;

(d) governing information that must or may be provided to consumers concerning this Act and eligibility for financial assistance under it;

(e) governing the determination of the base invoice amount for a billing period with respect to a class of electricity vendors or a class of consumers;

(f) prescribing a method of paying or crediting to a consumer an amount of financial assistance to which the consumer is entitled under this Act and the circumstances in which the method applies;

(g) requiring a unit sub-meter provider to provide financial assistance in respect of the cost of electricity and prescribing,

(i) the circumstances in which the financial assistance is to be provided,

(ii) the person or class of persons entitled to receive the financial assistance,

(iii) the method of determining the amount of the financial assistance to be provided,

(iv) the manner for paying or otherwise providing the financial assistance;

(h) setting out one or more limitation periods for the purposes of subsection 6 (1) or (2), and governing the circumstances in which that subsection does not apply;

omission, contrevient à une exigence imposée en vertu de la présente loi est coupable d'une infraction et passible, sur déclaration de culpabilité, si aucune autre peine n'est prévue pour l'infraction, d'une amende de 50 $ à 5 000 $.

Délai de prescription

13. Les poursuites portant sur une infraction prévue par la présente loi doivent être engagées dans les six ans qui suivent la date de l'objet de l'infraction.

Paiement des amendes

14. Les amendes imposées sur déclaration de culpabilité pour une infraction prévue par la présente loi sont payables au ministre des Finances pour le compte de la Couronne du chef de l'Ontario.

Règlements

15. (1) Le lieutenant-gouverneur en conseil peut, par règlement :

a) sous réserve des pouvoirs que le paragraphe (2) confère au ministre de l'Énergie, prescrire tout ce que la présente loi exige de prescrire par règlement ou mentionne comme étant prescrit par règlement;

b) définir les termes utilisés dans la présente loi qui n'y sont pas déjà expressément définis;

c) exiger qu'une personne prenne ou s'abstienne de prendre une mesure lorsque cela est nécessaire pour l'application d'un règlement pris en vertu de la présente loi ou relativement à celui-ci;

d) régir les renseignements qui doivent ou peuvent être communiqués aux consommateurs en ce qui concerne la présente loi et l'admissibilité à l'aide financière prévue par celle-ci;

e) régir le calcul du montant de base de la facture pour une période de facturation en ce qui concerne une catégorie de vendeurs d'électricité ou une catégorie de consommateurs;

f) prescrire une méthode pour payer ou créditer à un consommateur le montant d'aide financière auquel il a droit en vertu de la présente loi et les circonstances dans lesquelles s'applique cette méthode;

g) exiger qu'un fournisseur de compteurs divisionnaires d'unité fournisse une aide financière à l'égard du coût de l'électricité et prescrire :

(i) les circonstances dans lesquelles cette aide doit être fournie,

(ii) la personne ou la catégorie de personnes qui a le droit de la recevoir,

(iii) la méthode à utiliser pour en établir le montant,

(iv) la manière dont elle doit être versée ou autrement fournie;

h) fixer un ou plusieurs délais de prescription pour l'application du paragraphe 6 (1) ou (2) et régir les circonstances dans lesquelles l'un ou l'autre paragraphe ne s'applique pas;

(i) respecting records to be kept by electricity vendors or by persons prescribed by the regulations;

(j) providing for matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of this Act and the regulations.

Regulations, Minister of Energy

(2) The Minister of Energy may make regulations,

(a) prescribing information that must or may be included on invoices issued to consumers or that must or may accompany invoices issued to consumers or payments of financial assistance under this Act;

(b) governing the presentation of financial assistance under this Act on invoices issued to consumers;

(c) prescribing anything required to be or referred to in section 4 as being prescribed by the regulations.

Retroactive regulations

(3) A regulation made under this Act is, if it so provides, effective with reference to a period before it is filed.

Subdelegation

(4) The Lieutenant Governor in Council may, by regulation, delegate to the Minister of Energy the power to make some or all of the regulations under subsection (1).

Ontario Clean Energy Benefit Act, 2010

16. (1) The *Ontario Clean Energy Benefit Act, 2010* is amended by adding the following section:

Cut-off dates for financial assistance, reimbursement

Financial assistance

6.1 (1) Despite any entitlement of consumers to financial assistance under this Act, no financial assistance is payable to a consumer after the date prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after the date prescribed by the regulations in respect of the electricity vendor or other person, other than in such circumstances as may be prescribed by the regulations.

(2) Subsection 15 (1) of the Act is amended by adding the following clause:

(i.1) setting out one or more dates for the purposes of subsection 6.1 (1) or (2), and governing the circ-

i) traiter des documents que doivent conserver les vendeurs d'électricité ou les personnes prescrites par règlement;

j) prévoir les questions qui, à son avis, sont nécessaires ou souhaitables pour faciliter la mise en application de la présente loi et des règlements.

Règlements : ministre de l'Énergie

(2) Le ministre de l'Énergie peut, par règlement :

a) prescrire les renseignements qui doivent ou peuvent figurer sur les factures émises aux consommateurs ou qui doivent ou peuvent accompagner ces factures ou les paiements d'aide financière faits dans le cadre de la présente loi;

b) régir la présentation de l'aide financière prévue par la présente loi sur les factures émises aux consommateurs;

c) prescrire tout ce que l'article 4 exige de prescrire par règlement ou mentionne comme étant prescrit par règlement.

Rétroactivité

(3) Les règlements pris en vertu de la présente loi qui comportent une disposition en ce sens ont un effet rétroactif.

Subdélégation

(4) Le lieutenant-gouverneur en conseil peut, par règlement, déléguer au ministre de l'Énergie le pouvoir de prendre certains ou la totalité des règlements visés au paragraphe (1).

Loi de 2010 sur la prestation ontarienne pour l'énergie propre

16. (1) La *Loi de 2010 sur la prestation ontarienne pour l'énergie propre* est modifiée par adjonction de l'article suivant :

Aide financière, remboursement : dates limites

Aide financière

6.1 (1) Malgré tout droit des consommateurs à l'aide financière prévue par la présente loi, aucune aide n'est payable à un consommateur après la date prescrite par règlement à son égard, si ce n'est dans les circonstances prescrites par règlement.

Remboursement

(2) Malgré toute obligation prévue par la présente loi de rembourser aux vendeurs d'électricité ou à d'autres personnes l'aide financière qu'ils fournissent aux consommateurs, aucun remboursement n'est payable à un vendeur d'électricité ou à une autre personne après la date prescrite par règlement à son égard, si ce n'est dans les circonstances prescrites par règlement.

(2) Le paragraphe 15 (1) de la Loi est modifié par adjonction de l'alinéa suivant :

i.1) fixer une ou plusieurs dates pour l'application du paragraphe 6.1 (1) ou (2) et régir les circonstances

cumstances in which that subsection does not apply;

Ontario Energy Board Act, 1998

17. (1) The definition of "enforceable provision" in section 3 of the *Ontario Energy Board Act, 1998* is amended by adding the following clause:

(c.2) a provision of the *Ontario Rebate for Electricity Consumers Act, 2016* or the regulations made under it,

(2) Section 70 of the Act is amended by adding the following subsection:

Deemed condition of licences, unit sub-meter provider, *Ontario Rebate for Electricity Consumers Act, 2016*

(2.3) Every licence issued to a unit sub-meter provider is deemed to contain the condition that the unit sub-meter provider is required to comply with the *Ontario Rebate for Electricity Consumers Act, 2016* and the regulations made under it.

Commencement

18. This Act comes into force on the later of January 1, 2017 and the day it receives Royal Assent.

Short title

19. The short title of this Act is the *Ontario Rebate for Electricity Consumers Act, 2016*.

dans lesquelles l'un ou l'autre paragraphe ne s'applique pas;

Loi de 1998 sur la Commission de l'énergie de l'Ontario

17. (1) La définition de «disposition exécutoire» à l'article 3 de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario* est modifiée par adjonction de l'alinéa suivant :

c.2) une disposition de la *Loi de 2016 sur la remise de l'Ontario pour les consommateurs d'électricité* ou de ses règlements d'application;

(2) L'article 70 de la Loi est modifié par adjonction du paragraphe suivant :

Conditions réputées rattachées aux permis des fournisseurs de compteurs divisionnaires d'unité : *Loi de 2016 sur la remise de l'Ontario pour les consommateurs d'électricité*

(2.3) Chaque permis délivré à un fournisseur de compteurs divisionnaires d'unité est réputé contenir la condition voulant que le fournisseur est tenu de se conformer à la *Loi de 2016 sur la remise de l'Ontario pour les consommateurs d'électricité* et à ses règlements.

Entrée en vigueur

18. La présente loi entre en vigueur le dernier en date du 1er janvier 2017 et du jour où elle reçoit la sanction royale.

Titre abrégé

19. Le titre abrégé de la présente loi est *Loi de 2016 sur la remise de l'Ontario pour les consommateurs d'électricité*.

Ontario

LEGISLATION AND REGULATIONS COMMITTEE
BRIEFING NOTE

Energy
Electricity Rate Mitigation

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

Summary of Proposal

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

Context for Decision:

On Sept. 12, 2016 the Ministry of Energy received Cabinet Approval to introduce legislation that would enable a broader Electricity Rate Mitigation Strategy for electricity consumers across the province. On September 15, the Minister of Energy introduced Bill 13, the *Ontario Rebate for Electricity for Electricity Consumers Act, 2016,* (ORECA) that puts in place an 8% rebate for residential, small business customers and farms. Bill 13 passed on October 19, 2016 and received Royal Assent on November 2, 2016 and is scheduled to come into force on January 1, 2017.

In addition to the 8% rebate enabled through the ORECA, amendments to existing regulations would enable the other elements of the broader mitigation strategy.

Summary of Proposal:

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

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

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

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

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

2. Amending O. Reg. 442/01(Rural or Remote Electricity Rate Protection) made under the *Ontario Energy Board Act, 1998.*
   - This proposed amendment will update the Rural or Remote Rate Protection (RRRP) program, to provide increased rate relief to eligible rural customers (low-density customers of Hydro One). The increased subsidy would result in an approximate increased monthly subsidy from $31.50 to $60.50.
   - Cabinet previously approved an increase of $110 million. Hydro One has provided updated numbers of eligible customers and ENERGY is seeking approval for a regulation that would result in an additional $6.4 million from the rate base in order to fulfill the intention of the proposal.
3. Amending O. Reg. 429/04 (Adjustments under Section 25.33 of the Act) made under the *Electricity Act, 1998.*
   - This regulation governs how the Global Adjustment is charged to different classes of electricity consumers. This includes setting eligibility requirements for being a participant in the Industrial Conservation Initiative).
   - This proposed amendment would provide eligible electricity consumers with an average monthly peak demand between 1 megawatt (MW) and 5 MW with the opportunity to participate in the Industrial Conservation Initiative. Current sector restrictions would be removed and smaller institutional and commercial businesses would be eligible. Newly eligible consumers would have to opt-in, should they wish to participate.
4. Amending O. Reg 495/10 (General) made under the *Ontario Clean Energy Benefit Act, 2010.*
   - For the period of 2011-2015 the Ontario Clean Energy Benefit provided certain consumers with a credit of ten percent of the total cost of electricity. In September of 2012, a 3,000 kilowatt hour per month cap was implemented. The credit was put in place as a temporary measure, and there is currently no end date by which to claim retroactive payments.
   - The proposed amendment would prescribe an end date for electricity consumers to submit Ontario Clean Energy Benefit claims to service providers and a second end date for licensed distributors and sub-meter providers to submit invoices.
5. and 6. Amending O. Reg. 275/04 (Information on Invoices to Certain Classes of Consumer of Electricity) made under the *Ontario Energy Board Act, 1998* and O. Reg 161/99 (Definitions and Exemptions) made under the *Ontario Energy Board Act, 1998.*

- These proposed amendments are consequential to the implementation of the *Ontario Rebate for Electricity Consumers Act, 2016,* including adding the ORECA to the list of Acts and Regulations that can alter the presentation of the invoice from the standard messaging.

Terms you need to know

- **Local Distribution Companies (LDCs)** – Local electricity utilities, responsible for distributing power from transmission lines to people's homes (e.g., Hydro Ottawa, Toronto Hydro, etc.).
- **Regulated Price Plan (RPP)** - Since April 2005, the Ontario Energy Board (OEB) has administered an electricity price plan that provides stable and predictable electricity pricing, encourages conservation and ensures the price consumers pay for electricity better reflects the price paid to generators. This pricing plan is known as the Regulated Price Plan (RPP). About 5 million residential consumers, small businesses and farms are eligible for the RPP.
- **Class B Electricity Consumer** – commercial, institutional and small industrial electricity consumers, with load size between 0.05 – 5 MW who are not eligible for or choose not to participate in the Industrial Conservation Initiative. Class B consumers pay GA as a flat rate (i.e., $/kilowatt-hour) applied to electricity consumption.
- **Class A Electricity Consumer** – large commercial and large industrial electricity consumers with average peak load size greater than 5 MW, and since July 1, 2015, electricity consumers operating in select electricity-intensive sectors with average monthly peak demand greater than 3 MW and less than 5 MW, subject to their industrial sector eligibility. Class A consumers pay GA based on their electricity consumption during the five highest peak demand hours during the year.

Why does Ontario need these changes? Why now?

Electricity costs have been increasing as investments have been made to decarbonize and modernize the province's electricity infrastructure. Since 2010, electricity prices have risen considerably, particularly for households and small businesses. Also, the amount of support available to Hydro One R2 customers through the RRRP has been fixed by regulation since 2001.

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

What is the expected cost to government?

The 8% rebate is expected to cost about $1.2 billion per year (approximately $4.5 billion from 2017-2020).

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

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

Cabinet Office Analysis

Following the Speech from the Throne in September and the passage of the ORECA on October 19, Ontarians are expecting to see electricity rate relief as of January 1, 2017. This proposal provides the mechanisms to implement this commitment. For the rate relief to be implementation by January 1, there is a need to move forward with the regulation changes as soon as possible (e.g. so that bill issuers can prepare Customer Information Systems for setting new RRRP rates and calculate associated benefits, so that LDCs have time to prepare for the expected increase in the ICI program, all in advance of the January implementation). The following regulations and regulatory amendments are being proposed:

1. General Regulation

The proposed General Regulation under the *Ontario Rebate for Electricity Consumers Act, 2016* will put in place a framework very similar to the framework developed to deliver the Ontario Clean Energy Benefit. The regulation provides instruction to LDCs on how the rebate is to be calculated (e.g., rebate is calculated before taxes; clarifies how the rebate is applied to those receiving Ontario Electricity Support Program assistance).

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

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

The RRRP framework was put in place to ensure that all Ontario residents pay similar prices for electricity distribution, regardless of their geographic location. The Ministry of Energy is seeking to increase the amount of rate protection available for eligible rural or remote electricity customers. Under the RRRP regulation the amount of rate protection available to Hydro One's R2 customers (residential customers who are classified as low

density) is capped at a fixed amount of $127 million – which amounts to a monthly subsidy of $31.50. The entire RRRP program is paid for by all electricity customers across the province, and costs the average residential consumer approximately $1/month.

In September 2016, Cabinet approved an additional $110 million in RRRP program funding that was intended to provide an increased benefit of approximately $29/month for all eligible RRRP customers. The additional monthly cost of this proposal for an average residential consumer was estimated to be $0.60.

Variance from cabinet direction: The Ministry of Energy is proposing to increase rate protection for eligible customers by an additional $6.4M, based on a revised estimate of eligible customers provided by Hydro One. The additional $6.4 million being sought will not materially increase the monthly cost for an average residential customer using 750 kWh per month.

As part of the Price Mitigation initiatives, Cabinet directed that the funding for R2 customers be adjusted annually to reflect any increases on their electricity bills. The proposed amendments to the regulation will add an escalating factor to the new base rate protection amount. Starting in 2018, and every year after, the total amount of rate protection available to Hydro One's R2 customers would be increased by a percentage, as calculated by the Ontario Energy Board. This percentage would be based on the simple average, as calculated by the OEB, of the change in base distribution rates of all distributors from the previous year.

3. Industrial Conservation Initiative Expansion (ICI)

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

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

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

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

Although this proposal is not expected to affect the majority of OCEB customers (as audits conducted by the Ministry of Finance identified minimal errors in the application of the program), the potential size of the liability related to retroactive payments is highly uncertain due to data limitations. ENERGY's rough estimate for this liability is $10 million (as a comparison - since January 2011, OCEB expenditures have been approximately $5.3B; expenditures are reflected in Volume 1 of Public Accounts each fiscal year).

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

This proposed amendment is required to help ensure that the 8% rebate is passed on to individual units in multi-unit complexes. The amendments provide strong incentive for "exempt distributors" (such as multi-unit complexes) to comply with the requirement to pass on the benefits. The exemption status would only continue if they satisfy the requirement to pass on the benefit.

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

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

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

Linkages:

Ontario's Climate Change Action Plan (CCAP)

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

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

Electricity Rate Mitigation Initiatives:

The Ontario Clean Energy Benefit (OCEB) was a five-year legislated program put in place as a broad-based, transitional measure to a cleaner electricity system. The Province also put in place the energy portion of the Ontario Energy and Property Tax Credit, as well as the Northern Ontario Energy Credit at that time to provide on-going targeted relief, in addition to the general sales tax credit. OCEB expired on December 31, 2015.

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

Delivery:

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

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

Pending approval of the increased amount of rate protection through the RRRP, the OEB will be required to set the RRRP rate. This rate is typically set by the OEB in December in time for LDCs to begin charging the approved rate in January. Hydro One would implement the updated RRRP subsidy for eligible customers (low-density R2 rate class) for consumption on or after January 1, 2017.

The ICI expansion would be implemented by the IESO and LDCs by such that newly eligible ICI participants will be able to benefit from reduced electricity rates by July 1, 2017

Stakeholder Consultations:

Regulatory Registry

- For the period September 28-November 12, the Ministry of Energy posted a proposal for comment on the Regulatory Registry to provide stakeholders with the opportunity to comment on the electricity mitigation initiative.

- The posting included the proposed changes to the RRRP, ICI and new regulations needed to support the 8% rebate. No changes are proposed as a result of the Regulatory Registry posting.
- 7 responses were received. Key feedback received includes:
    - Electricity Distributors Association provided feedback on all portions of the proposal, ENERGY's analysis was that suggestions were either currently addressed by the proposal or were outside of the scope of the proposal.
    - The Ontario Federation of Agriculture supported the expansion of the ICI, and noted that livestock businesses are not generally able to take advantage of ICI, they are unable to lower electricity demand during peak periods.
    - Hydro Ottawa noted the connection to electric vehicles, ENERGY's response is that future amendments may be required to align the rebate with overnight electric vehicle charging program, once the program is developed.
    - The Ontario Greenhouse Alliance requested that the 'mandatory base year' be removed from the ICI to allow for immediate access. ENERGY will take this recommendation into account in the future, but notes that at this point it would be too administratively complex or include a risk of over or under collection of Global Adjustment.

LDC Working Group

- In October 2016 The Ministry hosted an LDC Working Group with nearly 40 LDCs representatives where feedback was provided to the ministry to consider in the development of the regulatory package. This included feedback on the billing system limitations that was incorporated into proposed bill presentment requirements. Amended requirements included reducing the number of characters in the mandated on-bill messaging to accommodate the on-bill space limitations for some LDCs.

Standing Committee of Justice – Public Hearings for Bill 13

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

Risks

- The 8% rebate would be structured and delivered in a similar fashion to the former OCEB. There is a risk that the government could be criticized for replacing the OCEB with a smaller rate relief package, just one year after the OCEB ended.
    - The new rebate would have a wider base, would be permanent, and would be uncapped, compared to the OCEB, which was capped at 3,000 kWh

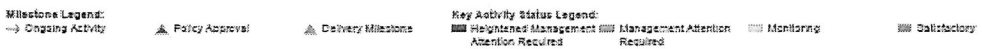
per month (and per residential unit in a bulk-metered, multi-residential building), and limited to 5 years.

- The rebate was earlier estimated as part of the fiscal plan to cost $1 billion on an annualized fiscal basis, and this estimate has since increased to $1.2 billion. The rationale for the increase is that ENERGY was able to refine its analysis. ENERGY has also indicated that the rebate is expected to cost approximately $4.5 billion from 2017-2020. It was indicated that revised estimates would be part of Energy's PRRT submission.

- For the rate-based portions of the proposal (i.e., the expansion of ICI and RRRP) the result is an increase in costs for ratepayers not included in those programs (i.e., primarily residential, small business and farms). Shifting costs to some electricity consumers to lower rates for others carries the risk that the charge would be characterized as an unconstitutional tax. To establish that the charge is legitimate, it must be established that the purpose and effect of the charge is to facilitate the maintenance of a financially viable electricity system by way of load management or some other feature under which those who are subsidized provide an overall system benefit enjoyed by those who subsidize them. The Electricity Distributor Association raised related concerns.
    - ICI is intended to incentivize a greater number of Ontario businesses to lower their electricity costs by shifting energy demand away from peak demand periods. Reducing peak demand can increase the reliability of the power grid, reduce greenhouse gas emissions and help defer the need for new peaking generation over the longer-term. Note: There are now about 300 participating consumers who collectively reduced Ontario's peak demand by an estimated 1,000 MW in 2015.
- Under the proposal, some eligible consumers (e.g., multi-unit residential buildings) may receive multiple benefits (8% rebate and proceeds recycling), while others would be eligible for only one type of benefit.

APPENDIX A: Multi-Year Action Plan (Electricity Rate Mitigation)

Below is an extract taken from the MYAP which demonstrates the overall strategic plan for the initiative that this policy submission supports. This excerpt represents the approved plan to date, and may not reflect the specific policy and delivery timelines identified in the Cabinet Minute above.



MYAP Slice 2016-11-06

KEY ACTIVITIES	YEAR 1 (2014-2015)	YEAR 2 (2015-2016)	YEAR 3 (2016-2017)	YEAR 4 (2017-2018)	YEAR 5 (2018-2019)	GOVERNANCE AND RISKS
15.21	Electricity Rate Mitigation Pillar: Managing Ontario's Energy Resources		GGAP Update	Price Mitig Leg introduced Electricity Price Mitigation		Lead: ENERGY Risk Categories: Last updated: 24-10-16

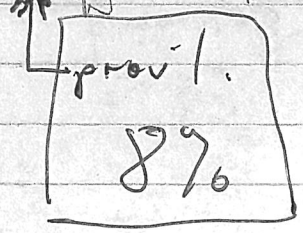
→ all non-Class A

→ mid-Sept

→ both res. + small bus

→ OCERA model

→ HST rebate



DM: 8% back to everyone
not refer to HST in the legislation
"HST offset"
- 8% off everything.
- no cap + trade for anyone
(bec. all are better off as result of this)
- assume ICI stays same for now

AGENDA

Electricity Rate Mitigation Implementation Working Group

1. Calculation of Base invoice amount / Sub-meter providers / eligibility & Transition (payments directly to consumers)

- The intended base calculation process for electricity vendors is outlined in subsection 2 of the proposed legislation. This methodology is very similar to the base invoice amount for calculating OCEB, with one major difference – the exclusion of any harmonized sales tax.
    - Energy seeks input from stakeholders about any implementation impediments that this may pose for LDC's Customer Information/Billing Systems.

- Energy intends to create regulations that will outine base invoice amounts for entities who are not licensed distributors or retailers, such as Cornwall, Dubreuil and, the IESO – as under 495/10 – with the exclusion of any HST
    - Please provide any concerns with this approach

- Energy intends to create regulations that will outline the process by which the rebate is flowed through to customers served by unit submeter providers and the fees and charges that may be included in the base amount used to calculate 8% rebate – excluding HST and other non-electricity fees.
    - Please provide any concerns with this approach or issues with implementation.

- Transition – provisions to address making payments directly to consumers who no longer have an account.

2. Eligibility

- Energy intends to keep eligibility in line with eligibility for RPP – with one notable difference. (Section 5 of Residential Tenancies Act)

3. Reimbursement process

- Energy intends to model the reimbursement process for the 8% rebate on the process established to deliver the Ontario Clean Energy Benefit (OCEB)

- Energy intends to maintain same requirements to provide information for reimbursement purposes, as established to deliver OCEB.

Energy seeks input from electricity vendors/submeter provider & the IESO on any considerations the government should be aware of when drafting the regulations that would establish the process – e.g. concerns with OCEB process? Transition considerations etc.

4. Invoices and Bill Presentment

- Energy intends to issue a Minister's Regulation that would outline the requirements for invoices
    - Please provide feedback on any technical limitations that would impact length, position etc of messaging
    - On-bill/ envelope etc.

- IPA → deadline to apply → or no retroactive eligibility?

- no cap at all (not even residential)

→ proposed minute

→ ESP → deck → into Cab template

→ DMO pt of contact

→ implementation → in reg?

→ H1?

→ Michael Beare.

→ conseq'l amendments → GGRA

↳ note want to pt'lly downplay the GGRA proceeds as presented on bill

→ RRRP as credit on consumer bill

→ H1

→ H1 Remotes

→ Algoma

→ who will introduce Bill?

→ farms? → must meet RPP criteria

- OEB only regulates systems >25

Date

- MoECC → the 2% contribs to their overall GHG ↓
  → so really tied to the 2%.

- CoS: prepare cost ests. for:

  1%
  1.5%
  2.0%

  > + need for MoECC $ to support

- OEB blocks control to implement province-wide std

- may not even be enough supply for 2%.

- CoS wants to link *300M grant * to achieving the 2%.

→ for ~ June 26/27
  ↳ need new pdt

- stakeholder suspicion around utilities' push for RNG

OEB briefing 3

Date

Brian Hewson
Steen Adrian Nalasco

- OEB can't impose prov'l stds
- part gas cost, part cap + trade
  - → MACC curve
  - → MOECC offset protocol
    - ↳ investment in RNG
      - ↳ part of compliance plan
- industrial, commercial, lge industrial
  - ↳ all buy their gas directly
- cd cause shift from system gas to non-system retail mkt
- Cos: need deck
  - ↳ Enbridge got $400M*
    - ↳ what wd we do - eg if got $300-400M grant funding eg thru LTEP
    - ↳ "fair" RNG
- over-reliance on compliance plan vs. gas supply
- cost borne not just by system gas customers but all gas customers
  - ↳ overall climate Δ strategy
  - ↳ subsidy + ami utility has to recover from everyone el

Agenda – January 20, 2017

1) Introductions / Context

2) Preliminary Options for Discussion
- Debt Retirement Charge (DRC)
- Regulated Price Plan (RPP)
- ?

→ OEFC bott. line hits prov's bott. line
→ no OEFC regtory asset
↳ what about creditg regtory assets w/in IESO?

3) Next Steps

Next Wed → Maj Projects Fiscal Prep
↳ art. of pass. re acctg policies

Notes:

RPP is regtory asset of IESO

Electricity Rate Mitigation

Date Jan 17/17

Proceeds GGR Acct not for rate mitign

GA → debt reg of part
→ debt pd out over time
→ rate smoothing
→ debt servicing > GA
10-12 yrs out

Acctg treatmt
↳ risk it cd be put on books + affect prov's credit rating

→ debt amt wd be rate base funded
incldg interest

Date

→ legislate the acctg treatmt?

→ 2 sets of bks?

↳ conventional
↳ legislated

→ DM: must convince
internal auditors
or not doing this

: musing about moving
some of it to
OEFC

: DRC as model?

: OER wd need to be
given role

↳ volatility on
pricing increasing
every bc weather or
int. rates fluctuate

Page

Date

— CONLAW issues?

→ CoS: argue that Energy infrastructure treated same as transportation infrastructure?

→ diffies betw. cap + opg costs

DM: must be fully transparent

CoS: 5-point plan!

1. extend RRRP YoR 1
2. OESP tax funded, maybe expand
3. empower OEB + OPG to ↓ costs
4. OEB directed to find sugs w LDCs

Page

Date

DM → increase % rebate ?

Ed Clarke → extendg renewables
c's + extract svgs
in return
→ Kaili doesn't like
(practical
difficulties)
→ don't want to be seen
as mistake on
orig pricg

— departure tx (H1 pd) issue
↳ came up in OEB
rate hearing
↳ cd find benefit shd
go to ratepayers not
shhs

Page

Date

→ affect A1 distn rates

Timing : Announcement Feb
: legislatn in
spring budget

→ contact TBS LSB re
acctg tmt for
debt fcg of some
GA

Page

Date

ask
Usman → Jenn

re enforcement
↳ esp. EE + Green Button

---

(1) RRRP — expand / move to appropriation of legislature → amend'g OEBA

role of OEB?

S. 79 ?

442/01

275/04

(2) OESP — expand / appropriation → similar

(3) GA → 429/04

25.33 – add'g fcg into true cost of electricity

→ regulatory account
→ create asset

Date

Ratepayers owe LDCs

LDCs owe IESO

IESO owes generators

OEFC + collection instrms

Lender(s)

expansion funds

regulatory variance account?

Page

Date

3,500 gen'r cs $40B

↳ not appear on prov's bks as debt

↳ mthly settled by pmt in cash

↳ $100M variance

↳ in IESO mkt bks not opns bks

— how was RPP variance supported

mkt starts → parkg vast amt of debt hopefully in future rec'ble

RPP: debt + fut rec'ble

↳ rec'ble from mkt (consumers thru LDCs) + 100 other payors

Page

Date

regtory asset → involvement of OEB

where does int. exp. go
↳ GA

*OFA borrows + then lends to IESO

push debt to
→ LDC – wd crush their bks
– wd take too long

– issue: recog'zg regtory asset under PISOA acctg rules

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Mtg w CC, PJ, JR

Date RJan 26/17

- GA

- moving things from rate base to tax base

↳ reach out to TBS

↳ OESP - Scott Smith - tx base enhanced

↳ low income conservatn

↳ delivery charge - ratepayer?

↳ FN rate

may not be Δ'd → ↳ RRRP? ratepayer based

↳ add'l support from tx base on deliv'y chge

slide 21

- renegotn of C's

Page

R Jan 26/17
call w/ M Smith
Marlo Spend
Andrew Lair

Date

→ calculated every mth.

- cap deliv'y line of bill at $55.00/mth
  ↳ put $ in reg.
- adjust yrly like RRRP
- not Δ rate-setting process
- [OEB plays indirect role in det'g the rebate]
  ↳ does OEB play role in setting deliv'y chge cap?

res. complex?

- eligibility - $55 is based on proxy TH $\boxed{\text{res}}$ cust. using 1000 kWh
- RRRP? post-RRRP deliv'y chge
- OESP? no impact?

Text:
Res. Tenancies - Richard Feldman

Page

Date

- alt approach: everyone eligible ~~if elig for ORECA~~ use % instead of $

[somewhere around 10 - 15 %]

- what about volumetric rebate eg. up to cap?

ORecA 42/04 conservation threshold

- fully fixed distrate - fixed costs that consumers put on system
- volumetric rebate adj = send mixed signals

Page

Date

- when electricity price muted → LDCs become more lazy?

- $ cap on delivery chge

+ cap on

total "rebate"

you cd get

Page

Mtg w/ CC JR & JK
WFab1/17

Date

GA: control – slider 11 & 12

→ Energy to figure out what the $ needed to get to 25% (exclusive of ORECA).

~~$ in deck are not necessarily reliable~~

RRRP / Delivery Chge:

– Energy lic. to spend ~$600M

Next Steps:

Energy $'s by Fri

Re-group Mon → debt shock?

Page

Date

GGRA opinion – needs to link back
– by itself not helpful
eg: **how** put the $ into the system

↳ CLOC won't accept that we've put the powder into stuff already done

↳ how is this different that what said last Nov?

* ↳ opening up the renewables C's → pay for these C's out of GGRA – how do that?

Page

Date

↳ opinion needs to reflect that reality

↳ need to explain why this is different than opinion given last Nov.

↳ settlement only for renewables inputs? Cd IESO even do this?

↳ + need to speak to previous opinion

↳ how pass the savings along to ratepayers?

Page

mtg w/ CC, PJ, JR, JK + BR
Mon Feb 6/17

Date

- no cap on delivery chge
- surgical approach to capture outliers
- OESP expansion + FN rate going ahead.
- low income conservation also probly going ahead
  ↳ maybe funded by cap + trade
  GGRA proceeds
- James to develop explanation + reisolating GGRA fund + pay to renewable generators

Page

Date

→ draft reg mock-up
showing the path, explaining
how you do that

back to fiscal prep on
Wed. w/ some
sort of options
choice

- GS Min'rs brief'g
poss'ly Thurs.

- Track to Cab next
Wed.

Page

Date

- talk re pharg out ICI over time
- no more Class A

Date

Consolidated w/ Prov on a
modified entity basis
(2 lines from F/S)

- ~~Govt Bus~~
Govt Bus Enterp.

- don't impact govt's
debts

Legislatn to
influence how OPG
sets up fcg
sub.

→ OPG bd want some
comfort in any actn
they take → put into
leg.

Page

Date

OPG Holdco Bd

→ ~~[illegible]~~

- current OPG bd?

OPG feg sub Bd

↳ OPG execs?

~~OP~~ existing OPG - who wd be on bd?

Long Island Power Co

Securitization model

- every year ~~[illegible]~~ issue bonds

Page

Feb 27/17 updates:

Date

* Duke – Trust
vs.
SPV
(short descriptn).

OPG deck – purple line not acceptble

– sensitivity – i. rates, gas prices, etc.

– Out of budget
– Mid/end Apr Bill

Page

Mar 2/17 / Energy Update Mtg.

Date

- 25% all in
- 4 yrs of rates @ CPI
- may need retroactive since July 1/17 eff. date
- timeline for leg intro → mid to end of Apr
- wkly Thurs am update mtgs w DM → CC will attend starting next week
  - ↳ update to CC before these mtgs
  - ↳ might be forum for sharing drafts

Page

Mar 2/17 Mtg w Blakes

Date

Trust session + BN

Reg mtgs w Blakes

Synthesize US expce.

Page

Mtg'd Blake
Mar 7/17

Date

Tee legal title Must not
beneficial owner
↳ Tee holdg ppty in
trust for beneficiary
(Settlor creates trust).

- trust not entity but
relnshp

- tee cg as t'ee & not
for an entity

- institutional t'ee probly
for OPG trust

- personificatn of trust
by legn - treated
as person.

Page

Date

- Tee is the juridical person
  sued it claim
  against trust
  ppty

- securitizer - beneficial int
  of trust nominal

→ typically almost 100% of
  asset value is
  fed by debt

eg 50K ch'ble int in
a $1B trust

- person who holds equity
  in trust is owner of
  trust ppty

↳ nominal equity
↳ deed of trust or settlement
  deed → named charity

Page

Date

SPV more of b'cy construct
→ isolate ppty - take it
away from owner
& hold in legal
structure
(typically common
law trust)

- trust deemed taxpayer
pay'g tax at highest
marginal rate

- t'ee grants secy int in
trust ppty

- $\boxed{\text{governance}}$:
- t'ee must have discretion
over trust ppty

Page

Date

- T'ee delegates most deen-making authority to "sponsor" (person for whose benefit trust created)
- cannot delegate all
- T'ee → admin srvs agmt w OPG

→ OPG can be replaced if event of default etc as req'd by bondholders

Page

Date

- mkt wd love it if we put them ahead in terms of getting pd once we start pay'g back the deferred amts

- OEB protect ints of bondholder + ensure they get pd first?

- implementation + enforcement of C!
  → OEB/govt supervision of collection for repayment of deferred amts

Page

Date

- investment grade BBB & above

↳ for co-mingg

↳ otherwise lock-box structure wh wd be awkward & untenable

→ gov't perf'ce cov.?

- ult'lly bwg claim against ultimate payor

- LDCs will be part of credit assessment process

Page

Date

- corp → cd orphan by hav'g equity held in trust

- don't want SPV to be owned by OPG.
  ↳ sep'd from OPG

- what is the economic substance.

- corpus pay large capital tax

- co-ownership → sell co-ownship int.
  - cd sell co-ownship int.
    on pool of debts.

Can Mtge Bonds
$200-300 B.

Page

Date

- warehousing facility to trust > w/ mthly draws ?

- OPG req't to put in its 49% every time bond issue takes place

(NB bridge fcg where new govt changed the law)

Page

Date

- backstop for legit tinkering?

↳ buy back asset if it turns out not to have value (eg Euro)

- not inconsistent w true sale

- sovereign immunity

↳ must be valid put obligation in leg transfer

Page

Date

Nadine P:

the entire deferral
amt + accumulated
int wd become
liabty to prov
+ immed
exp to prov.
in yr SCC
decn made

Page

Date

- property + civil rights
  power of prov
  under constitu.

- leg'vely deem true
  sale

April 9 - leg'n at committee

- sale + leaseback?

- partial assgmt of
  reg asset?

- statutory limit on how
  much can defer - Enrig

Page

Date

- share thinking on Eurig issue to Blakes

Page

Mtg w/ Blakes + Torys + OPG
RMar 9/17

Date

Steve
Ashbourne
Securitizn
Blakes

1st draft of checklist for Blakes this aft.

- interest no > $1.4B / yr?
- interest will be paid from the start
  ⇒ adds to deferral
- OEB must have role in order to have reg'tory asset.

Page

W Mar 13/17
mtg w/ CC, JR + JK

Date

single asset & grow it

↳ OPG may create a trust, or sub, or other vehicle

- have flex'ty around end date

Apr 30/47 or such other date as may be prescribed.

- fund'g in arrears

↳ IESO advises what need

↳ maybe "whsg".

Page

Date

- retroactive reg-makg authority

- OPG - add'l classes of shs for equity injection
  - repse those shs?
  - shh decln/res - some sort of benefit to OPG
    - to achieve acctg, OPG makes recommn to M who "concurs"

Page

Date

IESO sharing w accts.

- don't hold back for any one person/gp's input
- OEB involved - next turn
- ICI → Apr. 11 LRC
- LRC May 1, Cab May 2 intro May 3 maybe TB May 1
- ask leg. counsel for pen's down date
- how long for French transln

Page

7 March 17 mtg w Blakes, Torys, OPG

Date

- Minister ed decide?
  (triggers fcgs)
- 51% cap mkts, 49% OPG
  ↳ cannot be < 51%
- what if we have a 2008 type cap. mkts meltdown?
- OPG call option on registry asset?
- trust can only be used to extent cap mkts allow it to be used"
- IESO cannot have right to "put" to trust
- what if IESO warehouses some of the debt fcg up front
- what if NO buyers for structured pdt like this?

Page

Date

- or interim fcg eg from prov..
- pmt detd by ref'ce to
  regtory process
  - in U.S., highly
    supervised at
    outset
  - legn has to constand
    pub int scrutiny
- legn - asset deemed to exist
  by legive fiat
- deferral creates LT pmt oblgn
- Steve: don't embed in legn
  a partic fcg option

Page

Date

- Prov cd inject cash into OPG if needed

where cap mkts crisis

Steve - LDCs must invoice customers for transition amt

- deemed amt of IESO

buckets: - int, P, related costs, fcg costs, sinkg fund reserves swap pmts etc

- IESO flexty in terms of who it borrows the short fall from

Page

Date

- need to have some ability to recover int from day 1
- Fa Cost Asset - from day 1 - ability of IESO to recover whatever carrying costs
- will need to use the fee to pay ongoing int + other costs that come due in short run.

Page

Date

- not good for debt raising if int on debt is going to be fcd inst by more debt

* → impt that ESO can use reg'tory asset to get fcg of the interest

* ↳ rt to change rate base even if by way of offsetting deferral

Page

Date

- IESO admin chge or another chge?
- "discriminatory action" prov'n in legn - covers both legive Δ + regtory Δ.

- cd legn say there will always be IESO or successor?

who can carry out the <u>collectn duties</u>

- perf'ce g'tee from prov?
  - not financial guarantee

Page

Date

Prov. will ensure that IESO performs + ; if they don't, we will find someone else to perform

NOTE THIS IS NOT FINANCIAL FEE

↳ Ask accountants

Page

W Mar 22/17

Date

→ ask TC to be avail for whiteboarding on Fri.

— 10% → what if < 10%

→ role of board?

Page

Mtg at Blakes JW, BS, Stephen, CC, Jackson
F Mar 24/07

Date

(1) creatn of ppty rt - what is the asset
- amt of $ pble
- payor → enforcant rts re sum certain at pt in time

(2) "plumbg mechanics" - connecty rate base to IESO + fcg entity
→ asset demonstrably traceable to consumer

- LDCs issue invoice (req'd to)
- act'g as agent for IESO
- deemed asset per legn, now tracky the asset

→ collectn → law deem LDCs to be collectn agent

Page

Date

- credit risk goes right to end user (consumer)
-

* new line on invoice *

- direct linkage between GA deferral + inter-generational consumers

- if HOEP > GA, IESO gets paid by gen'rs
+ this goes towards repmt of deferral
(could be offset by amt borrowed every other 2 months)

Page

Date

→ once asset creates the oblgn, cannot Δ it

- so long as inside GA amt, still have borrowing base

- fut cost not > PV of GA reserve

- legn - reas. parameters
  - fairness + fllwg princs.
  - not generatn pay > fair share

Page

Date

band: after 1st 5 yrs:
entity: mandate - plan
for dist costs
re GA deferral
over time
having regard
to intergen'l
fairness

(1) no gen'n bear subs'lly
> than another

(2) quantum ↑ yr over
yr not > x

Page

Date

- having regard to curve - with rates, curve is set, then borrow, delta debt + borrowing occurs

- raising of debt (liability) to offset the extra

- timing, having regard to the curve

- redemption rates are expensive but could pull the curve down

Page

Date

- replacement debt authgd under the legn.

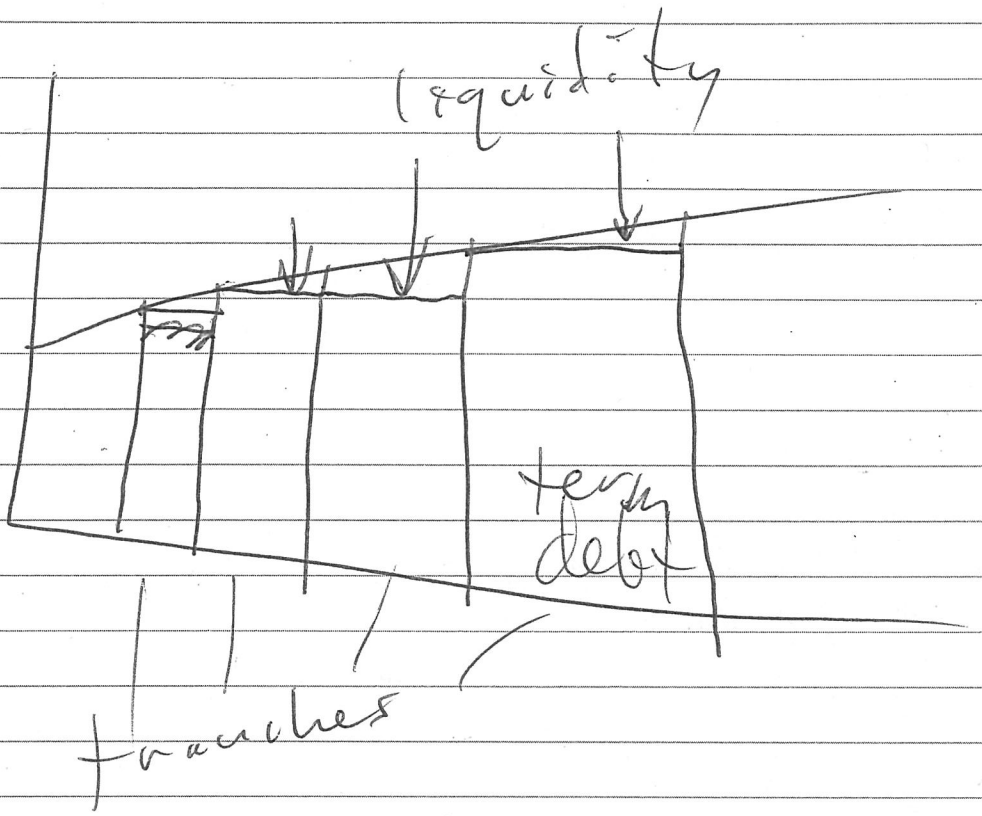
- TESO or any assignee of reg'tory asset to ...

- give OPG the statutory power, + oblgn, to do the reg.

- variable funding note - brings bank into treasury plan.

Page

Date



Page

one single asset

Date

- sell undivided fractional int. in proceeds

- cross-contamination (temporal) risk

- co-ownship model from credit cd securitzn world.

Page

Mtg Tues Mar 28/17

Date

- history of demand forecasts + how accurate?

- IESO forecasts → does not break down Class A.

- OEB has RPP forecasts + non-metered info for LDCs

IESO has net metering not gross metering ↓ no visibility to that

- IESO is the only legit source of info for financiers not OPG (or maybe govt)

OPG:
- amortized component cannot exceed 10%
- data by end of week?

- IESO does 20 yr forecasts

IESO:
- forecasts at transformer stns which may serve several LDCs + gross figures

Page

Date

- one proxy consumer
- RPP → May 1
- DREC → summer
- CPI increases right away
- every 6 months.
- after 1st 5 yrs:
  - FA refinance 1 pt off over 30 yrs.
  - 10% of yr over yr (w some flexity)
  - 10% over amt
  - see slide

so total borrowing not exceed ~~$28B~~

Page

Moody's Credit Rating Assessments

Summary of Duke Energy and Long Island Power

SUMMARY RATIONALE

Why did we use Duke and Long Island?

- No similar precedence in Canada
- Most recent transactions of sufficient size
- Clear rating methodology by Moody's establishing structural requirements to support the rating
- Allows us to identify the Legislative Parameters
    - Need for strong legal and structural elements as reflected in legislation, financing order and state pledge, mandatory uncapped true-up mechanism

Where has it also been done in the US?

- Florida and other states (approximately 18 in total) have passed similar securitization legislation 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.
- Structure including property right supported by legislation and financing orders which are irrevocable and nonbypassable. Property right protected under federal and state constitutions which would require compensation from state if any action impaired the recovery.

Challenges of financing in the Canadian Market

- Nothing similar in Canada
- Federal and Provincial constitutions do not contain similar support to property rights
- Mitigate some of the risks through uncapped true-up mechanism, committed Provincial liquidity support to IESO to handle temporary shortfall in recovery, term of recovery substantially exceeds longest maturity of SPV debt, and true-up mechanism that captures currency, interest rate and duration mismatch between debt and recovery mechanism
- Restrict maturity of debt to no more than 30 years from inception of program

Challenges of taking it to the US markets

- US investors are familiar with existing structure as it is fairly consistent across the states that have implemented this approach
- Canadian structure and protections to debt holders will be different and unfamiliar to investors
- Canadian structure does not provide the same protection to property rights as established under federal and state constitutions

DESCRIPTION OF BOTH TRANSACTIONS

	Duke	Long Island Power	Comments
Description of Sponsor	Duke Energy Corporation is a utility holding company with operations in the Carolinas, Florida, Ohio and Indiana. Duke Energy Florida Project Finance LLC is recovering costs associated with the early retirement of the Crystal River nuclear plant in Florida which ceased operation in 2013.	Long Island Power Authority (LIPA) is a utility with operations in Long Island and parts of New York City. Utility Debt Securitization Authority is recovering costs associated with the retirement of debt of LIPA.	Similarities – special purpose entity established to be "bankruptcy remote" from sponsor to enhance debt holder security and restrict impact of other operations on this entity. Differences – all debt for the GA plan is new and will not be replacing existing debt
Objective	Recover the remaining capital and early retirement costs along with interest and other financing costs. Intent of structure is to lower the cost to customers of early retirement or abandonment of nuclear generating units by using secure long term financing.	Recover the refinanced principal and early debt retirement costs along with interest and other financing costs. Intent of structure is to provide savings to customers on a net present value basis of the cost of existing utility debt being retired compared to lower cost securitized debt.	Costs recoverable from customers have been incurred. Structure intended to minimize cost to customer of financing and recovering those costs. Compares cost of debt for utility financing the debt versus the special purpose vehicle. For GA plan the customer savings would be difference in cost of debt between OPG and the SPV.
Asset	Ability to impose irrevocable, binding, nonbypassable charge on all future and existing customers provided by a valid and enforceable security interest in property. Amount of charge is sufficient to pay principal, interest and administrative expenses of the financing. Regulator governs the amount and terms for charges through financing orders. However, once bonds issued regulator cannot reduce, impair, postpone, terminate or otherwise adjust the charge other than pursuant	Ability to impose irrevocable, final, nonbypassable charge on all future and existing customers provided by enforceable restructuring property. Amount of charge is sufficient to pay principal, interest and administrative expenses of the financing. Letter from LIPA to regulator specifies estimated customer savings, estimated ongoing financing cost, initial restructuring cost and final terms of bonds. Designee	Approximately 18 states have enacted similar securitization legislation authorizing the recovery of specified costs. Property right protected by federal and state constitutions. Any action by legislature which adversely affects the recovery would require state to pay just compensation. Structure provides protection to debt holders. Similar protection not established

	Duke	Long Island Power	Comments
	to the true-up mechanism.	of regulator issues final and incontestable approval that letter is consistent with financing order.	in Canada.
Size & Term	USD$1.3B 5 tranches that amortize over 20 years	Total 2016 USD$1.1B through 2 issuances Numerous tranches that amortize over 20 years	US market average $1B per year. Recent years up to $2B
Credit Strength	Strong legislative structure supported by non-impairment pledge of the state and irrevocable, non-appealable financing order Uncapped true-up adjustment mechanism with mandatory semi-annual adjustment to recovery charge Low recovery charge of about 2.5% of customer's bill Large, stable and diverse ratepayer base Strong and experienced servicer (Duke Energy)	Strong legislative structure supported by non-impairment pledge of the state and irrevocable, final, non-appealable financing order Uncapped true-up adjustment mechanism with mandatory annual adjustment to recovery charge Large, stable and diverse ratepayer base Strong and experienced servicer (LIPA)	Legislation may not be viewed as strong given the differences between Canada and US constitutions.
Credit Weakness	Challenges to securitization law and financing order viewed as remote Collections from customers could fall short of debt servicing requirements – true-up mechanism mitigates those concerns	Challenges to securitization law and financing order viewed as remote Collections from customers could fall short of debt servicing requirements – true-up mechanism mitigates those concerns High cumulative recovery charge of about 7.8% of customer's bill that also include charges from 3 previous securitizations	Rating agency concerned if recovery charge approaches 10% of customer bill as the larger charge increases potential legal challenges to charge. GA scheme could threaten that level and impact the rating and cost of financing

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Ontario Power Generation

MOODY'S
INVESTORS SERVICE

RATING METHODOLOGY

Moody's Global Approach to Rating Securities Backed by Utility Cost Recovery Charges

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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]

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.

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

[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]

annual adjustment mechanism

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.

consumers cannot come up w ways to get around pay'g the charge - eg if grid connected, whether or not draw any power

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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MOODY'S
INVESTORS SERVICE

ONTARIO ENERGY BOARD

RPP Prices and GA Modifier
&
July 2017 QRAMs

June 21, 2017

Confidential Briefing for Ministry of Energy

REGULATED PRICE PLAN (RPP)
&
GLOBAL ADJUSTMENT (GA) MODIFIER

OEB Responsibilities under the FHA

- The *Fair Hydro Act, 2017* (FHA) establishes responsibilities for the OEB to:
  - Set RPP prices to give RPP consumers the benefit of their "fair adjustments" over the coming years
  - Set a "GA modifier" to give eligible consumers that are not on the RPP their fair adjustments over the coming years
- The OEB is required to set new RPP prices and a GA modifier within 15 business days of the FHA receiving Royal Assent – so by June 22, 2017
- RPP prices and the GA modifier will take effect July 1, 2017
  - Utilities are expected to issue invoices accordingly, but if any should not, its eligible customers will receive the benefit as a lump sum payment retroactive to July 1, 2017

RPP Prices & GA Modifier

- The RPP Prices and GA Modifier that will be in effect for electricity consumed between July 1, 2017 and April 30, 2018 have been set by the OEB as shown below. The RPP prices deliver a reduction in the proxy consumer's bill of 25.18%:

Time-of-Use RPP Prices	Off-Peak	Mid-Peak	On-Peak	Average Price
Price per kWh	6.5¢	9.5¢	13.2¢	8.2¢
% of TOU Consumption	65%	17%	18%	
Tiered RPP Prices	**Tier 1**	**Tier 2**		**Average Price**
Price per kWh	7.7¢	9.0¢		8.2¢
% of Tiered Consumption	54%	46%		
GA Modifier for Specified Customers not on RPP				
GA Modifier per MWh				$-32.90

Setting RPP Prices

- Consumers that are on the RPP will see the fair adjustments through their RPP prices
  - The OEB has set RPP prices to give effect to the commitment to lower electricity bills on average by 25%
    - The 25% is inclusive of the 8% ORECA rebate and of the bill mitigation impacts of shifting the cost of the OESP and most of the cost of the RRRP from ratepayers to provincial revenues
  - The calculations are done by reference to a "proxy" consumer that has certain attributes set out in the regulation - essentially a Toronto Hydro residential customer on TOU prices using 750 kWh of electricity every month, not on equal billing, not receiving any OESP payments, etc.
  - The OEB has calculated what the proxy consumer's bill (Invoice A) would otherwise have been based on:
    - RPP prices that would have been effective on May 1 if determined in the normal way without consideration of the FHA (these RPP prices were noted in the April RPP Report)
    - May 1 rates and charges, other than OESP where April 30 is the relevant date
  - The OEB has then set new RPP prices that result in this proxy consumer having a bill (Invoice B) that is, as close as feasible, 25% lower than Invoice A (inclusive of the impact of the other measures noted above)

Steps for Determining RPP Prices Under OFHP

no Δ in prices in Nov.

1. Determine the bill for the proxy customer as it would have been absent OFHP (Invoice A)
2. Determine the total bill amount that is 25% less than Invoice A
3. Calculate savings from lower HST charges and the 8% rebate
4. Calculate $2.26 of savings from removal of OESP and reduction in RRRP
5. Determine $25.32 of further reductions to be delivered through RPP prices ($40.40 - $12.82 - $2.26)

			Total Invoice Amount A ($)	Target Invoice Amount B ($)	Net Reduction ($)
	Electricity				
1		Off-peak	44.36	(5) To be determined to achieve 25% reduction in Invoice B relative to Invoice A	
2		Mid-peak	16.96		
3		On-peak	24.98		
	Delivery				
4		Cost of losses	3.24		
5		Distribution and Transmission	47.94	47.94	0.00
	Regulatory				
6		OESP	0.86	0.00	-0.86
7		RRRP	1.63	0.23	(4) -1.40
8		Other	3.05	3.05	0.00
9	Subtotal		143.02	115.44	-27.58
10		HST	18.59	15.01	-3.58
11		8% Rebate	(1) 0.00	(2) -9.24	(3) -9.24
12	Total		161.61	121.21	-40.40

Average Supply Cost and Resulting TOU Prices

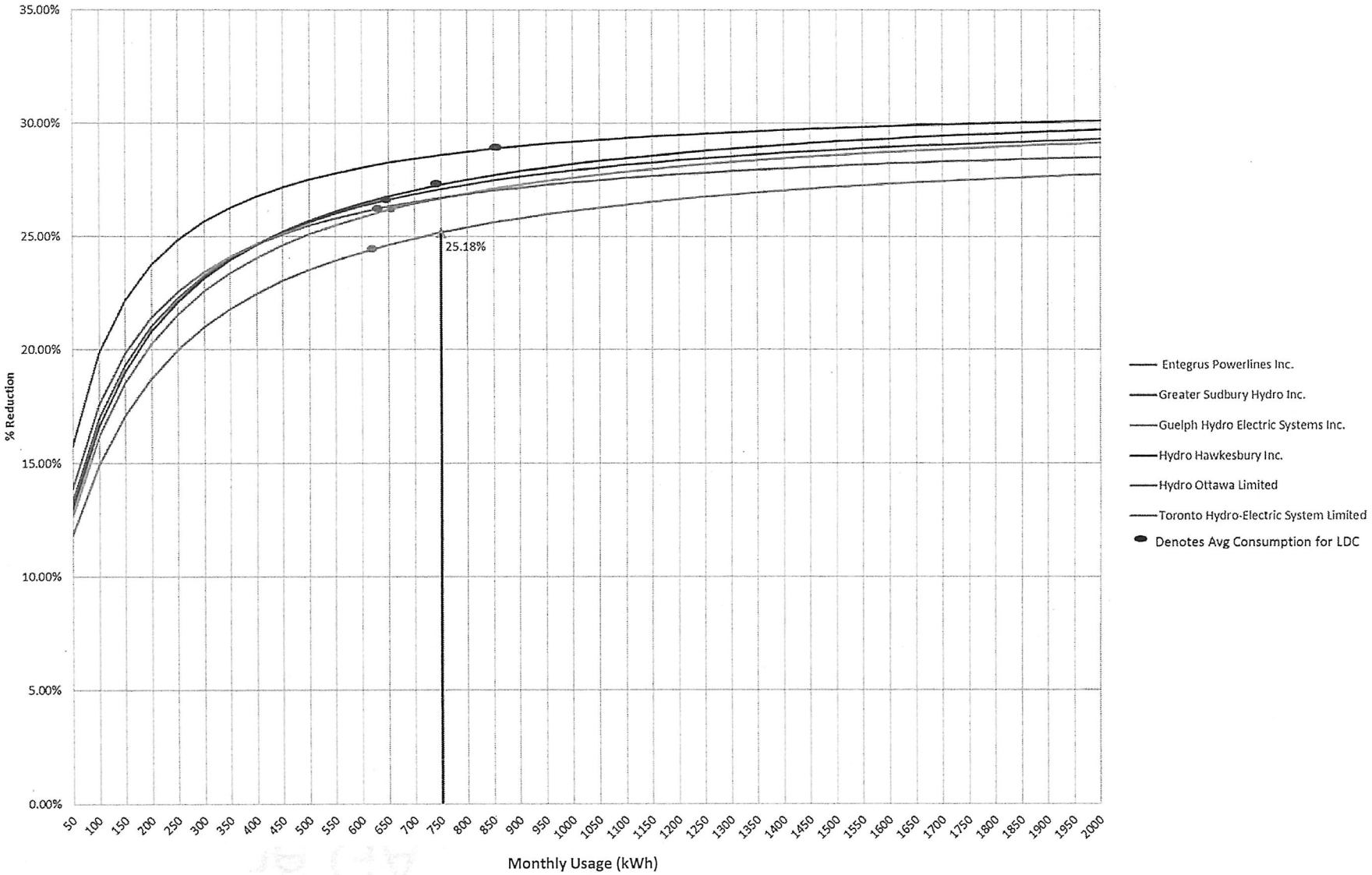
- New, lower TOU prices have been derived by altering the amount of the GA cost embedded in the price for each TOU period
- The new RPP TOU prices maintain overall on-, mid-, and off-peak price ratios that pre-date the FHA

	Invoice A	Invoice B	Net Reduction
Average Supply Cost	¢/kWh	¢/kWh	¢/kWh
Load-weighted average wholesale electricity price	2.5	2.5	0.0
Global Adjustment	8.8	5.5	-3.3
Adjustment to Address Bias Towards Unfavourable Variance	0.1	0.1	0.0
Adjustment to Clear Existing Variance	0.1	0.1	0.0
Average Supply Cost for RPP Consumers	**11.5**	**8.2**	**-3.3**
Resulting Time-of-Use RPP Prices			
Off-Peak	9.1	6.5	-2.6
Mid-Peak	13.3	9.5	-3.8
On-Peak	18.5	13.2	-5.3

Total Invoice Amounts A & B for Proxy Consumer

			Total Invoice Amount A ($)	Total Invoice Amount B ($)	Net Reduction ($)
	Electricity				
1		Off-peak	44.36	31.69	-12.67
2		Mid-peak	16.96	12.11	-4.85
3		On-peak	24.98	17.82	-7.16
	Delivery				
4		Cost of losses	3.24	2.32	-0.92
5		Distribution and Transmission	47.94	47.94	0.00
	Regulatory				
6		OESP	0.86	0.00	-0.86
7		RRRP	1.63	0.23	-1.40
8		Other	3.05	3.05	0.00
9	Subtotal		143.02	115.16	-27.86
10		HST	18.59	14.97	-3.62
11		8% Rebate	0.00	-9.21	-9.21
12	Total		161.61	120.92	-40.69 *or* 25.18%

Actual Savings Vary with LDC and Consumption



Setting the GA Modifier

- Eligible consumers that are not on the RPP will see their fair adjustments through a reduction in their GA costs in each billing period
  - The GA modifier is required to be a $/MWh amount that represents the difference between the RPP prices applicable to Invoice A and the RPP prices applicable to Invoice B
  - LDCs (and the IESO, where applicable) will multiply each customer's consumption by the GA modifier and apply that as a reduction to the GA charges otherwise payable by the customer in a billing period

GA Modifier Calculation

- The difference between the RPP prices applicable to Invoice A and Invoice B is $24.68 for a customer using 750 kWh in a billing period
- This amount is then converted to a $/MWh charge of $32.90 / MWh

	Electricity Cost in Invoice A	Electricity Cost in Invoice B	Change
Electricity Price ($)	86.30	61.62	-24.68
GA Modifier ($/MWh)			-32.90

JULY 2017 QRAMS

Background

- The price of gas fluctuates based on market conditions, including how much gas people want to buy and how much supply is available
- The natural gas utilities - Enbridge, Union Gas and NRG - purchase the natural gas commodity on behalf of their customers and pass-through the cost with no markup
- The Quarterly Rate Adjustment Mechanism (QRAM) process is a regular, mechanistic process for adjusting commodity prices that has been employed since 2001 and has been in its current form since 2009
  - It allows natural gas utilities to regularly adjust their rates to reflect changes to the forecasted costs of purchasing and transporting natural gas and to true-up costs from prior periods
  - It determines how much the utilities will charge customers for the natural gas commodity for the next quarter based on a forecast of market prices for the next 12 months – essentially 'smoothing' the market price
  - Quarterly rate changes smooth the cost of gas for customers while still providing a market-based price to facilitate competition

QRAM Process

- The OEB established the current process and timelines for QRAM applications through a 2009 decision (EB-2008-0106)
- Applications were received on June 9 and 12, 2017
- No notice is published, but applications are filed with the OEB and also given to intervenors of record from proceedings which established the QRAM process and applicants' rate cases
- Parties can make comments on the application within 5 calendar days of the QRAM application filing
- The applicant has 2 calendar days to reply to any comments received
- Decisions are currently planned to be issued on June 27, 2017

Summary of Applications

- The majority of natural gas customers across Ontario will see increases on their bills relative to bills at current rates
  - Typical residential customers in Enbridge's service area will experience a bill increase of 3.9%
  - Typical residential customers in Union's Southern zone will experience an increase of 4.8%
  - Typical residential customers in Union's North East zone will experience an increase of 3.8%
  - Typical residential customers in Union's North West zone will experience a bill decrease of -0.2%
  - Typical residential customers in NRG's service area will experience a bill increase of 2.7%

Enbridge's July 2017 QRAM Application

- Enbridge's July 2017 QRAM is increasing the typical residential customer bill by $36.23 or 3.9% per year over the April 2017 QRAM
- Increases are driven by the rising forecast costs of its commodity portfolio ($16.51 increase) and true up costs for differences in past periods ($18.82)

Customer Type	Total Annual Bill – July 2017 QRAM	Total Annual Bill – April 2017 QRAM	Total Annual Bill – July 2016 QRAM	Change from April 2017 per year	Change from July 2016 per year	# of Customers
Residential	$944.08	$907.84	$831.57	$36.23 or 3.9%	$112.51 or 13.5%	1,931,000

Note 1: 2,400 m3 annual consumption
Note 2: Includes the interim rates approved for cap & trade of $80.44 per year

Union's July 2017 QRAM Application

- Union's July 2017 QRAM is increasing the typical residential customer bill in Union South by $39.53 and by $40.08 in Union North East, and decreasing the typical residential bill by $1.71 for Union North West customers over the April 2017 QRAM
  - **Union South:** rate increases of $39.53 or 4.8% are largely driven by true up costs for differences in past periods ($29.89), as well as increasing forecast commodity prices at Dawn ($9.48 increase)
  - **Union North East:** rate increases of $40.08 or 3.7% are largely driven by true up costs for differences in past periods ($26.39 Commodity + $3.87 Transportation), as well as increasing forecast commodity prices at Dawn ($9.52 increase)
  - **Union North West:** declining rates of $1.71 or -0.2% are largely driven by declining weighted average forecast commodity prices at Empress ($12.60) and are partially offset by true up costs for differences in past periods ($10.12)

Customer Type	Total Annual Bill – July 2017 QRAM	Total Annual Bill – April 2017 QRAM	Total Annual Bill – July 2016 QRAM	Change from April 2017	Change from July 2016	# of Customers
Residential – Southern Zone	$862.67	$823.14	$656.80	$39.53 or 4.8%	$205.87	1,090,000
Residential – North East Zone	$1,130.53	$1090.45	N/A due to rate zone changes	$40.08 or 3.7%	N/A due to rate zone changes	337,000 (all north)
Residential – North West Zone	$991.61	$993.32		-$1.71 or -0.2%		

Note 1: 2,200 m3 annual consumption

Note 2: Includes the interim rates approved for cap & trade of approximately $74 per year for each zone

NRG's July 2017 QRAM Application

- NRG's July 2017 QRAM is increasing the typical residential customer bill by $24.89 or 2.7% per year over the April 2017 QRAM
- Increases are driven by rising gas supply charges ($24.89)
- NRG became a system gas customer of Union as of November 1, 2016 and therefore the majority of NRG's forecast gas costs over the next 12-month period are based on Union's commodity price (as proposed in Union's July 2017 QRAM application)

Customer Type	Total Annual Bill – July 2017 QRAM	Total Annual Bill – April 2017 QRAM	Total Annual Bill – July 2016 QRAM	Change from April 2017	Change from July 2016	# of Customers
Residential	$941.88	$916.99	$801.31	$24.89 or 2.7%	$140.57 or 17.5%	8,200

Note 1: 2,009 m3 annual consumption
Note 2: Includes the interim rates approved for cap & trade of $68.21 per year

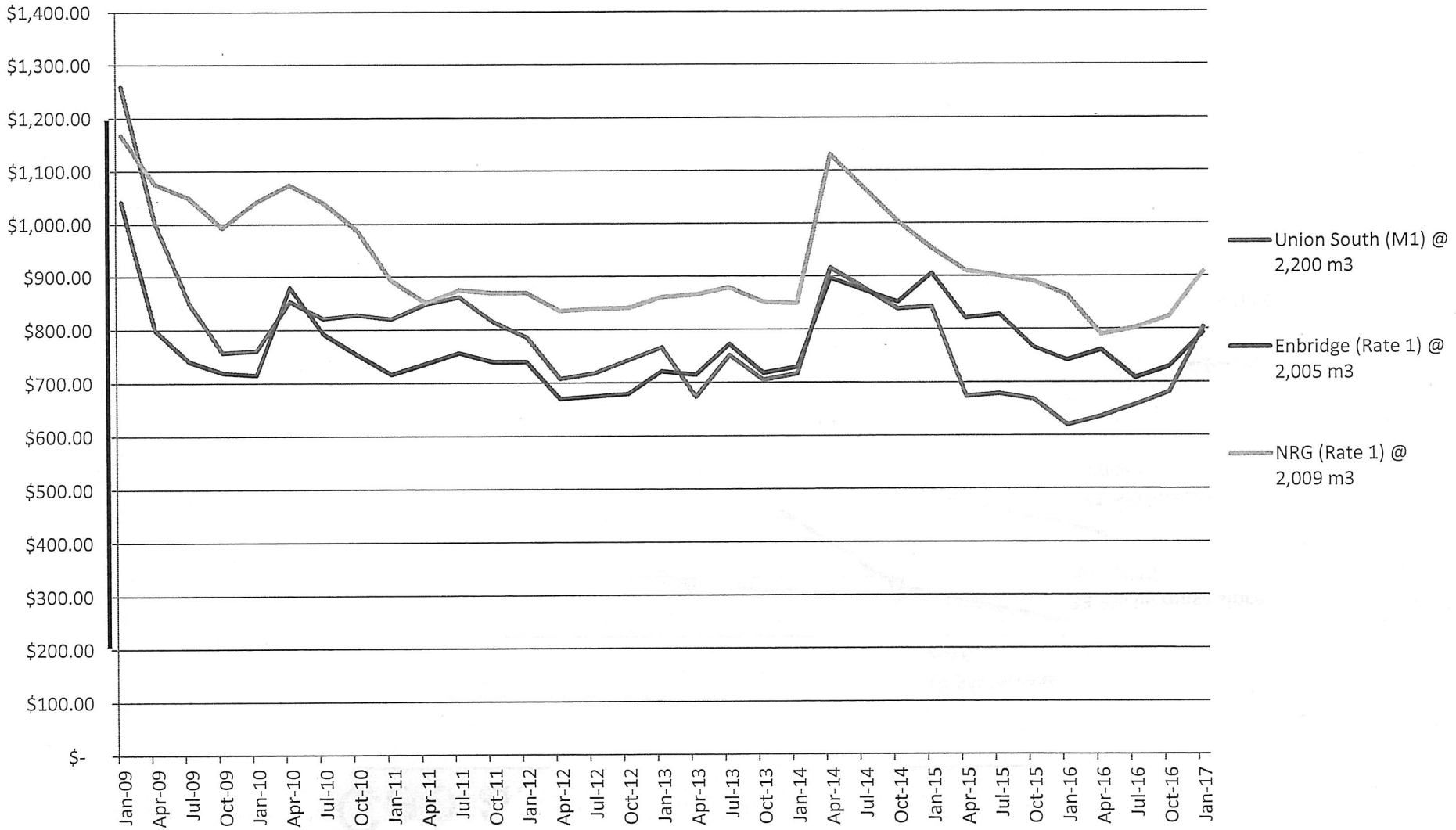
Key Messages

- The majority of natural gas customers across Ontario will see increases on their bills relative to current rates
- The rate changes reflect the forecast price of natural gas over the next 12-month period and also reflect a gas cost adjustment for the difference between the actual and forecasted gas commodity prices in the previous quarter
- The rates are effective from July 1, 2017 to Sept 30, 2017
- The bill impacts include interim rates approved by the OEB to recover cap and trade costs

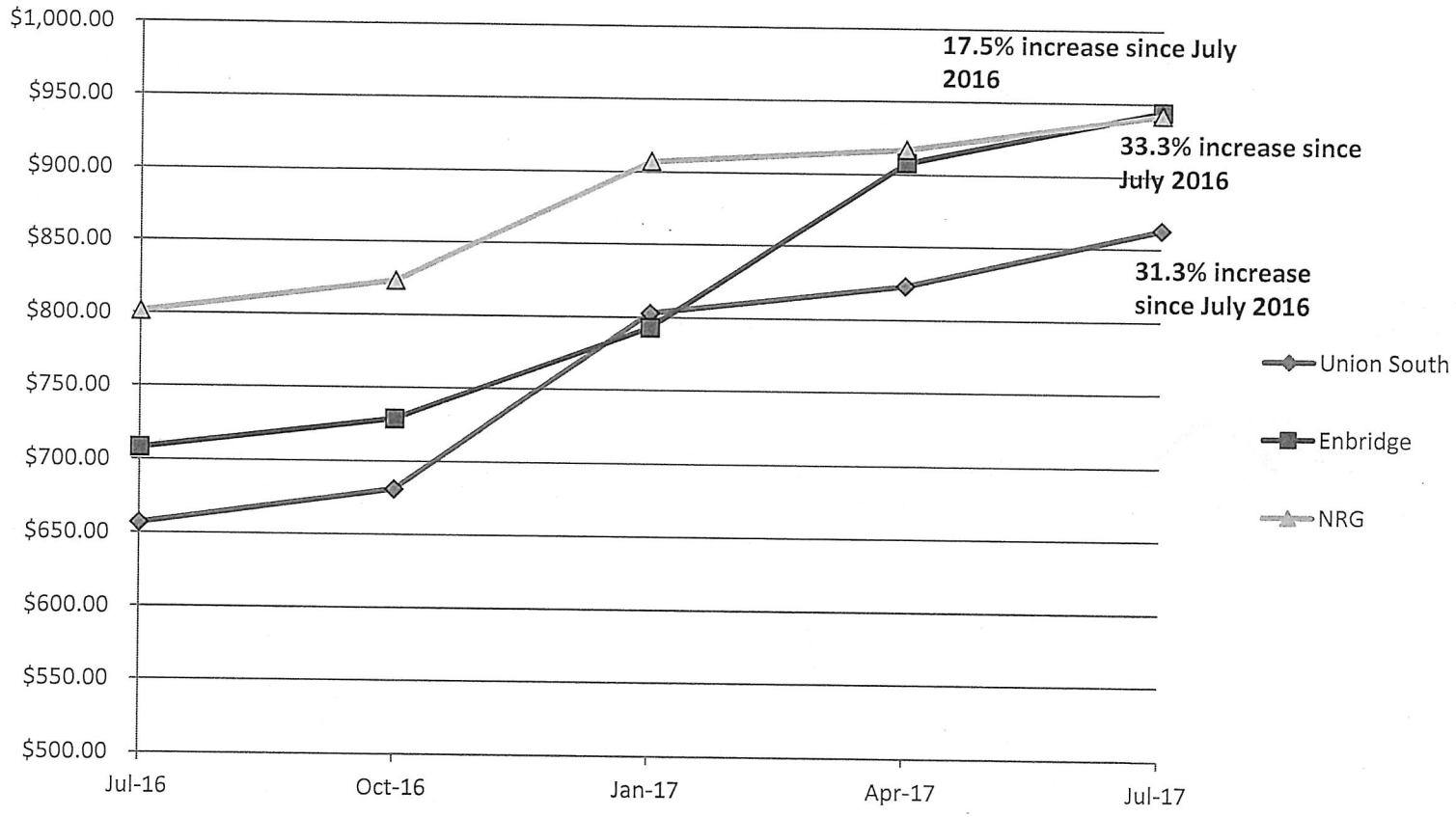
ONTARIO ENERGY BOARD

Appendices

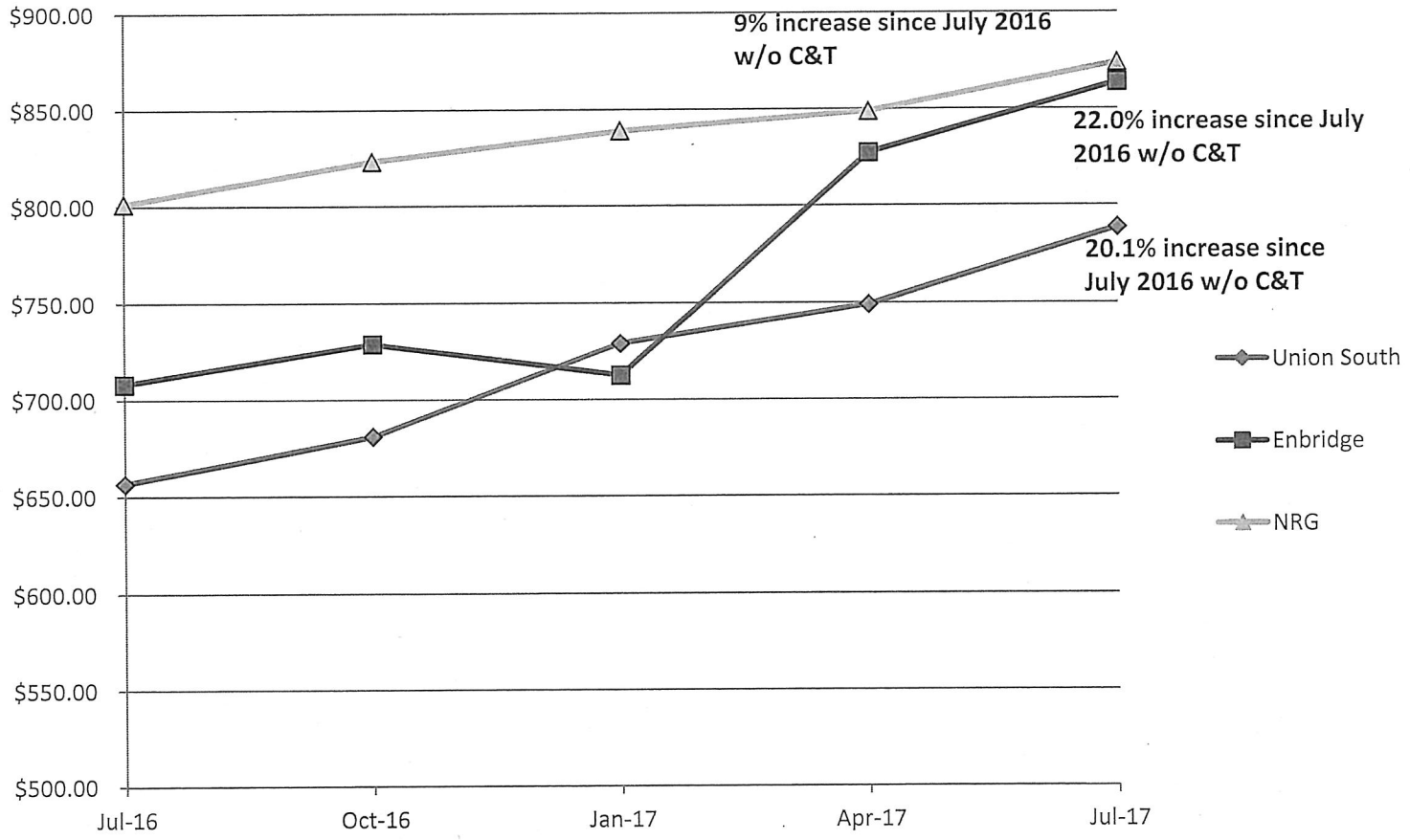
Historical Bill Comparison



Total Bill Comparison: July 2016 to July 2017 (including Cap and Trade)



Total Bill Comparison: July 2016 to July 2017 (excluding Cap and Trade)



Ontario

MINISTRY OF
ENERGY

Rate Mitigation Plan – GA Smoothing Options

Working Draft

February 2017

CONFIDENTIAL DRAFT

1a. Residential Bills Lowered 25% (with Tax-Base Funded 8% Rebate and Social Programs)

- Total bill below is based on a revised IESO forecast. See footnotes for more information.

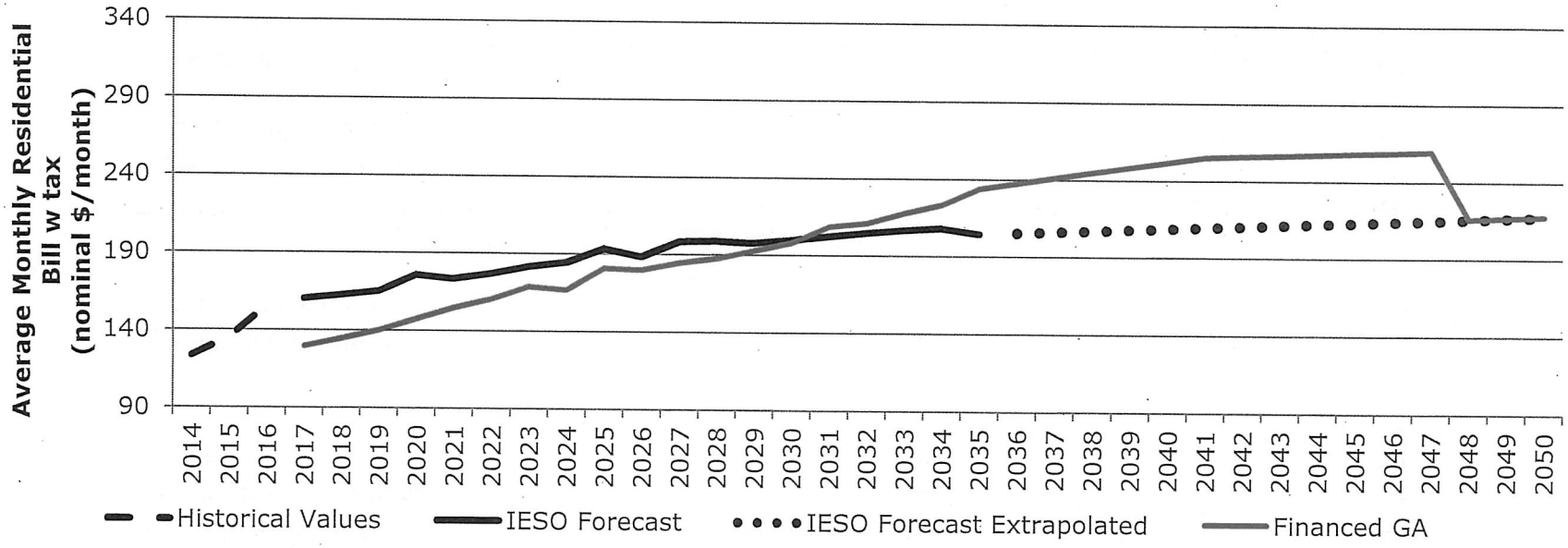
Residential ($/month)	Actual 2016	2017	2018	2019	2020
Total Bill (includes HST)	**163**	**172**	**175**	**178**	**189**
Total Bill (excludes HST)	145	153	155	158	168
Impact of GA Smoothing		-27	-25	-22	-25
Impact of Tax-Basing Social Programs		-2	-2	-2	-3
Subtotal		123	128	133	140
8% rebate		-10	-10	-11	-11
HST		16	17	17	18
Revised Bill (includes HST)	**163**	**129**	**134**	**139**	**147**
Change from Forecast		**-25%**	**-23%**	**-22%**	**-22%**

Average Class A Consumer ($/MWh)	Actual 2016	2017	2018	2019	2020
Total (excludes HST)	**90**	**91**	**93**	**88**	**95**
Impact of GA Smoothing		-22	-20	-19	-21
Impact of Tax-Basing Social Programs		-3	-3	-3	-3
Revised Total (excludes HST)	**90**	**65**	**69**	**66**	**71**
Change from Forecast		**-28%**	**-26%**	**-25%**	**-25%**

Fiscal Impact ($M)	17-18	18-19	19-20	20-21
Tax-Basing Social Programs	362	409	450	485

Notes: Based on IESO's revised OPO forecast as of December 2016. Includes the cancellation of LRP II and EFW, expansion of ICI. Does not include smoothed OPG rates. Above residential bill is based on a 750 kWh per month Toronto Hydro customer. "Social programs" refers to existing RRRP and OESP. While initiatives would take several months to implement, the above estimate for 2017 reflects a full-year impact. The 8% rebate above represents savings compared to status quo due to the reduction in the sub-total from GA financing.

1a. Residential Bills Lowered 25% – Impact of GA Smoothing



	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048
Average Monthly Residential Bill Impact pre-tax *($/month)*	-27	-25	-22	-25	-17	-15	-11	-16	-11	-8	-12	-10	-4	-2	5	6	10	14	26	28	31	33	35	38	40	40	40	40	39	39	39	0
Total Accumulated Debt *($ billion)*	5	9	14	19	23	27	30	34	38	41	46	50	53	56	58	60	61	62	60	58	55	52	48	43	38	33	27	20	14	7	0	0
Total Change in Accumulated Debt *($ billion)*	5	5	4	5	4	4	3	4	4	3	4	4	3	3	2	2	1	1	-2	-2	-3	-3	-4	-5	-5	-6	-6	-6	-6	-7	-7	0

Notes: Assumes 30 year financing period and a nominal interest rate of 5.12% per year (compounded annually). Ratepayer GA payments increase annually beyond 2017 at inflation with GA over-payments capped at $7.5 billion above the true cost of GA in any given year.

1b. Residential Bills Lowered 25% (with Tax-Base Funded 15% Rebate)

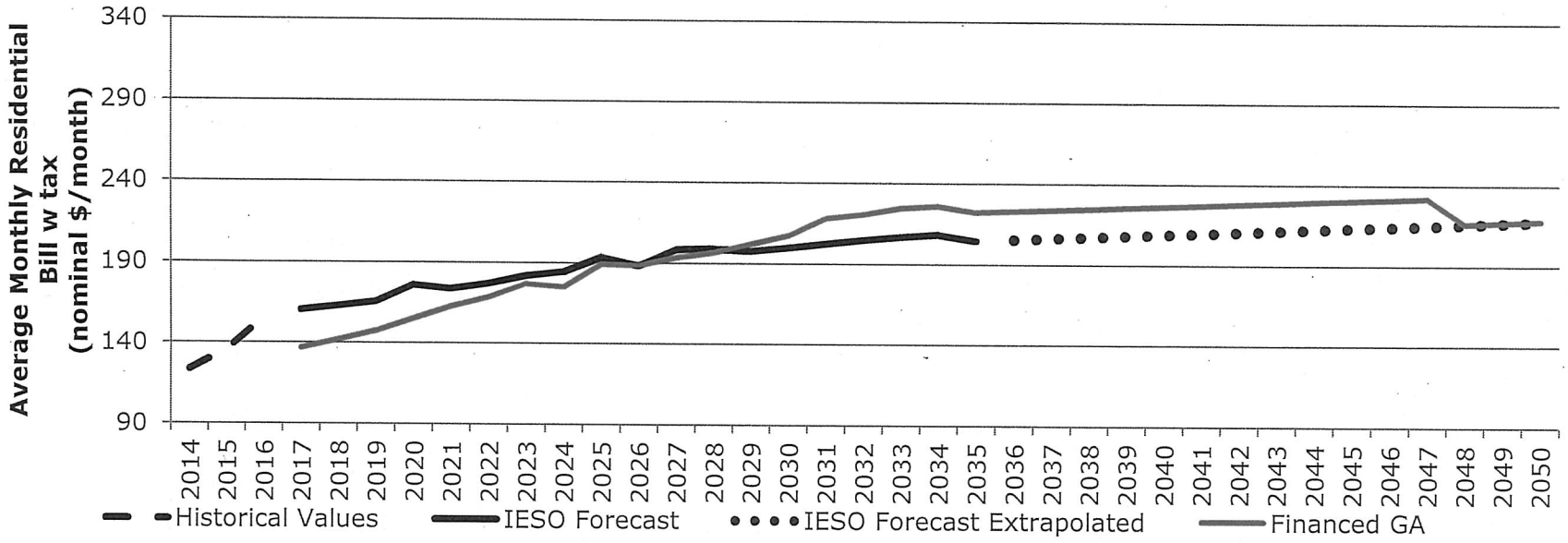
- Total bill below is based on a revised IESO forecast and is adjusted by the Ministry to reflect the proposed expansion of RRRP and OESP. See footnotes for more information.

Residential ($/month)	Actual 2016	2017	2018	2019	2020
Social Programs Expansion		0.5	0.7	0.9	1.1
Total Bill (includes HST)	**163**	**173**	**176**	**179**	**191**
Total Bill (excludes HST)	145	153	156	158	169
Impact of GA Smoothing		-21	-18	-16	-18
Subtotal		132	137	143	150
15% rebate		-20	-21	-21	-23
HST		17	18	19	20
Revised Bill (includes HST)		**130**	**135**	**140**	**147**
Change from Forecast		**-25%**	**-23%**	**-22%**	**-23%**

Average Class A Consumer ($/MWh)	Actual 2016	2017	2018	2019	2020
Social Programs Expansion		0.7	1.0	1.3	1.4
Total (excludes HST)	**90**	**92**	**94**	**89**	**96**
Impact of GA Smoothing		-17	-15	-13	-15
Revised Total (excludes HST)		**74**	**79**	**76**	**81**
Change from Forecast		**-19%**	**-16%**	**-15%**	**-16%**

Notes: Based on IESO's revised OPO forecast as of December 2016 as adjusted by the Ministry to include the cost of RRRP and OESP expansion. Includes the cancellation of LRP II and EFW, expansion of ICI. Does not include smoothed OPG rates. Above residential bill is based on a 750 kWh per month Toronto Hydro customer. "Social programs" refers to existing RRRP and OESP. While initiatives would take several months to implement, the above estimate for 2017 reflects a full-year impact. The 15% rebate above represents an incremental fiscal impact compared to status quo.

1b. Residential Bills Lowered 25% – Impact of GA Smoothing



	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048
Average Monthly Residential Bill Impact pre-tax *($/month)*	-21	-18	-16	-18	-10	-8	-4	-8	-4	0	-4	-2	4	7	14	14	16	16	15	15	15	15	15	15	15	15	15	15	15	15	15	0
Total Accumulated Debt *($ billion)*	4	7	10	14	16	19	20	23	25	26	28	30	31	31	30	29	28	27	25	23	22	20	18	16	14	12	10	8	5	3	0	0
Total Change in Accumulated Debt *($ billion)*	4	3	3	4	2	2	2	3	2	1	2	2	1	0	-1	-1	-1	-1	-1	-2	-2	-2	-2	-2	-2	-2	-2	-2	-2	-3	-3	0

Notes: Assumes 30 year financing period and a nominal interest rate of 5.12% per year (compounded annually). Ratepayer GA payments increase annually beyond 2017 at inflation with a limit of $2.8 billion above the true cost of GA in any given year.

2a. Residential Bills Lowered 33% (with Tax-Base Funded 8% Rebate and Social Programs)

- Total bill below is based on a revised IESO forecast. See footnotes for more information.

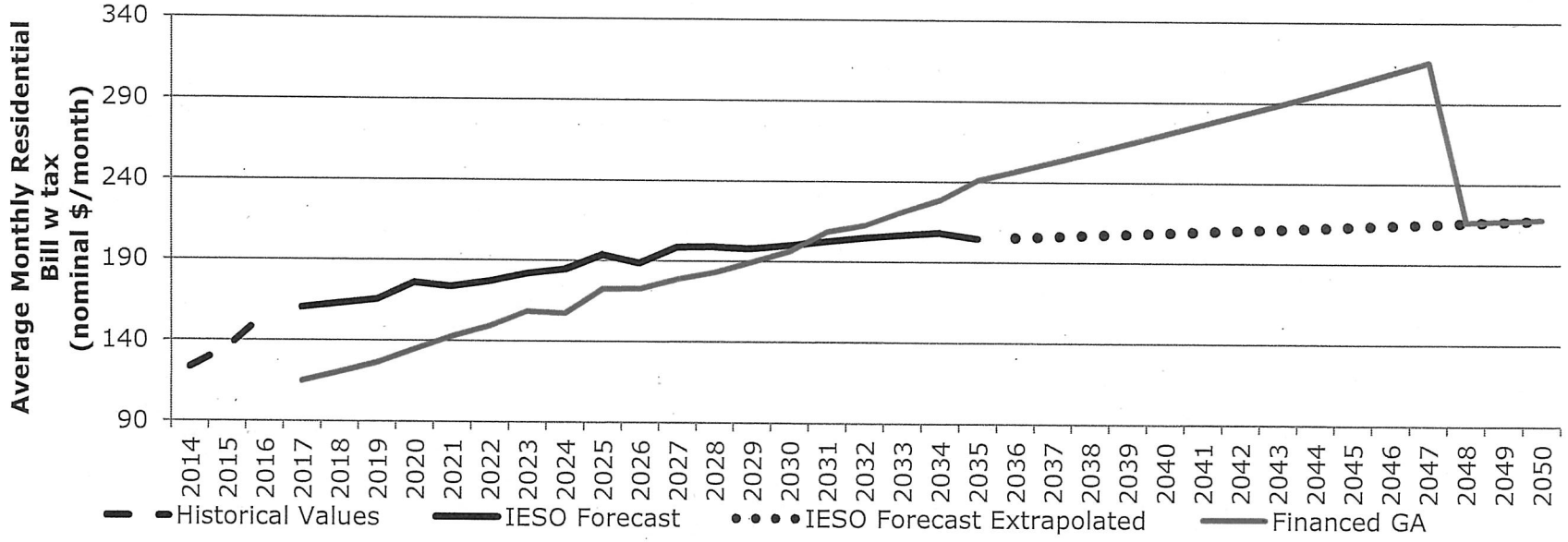
Residential ($/month)	Actual 2016	2017	2018	2019	2020
Total Bill (includes HST)	**163**	**172**	**175**	**178**	**189**
Total Bill (excludes HST)	145	153	155	158	168
Impact of GA Smoothing		-40	-37	-35	-37
Impact of Tax-Basing Social Programs		-2	-2	-2	-3
Subtotal		110	115	120	128
8% rebate		-9	-9	-10	-10
HST		14	15	16	17
Revised Bill (includes HST)		**116**	**121**	**126**	**135**
Change from Forecast		**-33%**	**-31%**	**-29%**	**-29%**

Average Class A Consumer ($/MWh)	Actual 2016	2017	2018	2019	2020
Total (excludes HST)	**90**	**91**	**93**	**88**	**95**
Impact of GA Smoothing		-33	-31	-29	-30
Impact of Tax-Basing Social Programs		-3	-3	-3	-3
Revised Total (excludes HST)	**90**	**54**	**59**	**56**	**61**
Change from Forecast		**-40%**	**-37%**	**-36%**	**-35%**

Fiscal Impact ($M)	17-18	18-19	19-20	20-21
Tax-Basing Social Programs	362	409	450	485

Notes: Based on IESO's revised OPO forecast as of December 2016. Includes the cancellation of LRP II and EFW, expansion of ICI. Does not include smoothed OPG rates. Above residential bill is based on a 750 kWh per month Toronto Hydro customer. "Social programs" refers to existing RRRP and OESP. While initiatives would take several months to implement, the above estimate for 2017 reflects a full-year impact. The 8% rebate above represents savings compared to status quo due to the reduction in the sub-total from GA financing.

2a: Residential Bills Lowered 33% – Impact of GA Smoothing



	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048
Average Monthly Residential Bill Impact pre-tax *($/month)*	-40	-37	-35	-37	-28	-25	-21	-24	-19	-14	-18	-14	-7	-3	5	7	13	18	32	36	41	45	50	54	59	63	68	73	78	83	89	0
Total Accumulated Debt *($ billion)*	7	14	21	28	35	41	47	53	59	65	71	77	83	88	91	95	97	99	98	96	94	90	85	80	73	64	55	44	31	16	0	0
Total Change in Accumulated Debt *($ billion)*	7	7	7	8	6	6	6	7	6	6	6	6	5	5	4	3	3	2	-1	-2	-3	-4	-5	-6	-7	-8	-10	-11	-13	-14	-16	0

Notes: Assumes 30 year financing period and a nominal interest rate of 5.12% per year (compounded annually). Ratepayer GA payments increase annually beyond 2017 at 2.7 percentage points above inflation with no limit on GA over-payments.

2b. Residential Bills Lowered 33% (with Tax-Based Funded 15% Rebate)

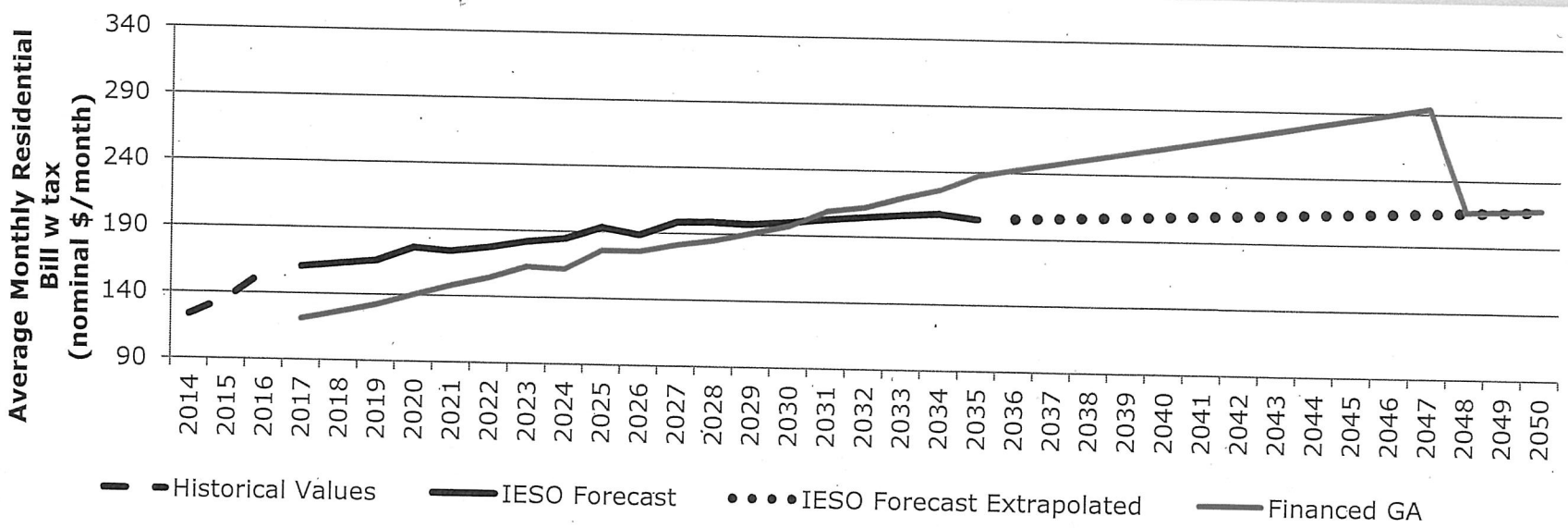
- Total bill below is based on a revised IESO forecast. See footnotes for more information.

Residential ($/month)	Actual 2016	2017	2018	2019	2020
Total Bill (includes HST)	**163**	**172**	**175**	**178**	**189**
Total Bill (excludes HST)	145	153	155	158	168
Impact of GA Smoothing		-35	-32	-29	-32
Subtotal		118	123	128	136
15% rebate		-18	-18	-19	-20
HST		15	16	17	18
Revised Bill (includes HST)		**116**	**120**	**125**	**133**
Change from Forecast		**-33%**	**-31%**	**-30%**	**-30%**

Average Class A Consumer ($/MWh)	Actual 2016	2017	2018	2019	2020
Total (excludes HST)	**90**	**91**	**93**	**88**	**95**
Impact of GA Smoothing		-29	-27	-24	-26
Revised Total (excludes HST)	**90**	**62**	**66**	**63**	**69**
Change from Forecast		**-32%**	**-29%**	**-28%**	**-28%**

Notes: Based on IESO's revised OPO forecast as of December 2016. Includes the cancellation of LRP II and EFW, expansion of ICI. Does not include smoothed OPG rates. Above residential bill is based on a 750 kWh per month Toronto Hydro customer. "Social programs" refers to existing RRRP and OESP. While initiatives would take several months to implement, the above estimate for 2017 reflects a full-year impact. The 15% rebate above represents an incremental fiscal impact compared to status quo.

2b. Residential Bills Lowered 33% – Impact of GA Smoothing



	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048
Average Monthly Residential Bill Impact pre-tax *($/month)*	-35	-32	-29	-32	-23	-20	-17	-20	-15	-11	-15	-12	-6	-3	5	6	11	16	29	33	36	39	43	46	49	53	56	60	63	66	70	0
Total Accumulated Debt *($ billion)*	6	12	18	25	30	35	40	45	50	55	60	66	70	74	77	80	82	83	82	80	78	74	70	65	59	52	44	35	24	13	0	0
Total Change in Accumulated Debt *($ billion)*	6	6	6	7	5	5	5	6	5	5	5	5	4	4	3	3	2	1	-1	-2	-3	-3	-4	-5	-6	-7	-8	-9	-10	-12	-13	0

Notes: Assumes 30 year financing period and a nominal interest rate of 5.12% per year (compounded annually). Ratepayer GA payments increase annually beyond 2017 at 1.4 percentage points above inflation with no limit on GA over-payments.

Ontario

MINISTRY OF
ENERGY

Rate Mitigation Plan Options

Working Draft

February 2017

CONFIDENTIAL DRAFT

Context

- Electricity costs are increasing as the necessary investments are made to decarbonize and modernize the province's electricity infrastructure (i.e., $35 billion+ investment in cleaner generation and $15.5 billion investment in Hydro One transmission and distribution systems).

- Ontario has taken a number of actions to lower electricity costs for all consumers by:
  - Deferring investments in generation (e.g., new build nuclear), improving market efficiency (e.g., wind dispatch) and decreasing the cost of renewable procurements (e.g., GEIA renegotiation, decreasing FIT prices).
  - Increasing cost effectiveness and improving efficiency by adopting new electricity market approaches (e.g., competitive LRP, no new NUG contracting).

- Following the 2016 Throne Speech, actions were announced to further reduce electricity costs by:
  - Providing an 8% rebate ($11/month savings), updating RRRP ($45/month savings), expanding ICI (up to one-third savings for participants) and suspending the LRP II and the EFWSOP (up to $3.8 billion in cost savings).

- On November 28, 2016, the Minister of Energy announced the need for changes in how electricity resources are procured, the need for wholesale market renewal and greater electricity consumer choice.

- The Ministry of Energy is currently updating its Long-Term Energy Plan (LTEP), which provides an opportunity to consider a range of policy changes to how the Ontario energy sector operates.

Options

- In recognition of the costs borne by ratepayers related to decarbonizing and modernizing the province's electricity sector, options for further rate mitigation include:

1. Global Adjustment (GA) Smoothing – Provide significant and immediate rate relief through cost deferral of the GA.

2. Electricity Support Programs to Help the Most Vulnerable – Provide a greater focus on vulnerable consumers:
   - Rural or Remote Electricity Rate Protection (RRRP) Enhancement (Delivery Charge Relief);
   - Ontario Electricity Support Program (OESP) Expansion; and
   - Low-Income Conservation / Affordability Fund .

3. Ontario Energy Board (OEB) – Identify opportunities for OEB red-tape reduction and future LDC efficiencies and rates.

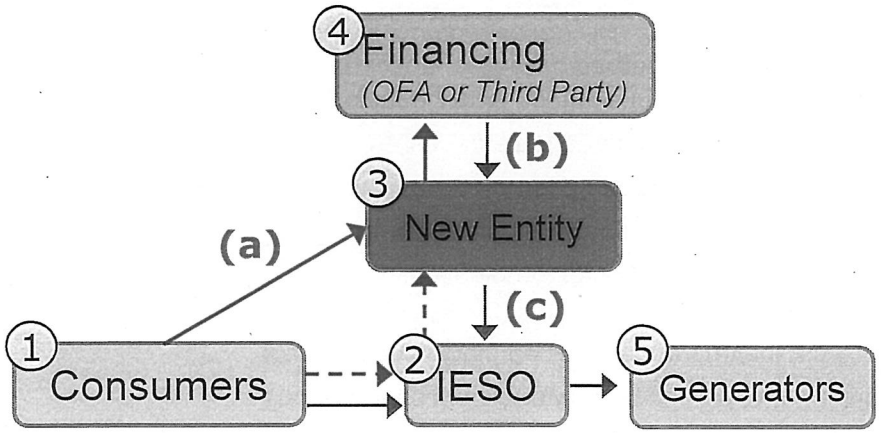
4. Ontario Power Generation (OPG) – Find further efficiencies in operations and pass on savings to ratepayers.

5. Independent Electricity System Operator (IESO) – Modernize Ontario's electricity market through electricity Market Renewal initiatives.

GA Smoothing Options (Placeholder)

1. GA Smoothing – Implementation Approach (New Entity)

- The diagram outlines a implementation approach that includes a new entity which would hold the debt and the receivable from ratepayers



→ Early year fund flow

→ Future Repayment Mechanism

(1) Electricity Consumers pay IESO a portion of the GA in early years. In the future, consumers would pay all in-year GA costs and repay the New Entity. Customers will not see a change in the structure of their bills (costs should diminish in early years).

(2) The IESO pays generators (in early years), partially from consumers and partially financed by the New Entity. **(c)** The IESO would provide collection services to New Entity under a service contract.

(3) The New Entity would fund part of the GA and **(a)** would have a legislative right to recover the principle, interest and administrative costs from customers (settled via service agreement with IESO).

(4) The OFA or a 3rd party lender would fund the GA shortfall in early years and receive payments from the New Entity as debt is repaid **(b)** the debt would be subject to a contract between the New Entity and the lender.

(5) Generators continue to receive payments from IESO according to existing contract / regulatory structures.

1. GA Smoothing – Considerations

Governance

- To achieve the desired accounting treatment, the entity would have to be structured as follows:
  - While the Province would choose the first board of directors or trustees, future directors or trustees would be selected in accordance with a mechanism created at the time the entity is created. The Province would have no ongoing role in appointments or in selection of key personnel, including the CEO.
  - The Province would not have a determining vote in the entity's business decisions. The entity could be structured so that the Province has no vote.
  - The Province would have no recourse to the entity's assets and would not be responsible for the debt.
  - Mechanisms would be required to prevent the Province from dissolving the entity and having access to its assets and obligations.
  - The Province would not be able to change the mission or mandate of the entity, once it is created.
  - The Province would have no right to approve business plans or budgets or to require amendments to them.
  - The Province would not be able to alter the terms of the entity's debt arrangements.
  - The Province would not be able to affect the debt by controlling the entity's financial and operating policies.
  - The Province would not have input into the operational and financial policies of the entity, including accounting, personnel, compensation, collective bargaining or deployment of resources. For example, legislation like the *Broader Public Sector Executive Compensation Act, 2014* and the *Broader Public Sector Accountability Act, 2010* would not apply.
- The implications of designing the entity to meet the accounting control, and creating an entity that the Province does not govern, means that:
  - Staff would not be OPS employees.
  - Oversight would not be provided by Offices of the Legislature (Auditor General, Financial Accountability Officer).
  - The *Freedom of Information and Protection of Privacy Act* would not apply.
- It may be possible to have the OEB provide some oversight through licensing or regulatory proceedings.

1. GA Smoothing – Other Considerations (cont'd)

- **Recovery Mechanism**
  - Province will need to explore different recovery/ administrative options.
  - DRC/RRP/Tax Rebate.
  - Consider whether a one-time, exit payment would be charged to ratepayers that are leaving the electricity system in order to recover foregone deferred charges.
- **Financing**
  - While 3rd party financing would help to meet accounting control tests, the cost may be high
    - The Province may need to internally test the market to determine potential cost of 3rd party financing / securitization.
  - Potential risks that 3rd parties will likely consider when determining cost of capital include:
    - Legislative framework (recovery mechanism);
    - Interest rate changes; and
    - Future electricity demand / customers.
- **Contractual / Legislative Agreements**
  - Either the New Entity or IESO would need a legislative right to recover the principle, interest and administrative costs from customers.
  - Form of an IESO collection services agreement would need to work within IESO's legislative framework, while providing sufficient comfort to the New Entity / 3rd party.
  - We need to consider whether the Province's ability to change legislation undermines the governance choices that we make to achieve the accounting control analysis

2a. RRRP Enhancement – Accelerating Fixed Rate Benefit

- Currently, LDCs recover their costs through a combination of a fixed monthly charge and a volumetric charge based on kilowatt hours used. As a result, customers of the same LDC will be charged different amounts for distribution based on their consumption level.
- However, the OEB has made a determination to establish fixed distribution rates for residential consumers, in recognition that the majority of distribution costs are irrespective of the volume of consumption. The OEB believes moving to fixed rates will:
  - Enable residential customers to leverage new technologies, manage costs through conservation, and better understand the value of distribution services.
  - Establish a fairer way to recover the costs of providing distribution service.
  - Provide greater revenue stability for distributors, which will position them for technological change in the sector, remove any disincentive to promote conservation, and help with their investment planning.
- Fixed rates will be set at the average consumption level for a rate class in order to recover the same amount of revenue as the mix of fixed and variable charges does today. As a result, below-average volume consumers will experience cost increases and above-average volume consumers will experience cost decreases.
- The OEB is gradually phasing-in the move to fixed rates in order to mitigate the impact of these increases to below-average volume consumers. Most LDCs will receive fully fixed rates in 2019. Hydro One will be transitioned over a longer timeframe (2022-2023).
  - Hydro One's density-based rate classes and recent re-allocation of costs between the classes results in significant impacts for Hydro One low volume consumers. Providing the longer timeframe allows for the impact of the change to be held at less than 10% for low volume customers at the 10th percentile of consumption.

2a. RRRP Enhancement – Accelerating Fixed Rate Benefit Impacts

- Hydro One has estimated that if it accelerated the move to fixed rates effective 2017, the rates would be as follows:
  - R1: $55.70/month – the same cost as a customer who consumes 955kWh/month today.
  - R2: $64.64/month, when factoring in the $60.50 RRRP support – the same cost as a customer who consumes 1200kWh/month today.
- Using sample customer data provided by Hydro One, it is estimated that approximately 2/3^{rds} of Hydro One R1 and R2 customers would experience cost increases if this was implemented:
  - R1: ~146k customers would see cost decreases, and ~298k customers would see cost increases.
  - R2: ~117k customers would see cost decreases, and ~217k customers would see cost increases.
- However, support from the fiscal plan can be used to accelerate the move to fixed rates for those high volume consumers who benefit – leaving low volume consumers to experience no change.
  - Hydro One estimates this would cost $64 million. If the move was expanded to include Hydro One Urban (UR rate class) and Seasonal customers, the cost would be ~$90 million.
  - When layering on the current RRRP support of $242 million, program costs are between $306-$332 million.
  - As the move to fixed rates was completed, fiscal plan support for these customers could be withdrawn.

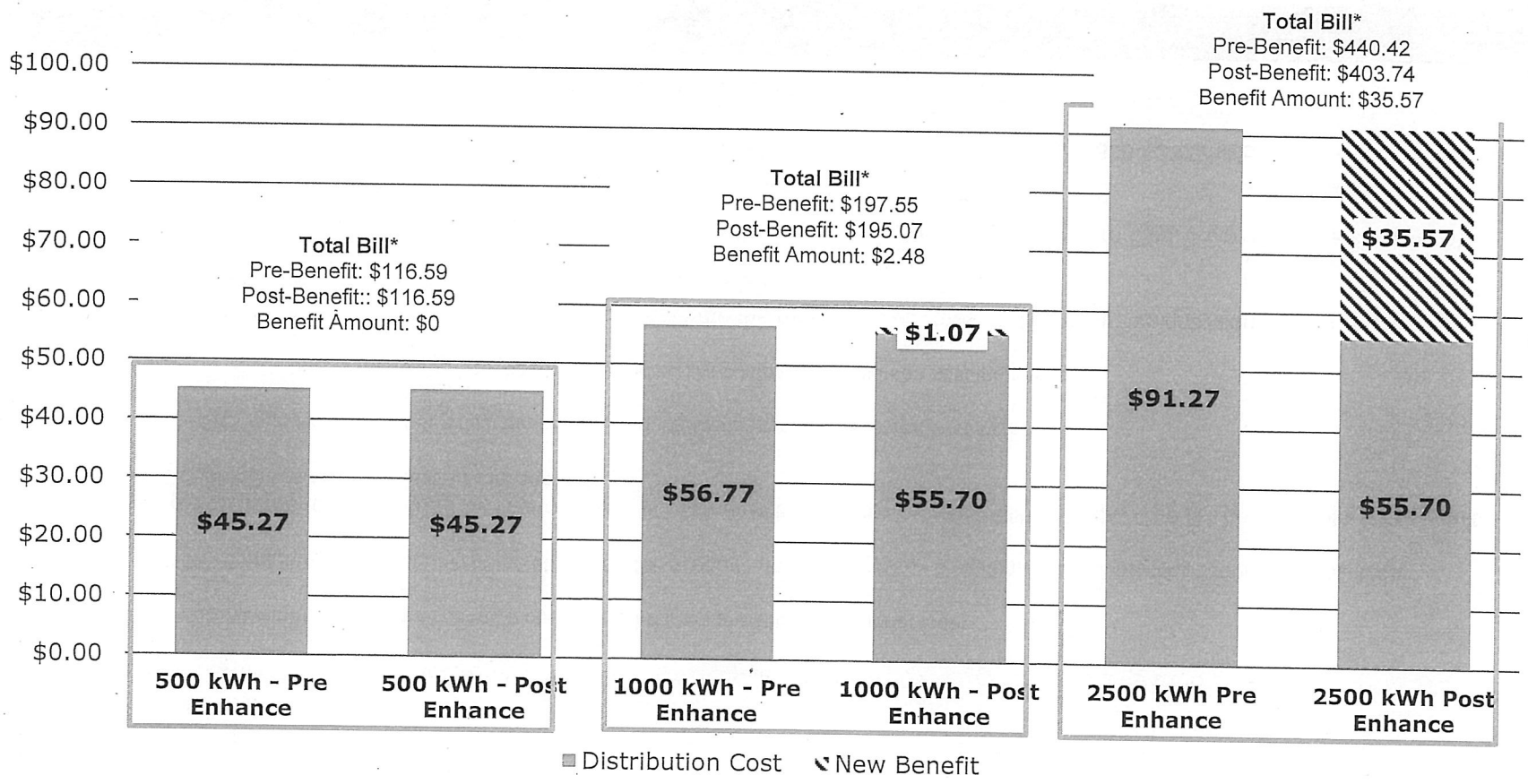
Accelerated Fixed Rate Benefit Fiscal Impact						
	2018	**2019**	**2020**	**2021**	**2022**	**2023**
Fixed Rate Enhancement*	$64M-$90M	$52-$72M	$38M-$54M	$26M-$36M	$13M-$18M	$0
Total RRRP** (inclusive fixed rate enhancement, excluding Algoma Power & Hydro One Remotes)	$306-$332M	$300-$320M	$293-$309M	$287-$297M	$281M-$286M	$275M

*Range depends on if just R1 & R2 or all rate classes. Cost decrease is estimated evenly, which could change based on Hydro One future rate impacts.

** Assumes 2.6% annual increase as estimate of average distribution rate increase

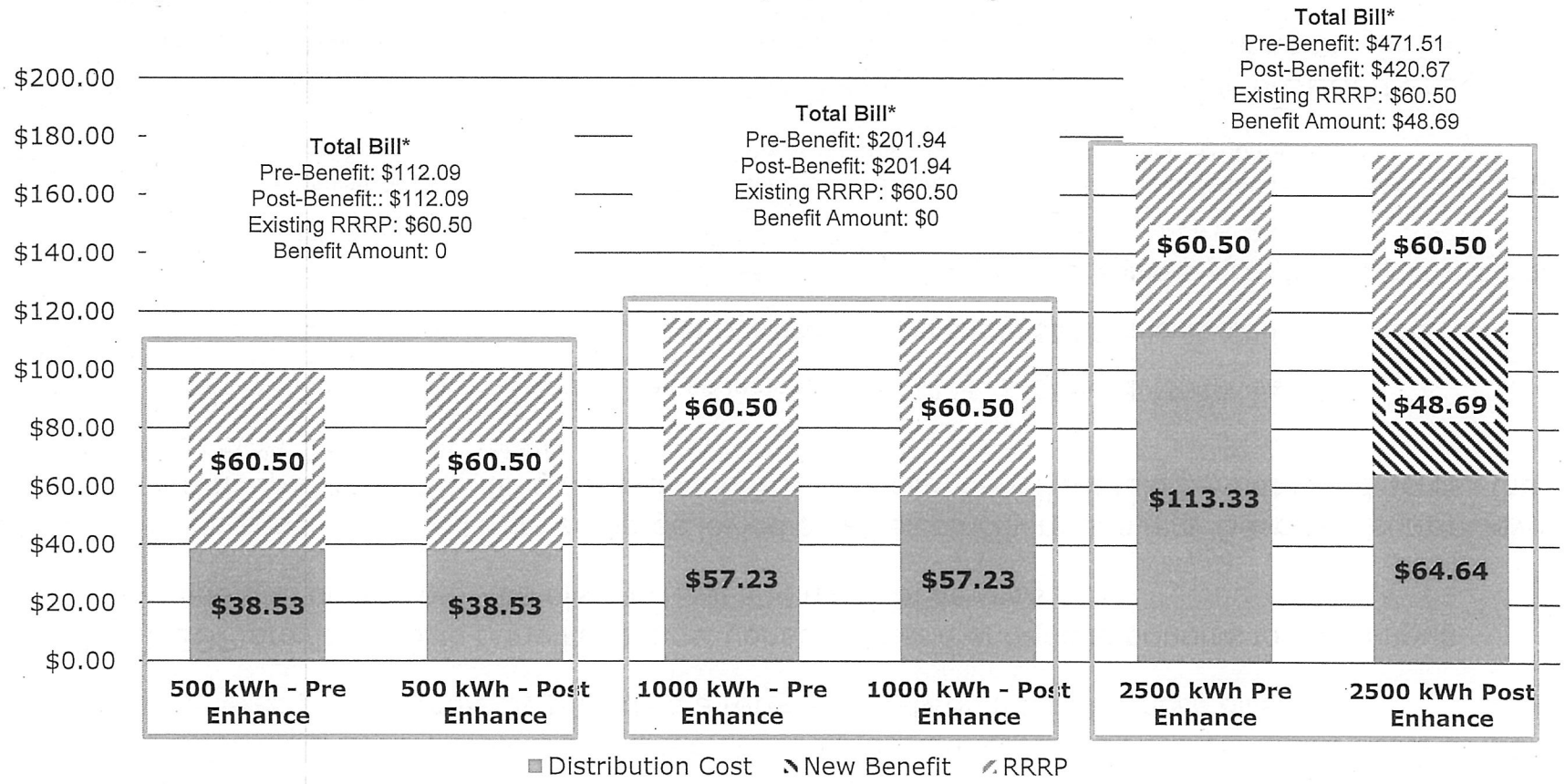
2a. RRRP Enhancement – Hydro One Mid-Density (R1) Ratepayer Impacts

- Under this option, R1 customers will not pay more than $55.70 for distribution service. Customers with costs below this threshold experience no change.



2a. RRRP Enhancement – Hydro One Low-Density (R2) Ratepayer Impacts

- Under this option, R2 customers will not pay more than $64.64, after accounting for the original $60.50 RRRP subsidy. Customers with costs below this threshold experience no change.



2b. Ontario Electricity Support Program (OESP) Expansion

- The OESP is an income-tested, application based program that lowers the electricity costs of the most vulnerable consumers by providing a rebate directly on their electricity bills.
- The OESP provides basic benefits to most consumers and enhanced benefits to Indigenous customers and customers with electric heat and medical devices.
- OESP funding is collected from a charge levied on all electricity ratepayers. Based on current level of program up-take and funding collection, OESP program benefits could be increased across the board by 50%. This would mean:
  - Single low income consumers would see an increase from $30 to $45/ month ($540/year);
  - Families of four with electric heat could see an increase from $55 to $82.50/month ($990/year); and
  - Indigenous and Métis consumers would also see benefit increases at the same level as those with electric heat and medical devices. These benefits could range from $67 to $113/month.
    - The Ministry is also considering options to support a "Delivery" line credit for Indigenous consumers. This would cost ~$18 million/year and would save Indigenous consumers between $75 and $100/month.
- Greater focus and support can be placed on lower income Ontarians by funding OESP through the tax base. This would also reduce costs for all consumers as a result of eliminating the OESP charge.
  - Average residential customer savings: $0.83/month; and
  - Average industrial customer savings: $1.10/MWh.

2b. OESP Expansion – Fiscal Impacts

- 2017 program costs are based at current program sign-up rate – 30% of eligible consumers. Cost projections assume the program grows to 100% of eligible consumers by 2022 and remains at that level.
- At the time of program design, it was estimated that 40-50% participation would be high for an application-based program delivered through electricity bills. However OESP can be enhanced by working to ensure the program uptake is as close as possible to 100%:
  - Streamlining the application process to make it easier and quicker to get through;
  - Putting in place a more aggressive communications strategy to make sure people are aware of the program;
  - Increasing funding for key partner agencies to work directly with individuals who are applying; and
  - Exploring automatic OESP qualification for those who receive provincial programs (e.g., ODSP).
- OEB is currently exploring options for simplifying the OESP process, including exploring options with MCSS on auto-enrollment options, discussing options to eliminate wet signature consent forms with the federal government, and working with partners to do open houses to better reach vulnerable consumers.
- Table below shows estimate of program costs up to 2022:

Year	OESP Status Quo ($M)	+50% ($M)	TOTAL ($M)
2017	$108	$54	$162
2018	$150	$75	$225
2019	$186	$93	$279
2020	$215	$108	$323
2021	$243	$122	$365
2022	$272	$136	$408

2b. OESP Expansion – Considerations

Considerations

- **Framework:** New legislation would be required to establish and define the parameters of a tax-based OESP. This may reveal additional considerations, including possible assessment as a tax credit.
- **Implementation:** Financial flow-through mechanisms would need to be considered in consultation with IESO and LDCs. Likely to be modeled after processes used for the Ontario Rebate for Electricity Consumers (OREC).
- **Alternative Delivery:** If the OESP was funded by the tax-base, it could also be explored whether the OESP could be better delivered as a provincial program via the tax system. This may help ensure that the program's participation rate is as high as possible, and could expand coverage to the ~142,000 low-income households that do not receive an electricity bill.
- **Transition to Social Assistance:** Moving OESP to the taxbase can be a transitional step in folding this program into a reform of social and disability assistance programs and enhancement of MCSS' Social Assistance Management System moving forward.
- **Additional Enhancements:** The enhanced credit could be expanded to include additional eligibility categories of customers. For example, a new "Low Density Consumer" category could be introduced that provides Hydro One R2 and/or R1 customers (highest distribution rates) who are already OESP eligible with the enhanced credit.
- **Variance Account:** The OEB has been collecting program funding in excess of program costs and has accrued a positive balance. This balance must be addressed when moving to the tax base.

2c. Low Income Conservation Benefit Program – Home Assistance Program Enhancement

- Existing low-income programs delivered by LDCs and IESO help qualified residential customers and social and/or assisted housing providers improve their energy efficiency.
  - Programs include the Home Assistance Program and the Retrofit Program (Social Housing stream).
  - $500 million is planned under the Climate Change Action Plan (CCAP) to retrofit social housing.
- ENERGY is currently working with IESO to explore options to enhance and/or expand the existing Home Assistance Program or residential customers:
  - Participants could receive incentives for improved weatherization measures, appliances and lighting controls (e.g., new or upgraded furnace and central AC; windows/doors; washer/dryers, heat pumps (for electrically-heated residential customers).
  - The incremental funds would enable deeper measures and reach additional customers.
  - The new program would be delivered through LDCs and/or IESO and could include education and awareness initiatives.
- The budget estimate below is illustrative and reflects a doubling of the 2015 spending for the Home Assistance Program, which was $20 million.

Calendar Year	**2017**	**2018**	**2019**	**2020**	**2021***	**2022***
Current Budget ($Million)	10	10	10	10	-	-
Fiscal Year	**2017/ 18**	**2018/19**	**2019/20**	**2020/21**		
Proposed New Budget ($ Million)	22.5	40	40	32.5	-	-

***Note:** The Conservation First Framework extends to 2020.

2c. Establishing a New LDC Affordability Fund

- Some electricity customers who struggle to pay their utility bills do not meet the definition of a low-income household and therefore are not eligible for the Home Assistance Program.

- Establishing an "Affordability Fund" for LDCs could provide a means to help struggling customers who do not qualify for low income programs and cannot upgrade their homes without financial assistance.
  - Over time the Fund could help these customers get back on track with their bills and save on disconnection costs.
  - The Fund would be targeted to customers on an as-needed basis (vs. marketed as an open-intake program).

- ENERGY is exploring the potential to establish an Affordability Fund, with funding criteria and reporting requirements.
  - To allow for funds to flow in 2017/18, ENERGY would sign a Transfer Payment Agreement (TPA) with a qualified third party/ies to administer the Fund.
  - LDCs would apply for funding and redistribute support to those customers that meet the targeted eligibility criteria.

- Recipients could receive measures similar to those available in the Home Assistance Program (weatherization, energy efficient appliances and lighting controls).
  - As an illustration, with $200 million, the estimated reach of the fund could be 15,000 to 65,000 households, depending on measures and uptake.

3. OEB – Red-Tape Reductions / LDC Efficiencies and Rates

Joint Govt/Industry Task Force?

Leveraging the OEB

- The Ontario Energy Board (OEB) has a mandate to regulate the electricity distribution sector in the public interest, ensuring the financial viability of the sector while promoting reliable service to customers at just and reasonable rates.
- The OEB, through the Renewed Regulatory Framework for Energy (RRFE), has since 2012 attempted to move the distribution sector towards a performance/outcomes-based regulatory framework.
  - While new reporting requirements such as the LDC performance scorecard are positive developments, RRFE does not tie these system performance expectations to LDC financial performance.
- Performance-based options have the potential to indirectly incent consolidation (in a manner that returns benefits to consumers), improve customer experience, and potentially reduce Return On Equity (ROE) in an equitable manner in the event performance expectations are not met.
- Encouraging shared partnerships on services between utilities will help reduce costs in the back end and encourage further innovation for small to medium sized utilities.

Opportunities

- ENERGY could help promote or accelerate these efforts by asking the OEB to look at opportunities to further drive LDC efficiencies and productivity.
- In parallel, the OEB could be instructed to review business cases behind its own regulatory requirements to reduce "red tape" and eliminate costs that LDCs indicate are creating pressures on operating expenses.
- This could be done through the Minister's letter, the LTEP Implementation Directive, s. 35 of the *Ontario Energy Board Act, 1998*, and/or the 2017 Mandate Letter and other agency business planning processes.

3. OEB – LDC Efficiencies and Rates (Performance Incentives) (cont'd)

Considerations

Sector:

- Exact bill reduction levels are unknown, but real OM&A and some capital cost avoidance can reasonably be expected.
- Could indirectly incent consolidation if LDCs feel they are unable to adequately manage their assets in light of tightening requirements.
- Any initiatives that have a direct impact on LDC profitability could affect the value of Hydro One.
- There is a tension between requiring productivity enhancements and creating firm performance standards. LDCs have to invest to maintain system levels, but also finding cost efficiencies, which is an incentive for innovation. The Ministry and the OEB may have to also explore reducing regulatory burden/barriers on LDCs so they have the tools available to satisfy new performance expectations.

Regulatory:

- The OEB is the electricity distribution sector's independent regulator and as such is responsible for establishing rate-setting mechanisms in line with its statutory objectives.
  - The Ministry would engage with OEB to align on approach, and provide only high-level direction so as to respect OEB's role in determining implementation specifics.
  - The OEB would likely need to conduct policy hearings and stakeholder consultations on these initiatives, though Ministry could request new rules be in place for next major LDC rate cycle.
- LDCs are resistant to peer comparison for a variety of historical and service territory issues. OEB econometric analysis has generally supported limiting peer comparisons. As comparisons would be an important component of benchmarking performance standards, the Ministry may experience sector pushback.
- Updating rate-setting mechanisms and regulatory processes could create regulatory uncertainty and limit LDC activity. The OEB has revised its processes multiple times over the past 15 years.

4. OPG – Operational Efficiencies

- Provide expectation that OPG meet more aggressive cost targets, improving efficiency by ~$3/Megawatt hour (MWh).

Considerations

- OPG recently submitted its 2017-19 business plan to the Province for concurrence. That plan includes the following:
  - Enterprise total generating cost increasing from $48/MWh in 2016 to an average of $55/MWh over the plan period.
  - An average residential monthly bill increases of $1.05/month annually from 2017-2021.
- Much of this increase is due to the Darlington refurbishment project, which increases costs and reduces OPG's generation over the planning period.
- OPG has also shared its stretch targets for total cost of generation, which average $52/MWh over the 2017-19 plan, a ~$3/MWh reduction (5-6%) relative to its $55/MWh business plan targets.
- The Province could provide instructions to OPG to focus on its stretch target as part of the Minister's Concurrence letter. This is a public document that OEB would likely review and incorporate as part of OPG's current rate application.
- Consistent with regulations under the *Ontario Energy Board Act*, OPG is seeking smoothed rates for nuclear as part of its 2017-2021 rate application.
  - As a result, the benefit to ratepayers of reducing generation costs is uncertain.
  - Given that the application extends beyond the business plan period, and to ensure OPG does not delay costs beyond the planning horizon, the Province may want to provide additional direction for out year expenditures.
- If OPG is unable to meet more aggressive cost targets, this could impact net income, and the Province's fiscal plan.
  - The total cost of $3/MWh based on OPG's forecast production of 74 TWh/yr is about $240 million per year.
- The Province could work with OPG to craft language in the concurrence letter in order to avoid setting unintended precedents for future rate application processes.

5. IESO – Market Renewal

- Continue to move forward with Independent Electricity System Operator's (IESO) Market Renewal initiatives:
  - Market Renewal encompasses projects such as a single-schedule system (from the current two-schedule system), more frequent intertie scheduling to better align with other jurisdictions and a day-ahead market. There will be up front capital costs to enable the initiative. IESO is currently assessing these costs.
  - Moving to "technology-agnostic" procurements will provide new opportunities for innovation and modernization and ensure ratepayers receive the best prices possible.

Considerations

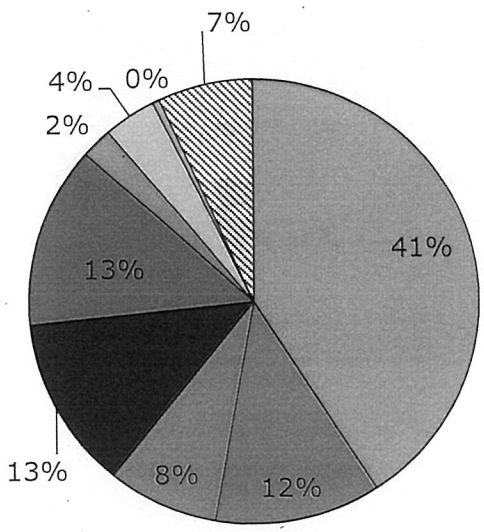
- Changes related to IESO's Market Renewal initiatives, reflected in HOEP and uplifts, are estimated to save up to $300 million per year, starting in 2021, leading to a reduction of:
  - About $1/month or less than 1% at current retail prices for a typical residential bill; and
  - About $1.30/MWh at current all-in prices for industrial and SME electricity consumers.
- The IESO's Market Renewal is a broad initiative that will impact all aspects of Ontario's electricity market. Ontario has had a uniform price since market opening.
- Adopting a technology-agnostic stance will lower the overall cost of providing electricity service by selecting the most cost-effective resources to fulfill various system needs.
- The IESO estimates that the total implementation cost – including a 15% contingency and net of avoided costs – will be $150 million. The bulk of the costs (capital) would only be recovered once the project has been implemented and as the benefits are being realized.

Appendix

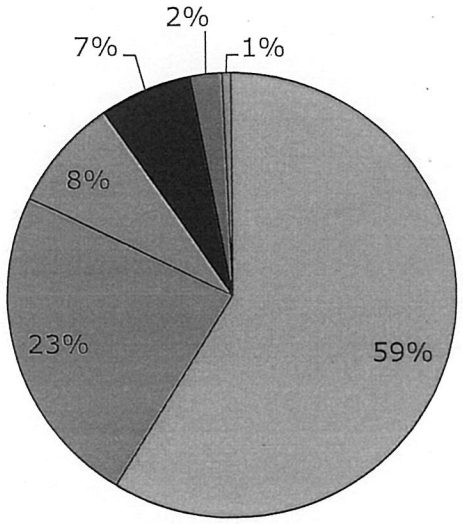
GA Smoothing – Cost Breakout

- The allocation of GA costs in 2016 is compared to the proportion of generation in the graph below.
- This cost breakdown will evolve over time as 2,181 MW of contracted generation comes online in the coming years.

2016 GA Cost: $12.3 billion



2016 Generation: 155 TWh



	GA ($M)	Gen. (TWh)
Nuclear	5,053	91
Hydro	1,473	36
Natural Gas	985	13
Wind	1,552	10
Solar	1,630	3
Biomass, Landfill and Byproduct	278	1
Conservation	467	
IEI Program	60	
OEFC*	842	

*OEFC indicates the cost of generator contracts managed by the OEFC which include contracts for natural gas, hydro and biomass generators.
** Conservation measures, not quantified here, serve to reduce Ontario energy demand. Actual electricity generation would be larger than 155 TWh in the absence of conservation programs.

GA Smoothing – Considerations (*Accounting Treatment: Does Province Control Entity?)*

Defining the Government Reporting Entity

- The government reporting entity should comprise government components and those organizations that are controlled by the government.

Determining Whether Control Exists

- Control is the power to govern the financial and operating policies of another organization with expected benefits or the risk of loss to the government from the other organization's activities.
- Whether a government controls an organization is a question of fact that must be determined by reference to the definition of control described in the prior paragraph and the particular circumstances of each case.
- Requires the application of professional judgment based on the definition of control and the substance of the relationship.
- It is the preponderance of evidence that would be considered in assessing whether a government controls an organization.

GA Smoothing – Considerations (*Accounting Treatment: Does Province Control Entity?)* (cont'd)

Indicators of Control

- There are certain indicators that provide more persuasive evidence of control:
  - Government has the power to unilaterally appoint or remove a majority of the members of the governing body of the organization;
  - Government has ongoing access to the assets of the organization, has the ability to direct the ongoing use of those assets, or has ongoing responsibility for losses;
  - Government holds the majority of the voting shares or a "golden share" 1(1) that confers the power to govern the financial and operating policies of the organization; and
  - Government has the unilateral power to dissolve the organization and thereby access its assets and become responsible for its obligations.

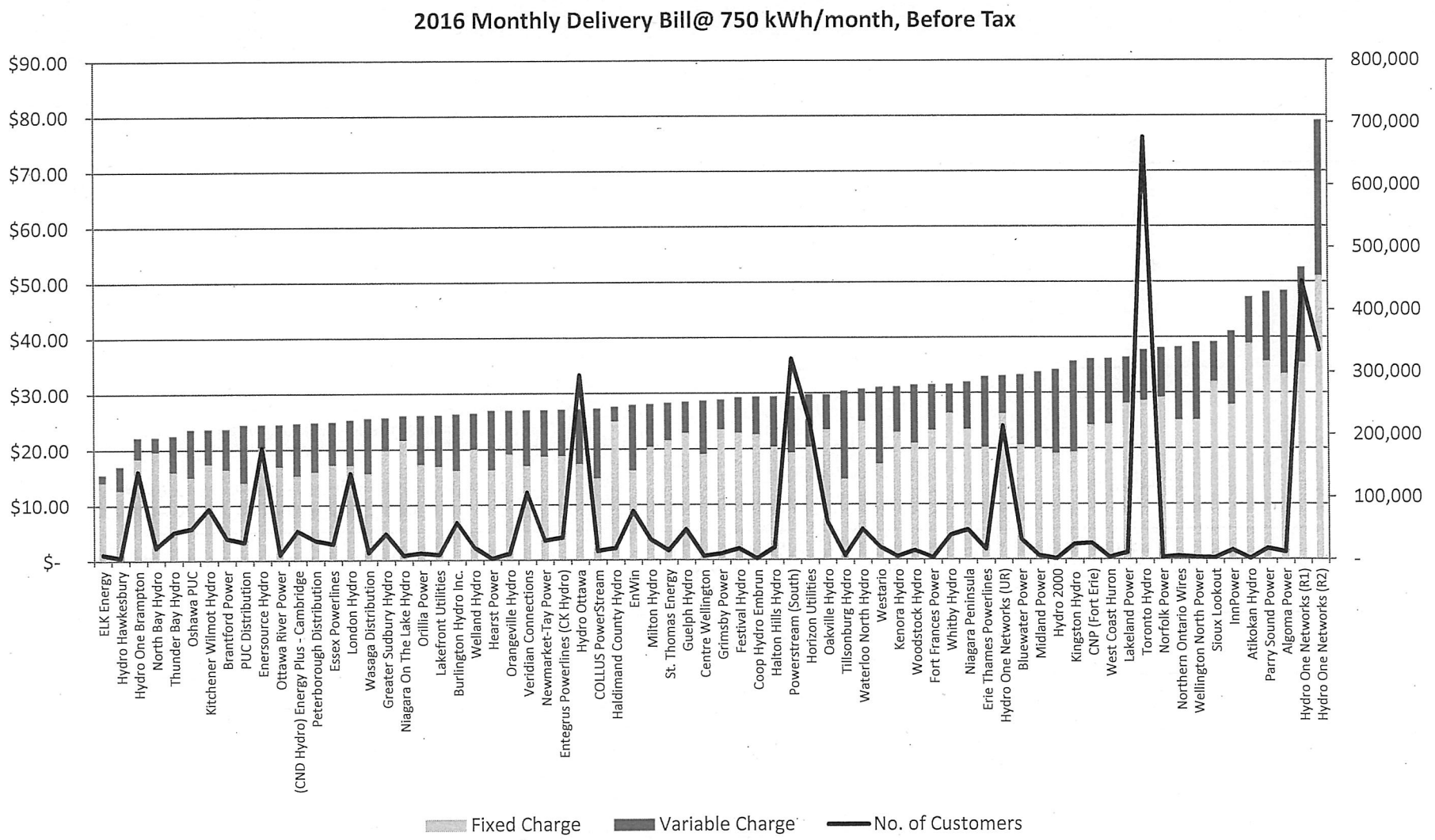
- Other indicators that may provide evidence of control exist when the government has the power to:
  - Provide significant input into the appointment of members of the governing body of the organization;
  - Appoint or remove the CEO or other key personnel;
  - Establish or amend the mission or mandate of the organization;
  - Approve the business plans or budgets for the organization and require amendments;
  - Establish borrowing or investment limits or restrict the organization's investments;
  - Restrict the revenue-generating capacity of the organization, notably the sources of revenue; and
  - Establish or amend the policies that the organization uses to manage, such as those relating to accounting, personnel, compensation, collective bargaining or deployment of resources.

Overview of RRRP Enhancement – Options

	Program Envelope for H1 ($M)*	Monthly Rebate for R2:low density consumers (+/- from status quo)	Monthly Rebate for R1: medium-density customers	Monthly cost to ratepayers**
(Status Quo) RRRP program for R1 and R2 customers of Hydro One (as of January 2017)	$242M	$60.50/month	$0	$1.58/month
(1) Accelerates move to fixed distribution rates for those customers expected to see a reduction in costs.* **	$306-$332M	Distribution costs capped at $64.64/month. Benefit begins at 1,200kWh/month	Distribution costs capped at $55.70. Benefit begins at 955kWh/month.	$2.07/month
(2) Increase total RRRP envelope to reduce R2 and R1 distribution costs at 1000kWh/month to Algoma Power costs at 1000kWh/month	$292M	$66.61/month (+$6.11/month)	$4.91/month	$1.90/month
(3) Change RRRP program to a volumetric-based tiered benefit program where rebate will be dependent on customer consumption levels				
(3a) • Assume total RRRP program envelope of $300M and distribute to R2 & R1 based on tiered-benefit levels. • Tiered-benefit levels: divide customer base into 3 equal buckets. Allocate $300M to each bucket in proportion to contribution of H1 distribution revenues. • Assume fixed current $60.50 rebate no longer applies equally to all R2 customers.	$300M	750kWh or less: $37.65 (-$22.85) 750 to 1,200 kWh: $44.74 (-$15.76) 1,200 kWh or more: $60.69 (+$0.49)	600Kwh or less: $16.05 600kwh to 1,000Kwh: $19.22 1,000kwh or more: $25.67	$1.90/month
(3b) • Expand RRRP program envelope and distribute to both R2 & R1 customers based on tiered-benefit levels. • Tiered-benefit levels determined in same manner as 3(a). • Assume fixed current $60.50 still applies to all R2 customers	$542M	750kWh or less: $81.66 (+$21.16) 750kwh to 1,200 kWh:$91.90 (+$31.40) 1,200 kWh or more: $114.95 (+$54.45)	600 kWh or less: $23.19 600kwh to 1,000 kWh: $27.76 1,000 kWh or more: $37.09	$3.20/month

*All option costs are inclusive of status quo RRRP, except 3(a) which assumes a phaseout of the program.
**Only if left on ratebase. Will increase based on yearly expansion.
***Based on Hydro One estimates. Consumer benefit is total costs subtract the cap amount.
Note: figures do not include ~$50M in RRRP costs currently supporting Algoma Power and Hydro One Remotes

Wide Variation in Delivery Rates Across the Province



* Hydro One customer numbers are for 2016 and divided by rate class. Hydro One R2 does not reflect RRRP enhancement.

All RRRP Options – Fiscal Considerations

Ratepayer Impacts

- Some consumers with low consumption may still have proportional higher distribution rates. These customers will experience bill pressures both from the transition to fixed rates and from expected general rate increases (for which they are responsible for an increasing proportion).
- Hydro One distribution rates are expected to climb in coming years. The projected 2017 fixed rates of $64.64 (R2) and $55.70 (R1) will rise through the transition period. Therefore customers who receive a benefit will still experience bill increases.

Fiscal Impacts

- Having the original RRRP subsidy remain on the rate-base allows for program expansion from the fiscal plan while avoiding an additional $242M tax-base impact.
- Hydro One is expected to submit its cost of service application for 2018 and beyond (3-5 years) in spring 2017. The rate increases requested in this application could potentially increase the proposed fixed rate significantly, which would have significant impact on fiscal requirements and ratepayer impacts.
- Cost for Hydro One to implement and to upgrade customer billing systems is likely material. Those costs would ultimately be passed back to the customers of those LDCs.
- The Ministry will need to consider how consumption thresholds and/or benefit levels rise alongside the expected rise in distribution rates.
- There is a high risk of entrenching external subsidies, as there is no clear path to transition away from subsidies and toward a more sustainable, cost-based rate framework.

All RRRP Options – Implementation Considerations

- LDCs would track credit variances in a variance account and settle amounts with the IESO, which receives taxpayer funding from ENERGY/MoF in the same manner as the 8% rebate happens today.
  - While this new program would build on exiting transfer payment protocols in use under the ORECA, it would be complex for Hydro On to implement, as CIS upgrades are likely needed.
  - Depending on the option chose, OEB estimates that the implementation would take at least 6 months or more, following finalized regulations, given need to change customer billing systems and determine settlement procedures.
- RRRP focuses on ameliorating differences in distribution costs, not the entire Delivery line of the residential bill which also includes transmission and line loss costs.
- Eligibility for RRRP is currently determined by LDC density levels. Hydro One R1 has similar density levels to some other LDCs (e.g., InnPower). Thus if the intention is to limit expansion to just Hydro One R1, a new eligibility criteria would have to be developed (legal and regulatory risks would need to be explored).
- New legislation would be required to establish this program. Legal and regulatory risks (particularly with regards to legal authority and to the Ontario Energy Board's role in setting rates and incenting efficiencies) require further analysis.
  - Some options may impact OEB rate-setting processes and create disincentives towards Hydro One productivity and performance improvements.
- Providing a tax-based subsidy outside of exiting rate setting mechanism reduces incentives for customers and distributors to engage on operating costs and capital planning.
- The development of an appropriate program can be initiated through a letter to the Ontario Energy Board via s. 35 of the *Ontario Energy Board Act, 1998*.

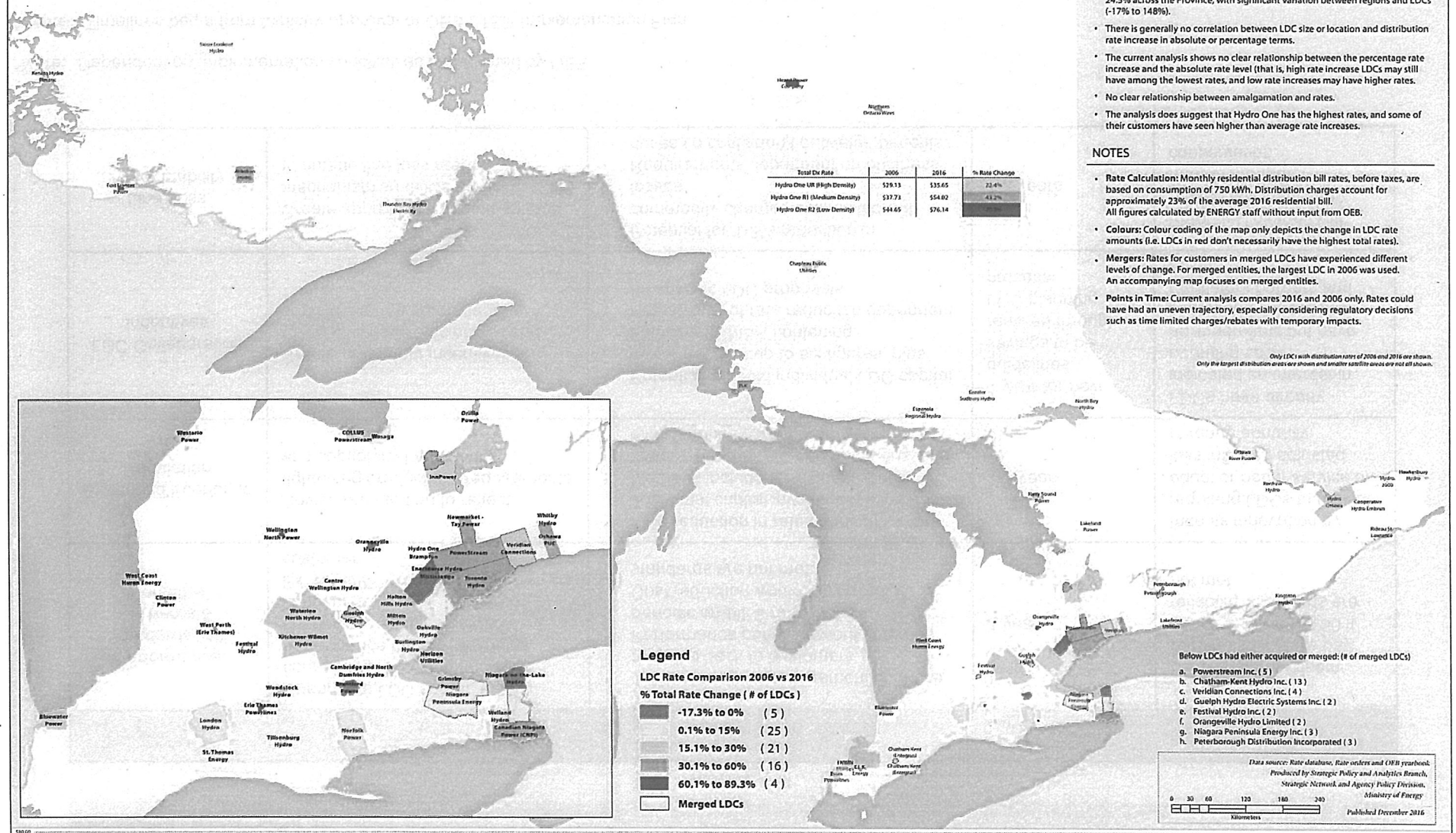
OEB – LDC Efficiencies and Rates (Performance Incentives)

Option	Description	Potential Cost Impacts*	Timeline**	Notes
Performance Standards with Rewards & Penalties	Strengthen LDC scorecard by connecting to LDC financial performance through earnings sharing or penalties paid to consumers. Ex: SAIDI/SAIFI; OM&A per customer	• 1-2% of revenue requirement could be recycled back to customers. • Performance penalties would be real, periodic on-bill $ reductions. • Cost reduction would only occur if standards are not met.	1 year	UK Regulator Ofgem requires utilities to pay consumers up to £50 if reliability standards are not met.
Enhanced Economic Regulation	Revise rate-setting to reflect tightening productivity requirements and capital cost avoidance.	• <1% reduction in rates annually, with additional capital investment avoidance. • Methods include stronger productivity factors, broader peer comparisons, and elimination of ICM.	1-3 years	Incents innovation by requiring LDCs to provide equal or better service on less inflation-adjusted revenue annually.
LDC Collaboration Incentives	Create regulatory incentives for LDCs to pursue efficiencies and service sharing agreements.	• Potential to avoid individual LDC capital investments of up to six figures, plus additional OM&A tightening. • Actual level of rate reduction dependent on specific LDC proposals.	1 year for new guidelines, savings to be realized through LDC planning process.	LDCs have already indicated an interest in pursuing such arrangements but have expressed concern on regulatory barriers and costs.
Line Loss Accountability	Create appropriate benefit-sharing mechanism so LDCs are incented to pursue line loss reductions.	• Potential for 1-3% reduction in commodity charges associated with losses. • Requirements dependent on business cases so costs don't outweigh benefits.	1-2 years	Potential linkages with related proposal for in-front of the meter conservation.

***Note:** Dependent on implementation specifics as determined by OEB

****Note:** Timelines begin from Ministry approval of OEB LTEP Implementation Plan

LDC Distribution Rate Changes (2006 vs 2016)

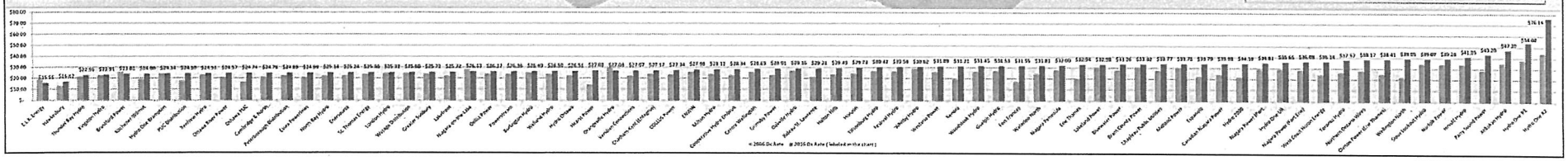


KEY FINDINGS

- In summary, distribution rates (including rate riders) have increased by about 24.5% across the Province, with significant variation between regions and LDCs (-17% to 148%).
- There is generally no correlation between LDC size or location and distribution rate increase in absolute or percentage terms.
- The current analysis shows no clear relationship between the percentage rate increase and the absolute rate level (that is, high rate increase LDCs may still have among the lowest rates, and low rate increases may have higher rates.
- No clear relationship between amalgamation and rates.
- The analysis does suggest that Hydro One has the highest rates, and some of their customers have seen higher than average rate increases.

NOTES

- **Rate Calculation:** Monthly residential distribution bill rates, before taxes, are based on consumption of 750 kWh. Distribution charges account for approximately 23% of the average 2016 residential bill.
  All figures calculated by ENERGY staff without input from OEB.
- **Colours:** Colour coding of the map only depicts the change in LDC rate amounts (i.e. LDCs in red don't necessarily have the highest total rates).
- **Mergers:** Rates for customers in merged LDCs have experienced different levels of change. For merged entities, the largest LDC in 2006 was used. An accompanying map focuses on merged entities.
- **Points in Time:** Current analysis compares 2016 and 2006 only. Rates could have had an uneven trajectory, especially considering regulatory decisions such as time limited charges/rebates with temporary impacts.



Published December 2016

Potential Offsets – CCAP

- Ontario's Climate Change Action Plan (CCAP) commits $6.0 – 8.3B over 4 years to greenhouse gas reduction initiatives, funded by Cap and Trade proceeds.

- The CCAP includes up to $1.32B over 4 years to help keep electricity rates affordable for residential and industrial consumers. This initiative is estimated to reduce up to 3,000,000 tonnes of greenhouse gas by 2020.

$ Billions	2017-18	2018-19	2019-20	2020-21	Total
Total Committed in CCAP	**1.5 – 2.1**	**1.5 – 2.1**	**1.5 – 2.1**	**1.5 – 2.1**	**6.0 – 8.3**
Electricity Price Mitigation	*0.33*	*0.33*	*0.33*	*0.33*	*1.32*

- Ontario's Climate *Change Mitigation and Low-carbon Economy Act, 2016* requires that **all proceeds** generated from **Cap and Trade** be used to **help reduce greenhouse gas emissions**.

- Should the government proceed with the HST rebate, CCAP funding previously allocated to mitigate electricity price increases could be used to fund other existing initiatives that help reduce greenhouse gas emissions, including:
  - Regional Express Rail
  - Hamilton LRT
  - Hurontario LRT
  - Energy efficiency in schools

- publicly funded - ~~[illegible]~~ hosps, sch bds
  - $150 M/yr rebates
  - have to apply - CRA knows
    ⇒ CRA coordn w/ LDCs if want to exclude

  - cap?

  - sunset thru reg?

  - not on top of HST → it is the HST

    (OCEB was actually ~ 110% bec. rebate on HST)

  - leave the Class B in the stump *

Ontario

MINISTRY OF
ENERGY

Electricity Rate Mitigation Update

October 26 2016

Status: Bill 13

- Bill 13, the *Ontario Rebate for Electricity Consumers Act, 2016*, was introduced on September 15th.
- On September 29, Bill 13 passed second reading and was referred to the Standing Committee on Justice.
- At committee stage, public hearings were held on October 3rd and clause-by-clause considerations were held on October 17th.
- Bill 13 was reported back to the legislation with no amendments on October 18.
- On October 19, the *Ontario Rebate for Electricity Consumers Act, 2016,* passed third reading and is waiting Royal Assent. It is scheduled to come into force on January 1, 2017.

Status Overview – Key Regulations

- **8% Rebate General Regulation:**
  - Working with LSB on comments on the first Draft of the regulation received from Legislative Counsel. Expect an updated draft shortly.
- **Minister's Regulation on 8% Bill Presentment:**
  - Draft received form Legislative Counsel;
  - Preferred language shared with Legislative Counsel – who flagged concerns with authority to prescribed preferred language for bill insert. See next slides for details.
  - Staff require clarification on level of prescription required for envelope messaging (see slide 5).
- **RRRP Amendment (442/01):**
  - Draft received from Legislative Counsel; Consultation draft shared with OEB and Hydro One to ensure drafting is clear.
  - Legislative Counsel has flagged some concerns with authority to prescribe the proposed bill insert language, as drafted. See next slide for details.
- Other required Regs are proceeding through drafting.

Proposed RRRP Bill Insert Messaging

- LSB shared proposed envelope and bill insert messaging for RPP and RRRP customers with Legislative Counsel.
- Legislative Counsel has expressed concerns with the Ministry's authority to prescribe language not associated with the education of consumers.
- Proposed alternative messaging options are on the following slide.
    - Approval of changed language is required this week in order to meet Cabinet tracking requirements.
- Slides 7 to 9 showcase the two design treatments for the 8% and RRRP bill inserts as well as the envelope.

RPP Alternative Bill Insert Messaging Options

Current Message

On January 1, 2017 your hydro bill wend down 8%

Ontario's government is taking action to reduce electricity costs and will rebate an amount equal to the provincial portion of the HST on your monthly hydro bill. That's an 8% rebate for Ontario families, and on average this will mean $130 more in your pocket each year.

This is all part of Ontario's balanced plan to build the province up and help people in their everyday lives. Across Ontario, about five million residential consumers, farms and small businesses will benefit from these changes.

[LDC name] will implement these savings onto your bill by July 1, 2017. Applicable savings will be retroactive to January 1, 2017.

To learn more visit Ontario.ca/energy

Proposed Alternative Message (all bills)

Ontario is helping reduce your electricity costs.

Ontario's government is reducing electricity costs by rebating an amount equal to the provincial portion of the HST on your monthly hydro bill. That's an 8% rebate for Ontario families, and an average savings of $130 each year.

Across Ontario, about five million residential consumers, farms and small businesses will benefit from this rebate.

[LDC name] will implement these savings onto your bill by July 1, 2017. Applicable savings will be retroactive to January 1, 2017.

To learn more visit Ontario.ca/energy

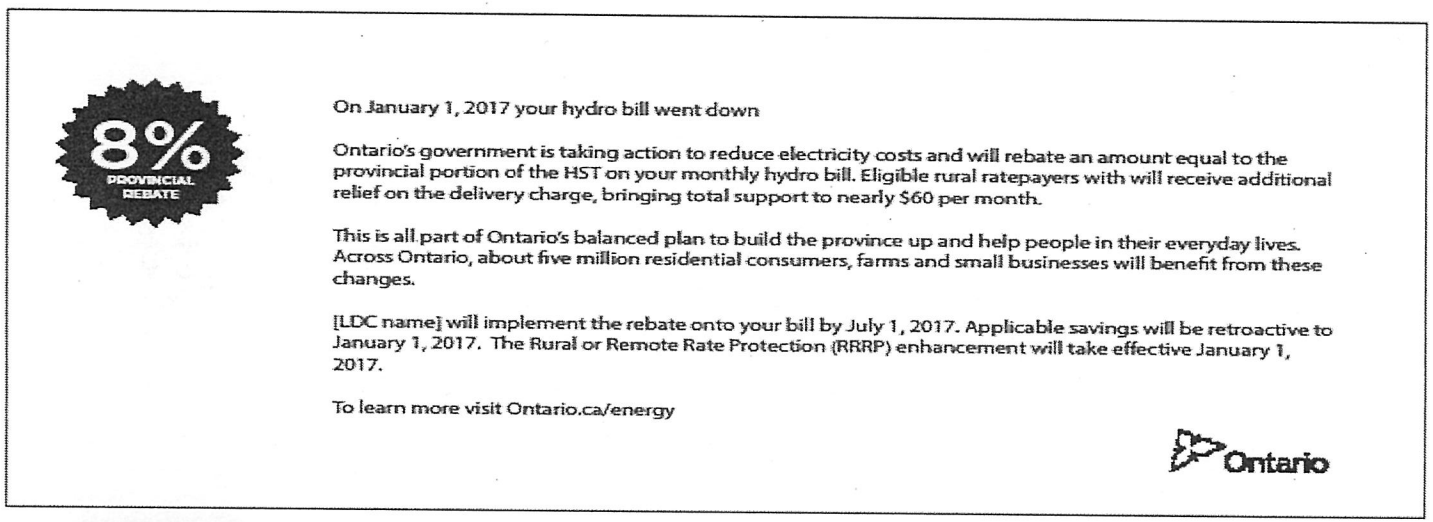
RRRP Alternative Bill Insert Messaging Options

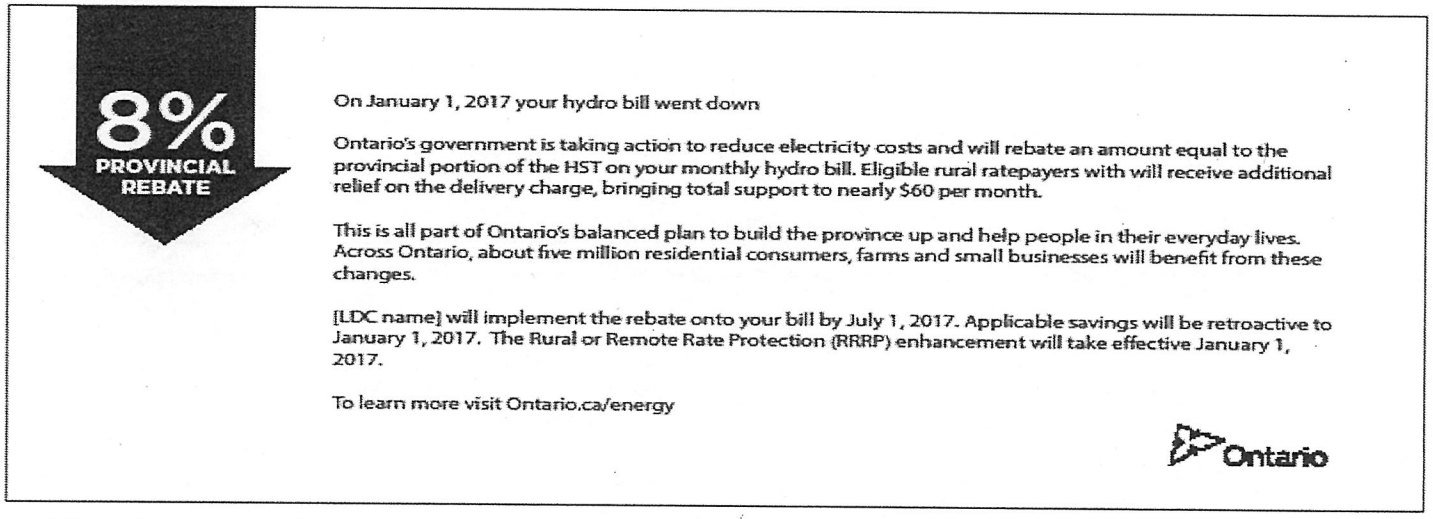
Proposed Additional Message for RRRP

- Eligible rural ratepayers will receive additional relief that will decrease total electricity bills by an average of $540 a year or $45 a month. This decrease will be reflected in the delivery charge, as a result of the enhanced Rural or Remote Rate Protection (RRRP)

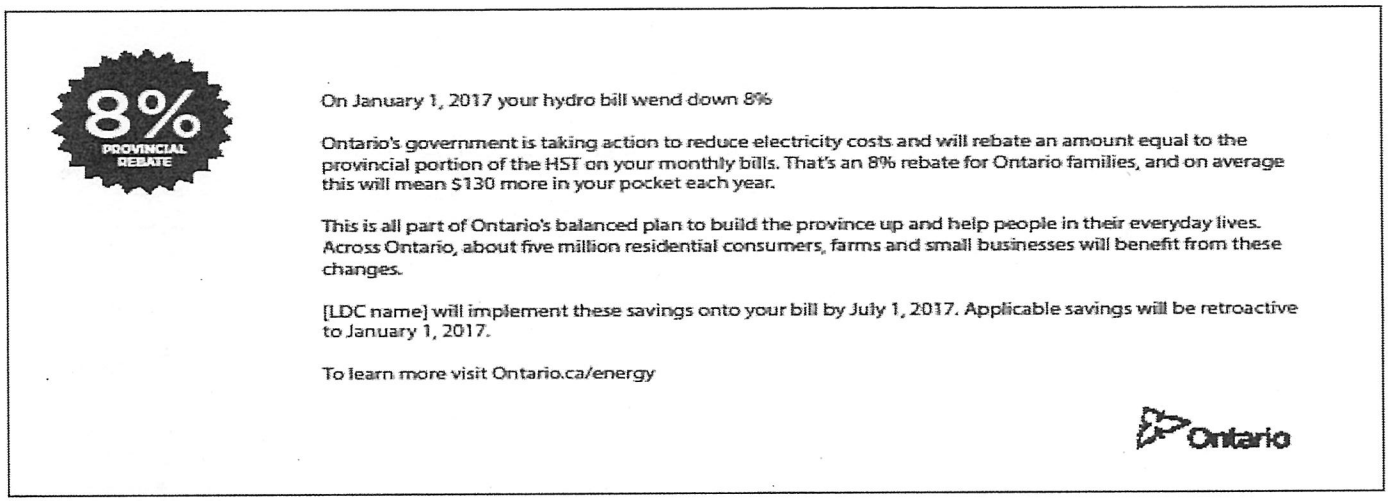
This messaging would appear on the bill inserts of Hydro One's R2 customers receiving RRRP only.

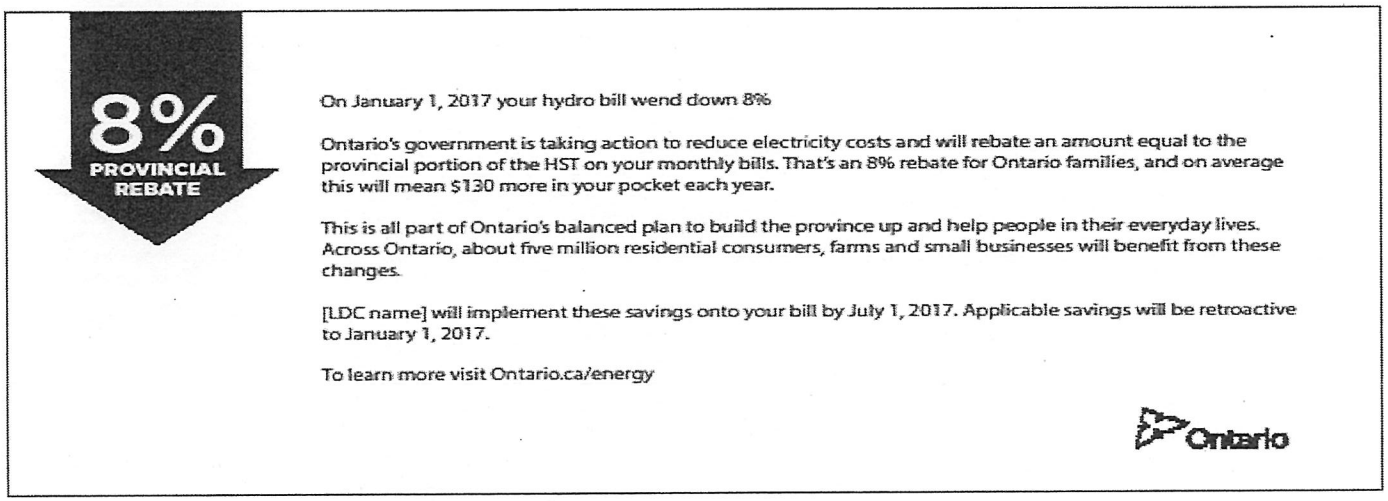
RRRP Bill Insert Mock-up



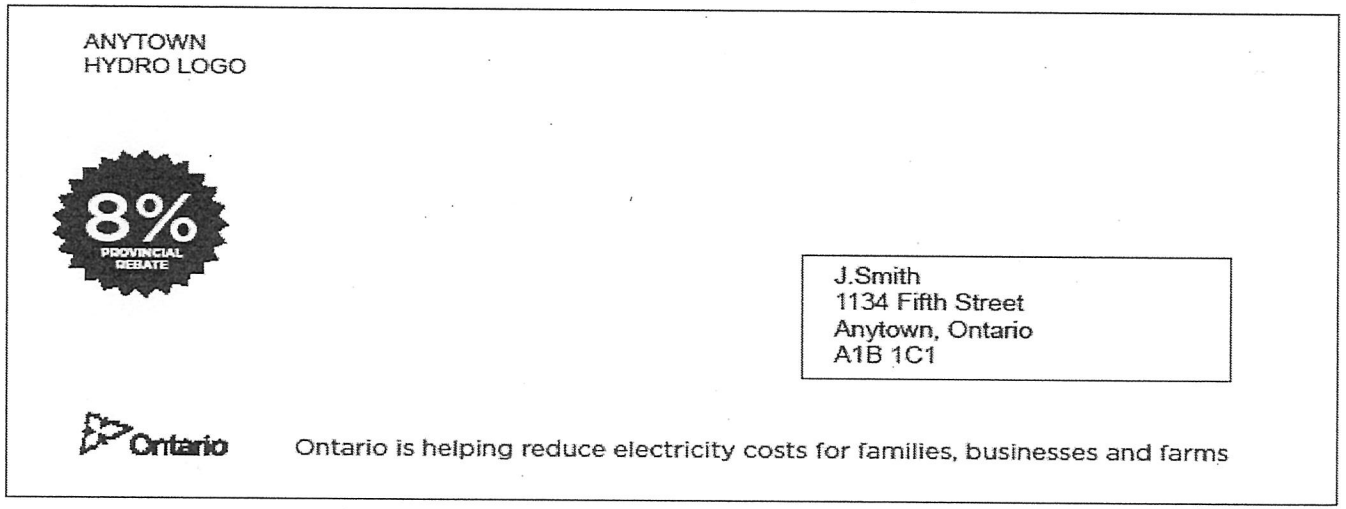


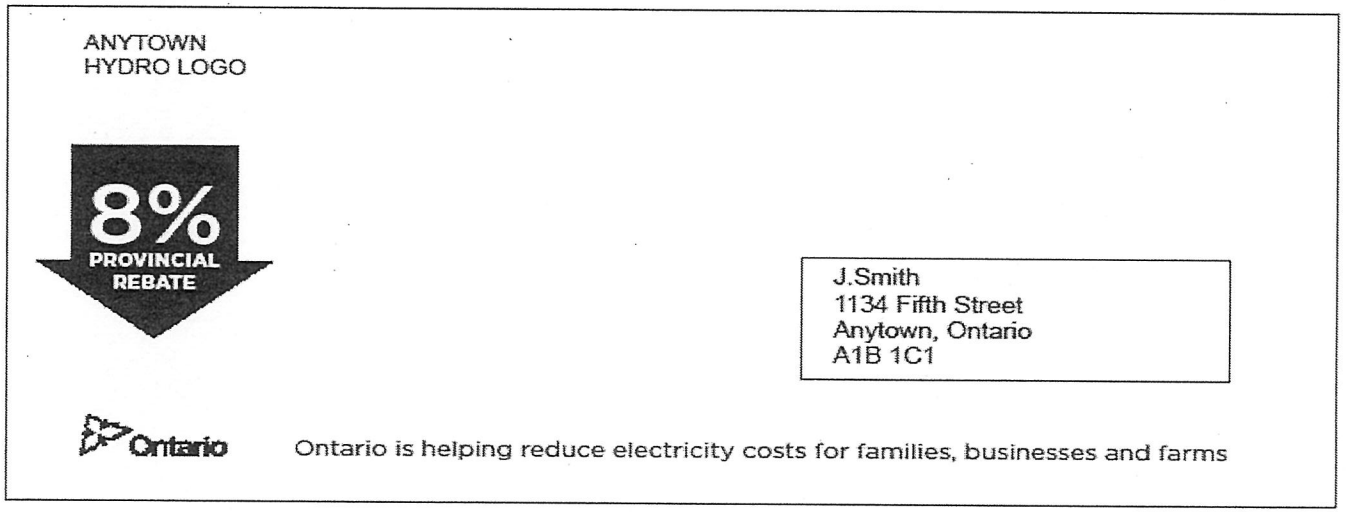
8% Bill Insert Mock-up





Envelope Design Mock-Up



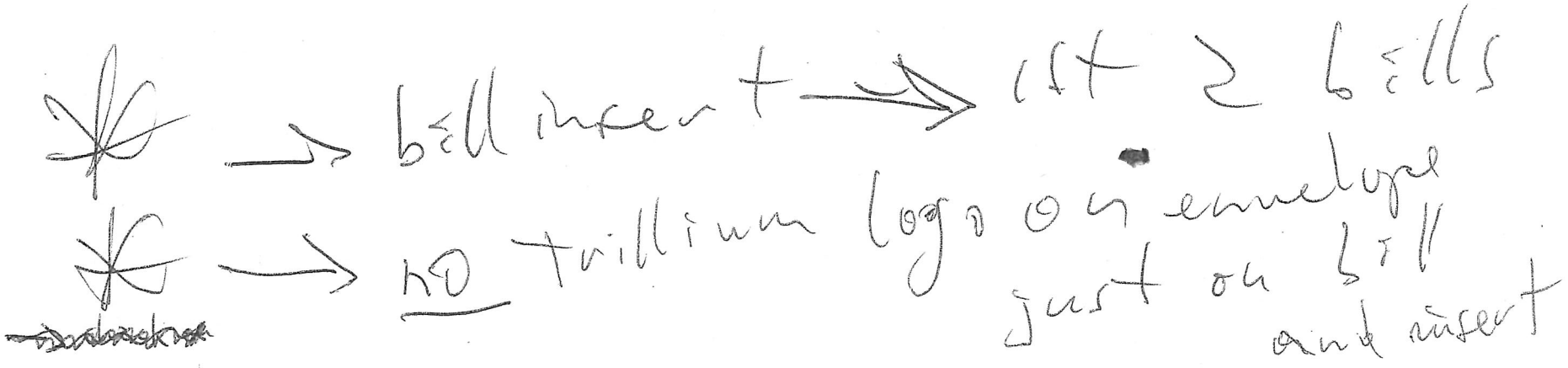


Ontario

MINISTRY OF
ENERGY

Electricity Rate Mitigation
Minister's Briefing

October 31, 2016



Delivering the Electricity Rate Mitigation Initiative

- On September 12, in the Speech from the Throne, the government committed to introducing measures that would provide consumers with rate relief on their electricity bills, including three main initiatives:
  1. Providing roughly 5 million eligible customers with an 8% rebate
  2. Expanding rate protection for eligible rural or remote customers
  3. Expanding eligibility under the Industrial Conservation Initiative (ICI)
- On September 14, the Ministry of Energy received Cabinet approval to introduce legislation that would enable a broader Electricity Rate Mitigation Strategy for electricity consumers across the province.
- On September 15, the Minister of Energy introduced Bill 13, the *Ontario Rebate for Electricity Consumers Act, 2016*, (ORECA) that puts in place an 8% rebate for residential, small business customers and farms. Bill 13 is scheduled to come into force on January 1, 2017.
  - The rebate could only be changed or removed by amending that Act.
  - The rebate is uncapped (regardless of your energy consumption consumers will receive the rebate)
- To implement the rate relief provided for under Bill 13, a number of additional regulations and regulatory amendments are needed to support the electricity rate mitigation strategy.

Consultation

- The Ministry engaged with stakeholders in a number of ways in developing the proposed regulations and regulatory amendments needed to support the rate mitigation initiative.

Regulatory Registry:

- On September 28th, the Ministry of Energy posted a proposal for comment on the Regulatory Registry to provide stakeholders with the opportunity to comment on the electricity mitigation initiative.
- The posting included proposed changes to RRRP, ICI and new regulations needed to support the 8% rebate.
- The posting closes on November 12th.

Working Group:

- The Ministry hosted an LDC Working Group session on October 6th. Nearly 40 LDCs representatives attended in person or by phone.
- The Working Group provided important feedback for the Ministry to consider in the development of the Regulatory package including billing system limitations that were incorporated into proposed bill presentment requirements.

Standing Committee of Justice - Public Hearings for Bill 13:

- On October 3, a number of organizations as well as individual citizens made presentations to the Standing Committee on Justice regarding Bill 13.

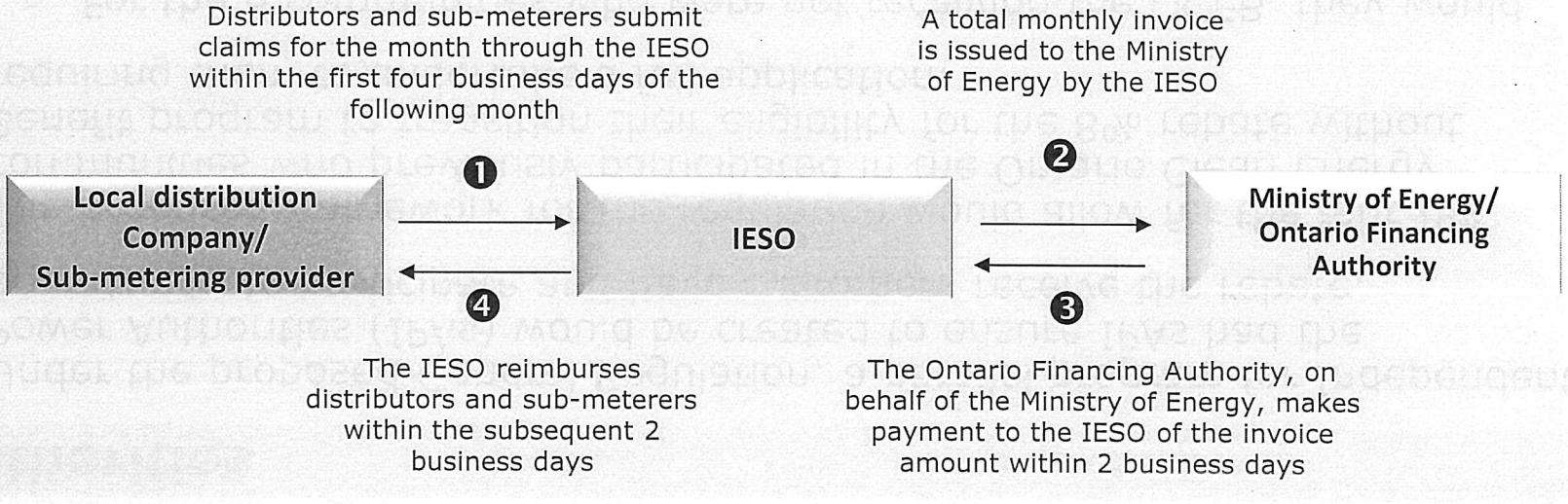
Summary of Regulatory Package

- There are six regulations or regulatory amendments that are tracking for approval for LRC / Cabinet
- There is also one Minister's Regulation on Invoicing requirements that does not require LRC or Cabinet approval, however this will form part of the package to inform Cabinet of bill presentment decisions.

1. General Regulation to implement the 8%: Creating a new General Regulation made under the *Ontario Rebate for Electricity Consumers Act, 2016.*	• New regulation that would provide the necessary mechanics to support the implementation of the 8% rebate, including treatment of Independent Power Authorities (IPAs)
2. Rural or Remote Electricity Rate: Amending O. Reg. 442/01(Rural or Remote Electricity Rate Protection) made under the *Ontario Energy Board Act, 1998.*	• Amending a regulation to update the Rural or Remote Rate Protection (RRRP) program, to provide increased rate relief to eligible rural customers (low-density customers of Hydro One)
3. ICI: Amending O. Reg. 429/04 (Adjustments Under Section 25.33 of the Act) made under the *Electricity Act, 1998*	• Amending the regulation to expand eligibility for Class A status to all electricity consumers with an average peak demand over 1MW, regardless of sector. Newly eligible consumers will have to opt-in, should they wish to participate.
4. OCEBA Amending O. Reg. 495/10 (General) made under the *Ontario Clean Energy Benefit Act, 2010*	• Amending a regulation to prescribe a cut-off date for electricity consumers to submit Ontario Clean Energy Benefit claims to bill issuers and a second cut-off date for bill issuers to submit reimbursement claims
Consequential Amendments **5. Amending O. Reg. 275/04** (Information on Invoices to Certain Classes of Consumer of Electricity) **6. Amending O. Reg. 161/99** (Definitions and Exemptions) made under the Ontario Energy Board Act, 1998.	• Some minor regulatory amendments consequential to implementing 8% rebate. • Updating invoicing regulation to allow rebate line item to appear on invoices.
7. Creating a new Minister's Regulation on Invoicing Requirements	• Made under the *Ontario Rebate for Electricity Consumers Act, 2016*, including direction on required wording for line item, placement on invoice, bill inserts, and on-envelope messaging.

1. General Regulation – Key Points

- The proposed General Regulation under the *Ontario Electricity Rebate Act, 2016* would put in place a framework very similar to the framework developed to deliver the Ontario Clean Energy Benefit.
- The legislation and regulation provides instruction and clarity to LDCs on the 8% rebate and how it is to be calculated (e.g. rebate is calculated before taxes, clarifies that the rebate is applied to those receiving OESP post-OESP amount)
- The proposed regulation also provides an outline on how the payments flow through to customers (per the diagram below)
- The proposed General Regulation also provides a process for Independent Power Authorities and customers of Cornwall Electric and other exceptional cases to receive the provincial rebate



1. General Regulation – Access for Independent Power Authorities

- Under the proposed General Regulation, a parallel program for Independent Power Authorities (IPAs) would be created to ensure IPAs had the opportunity to participate and have customers receive the rebate.
- The proposed framework for the regulation would allow for the four IPA communities who previously participated in the Ontario Clean Energy Benefit program to transition their eligibility for the 8% rebate without requiring them to undertake a full application.
    - For the 6 communities who were not receiving the OCEB, they would still be eligible for the 8% rebate, but would need to go through the enrollment process.
- Significant efforts were made by the Ministry to enroll the six communities who did not receive the OCEB. Full enrollment of IPAs may be delayed or untenable for the following reasons:
    - Based on previous experience, the enrolment process would take several months. It is highly unlikely arrangements could be in place for January 1, 2017.
    - IPAs are not provincially regulated. Instead, they are federally funded, and there is no requirement for customer billing. It is not known if these communities have a billing system in place.

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

- The Ministry of Energy is seeking to increase the amount of rate protection available for eligible rural or remote electricity customers.
- Under the RRRP regulation the amount of rate protection available to Hydro One's R2 customers (residential customers who are classified as low density) is capped at a fixed amount of $127 million – which amounts to a monthly subsidy of $31.50.
- The Ministry of Energy is proposing to increase the $127M, currently available for rate protection for eligible customers, by $116.4M, to $243.4M.
    - The original Cabinet Minute approved an increase of $110 million; however, based on Hydro One's updated number of eligible customers, the proposed $110 million is not sufficient to provide the estimated $29 per month or combined benefit of $45 per month, as originally estimated by the Ministry.
    - Increasing the funding would ensure that eligible customers would see an approximate increase of $29 in the monthly subsidy from $31.50 to $60.50 per month.
    - The increased RRRP subsidy would bring the average bill for a Hydro One R2 customer closer in line with the average bill for other rural customers across the province.
- Current funding for the RRRP program is paid for by all electricity customers across the province. The additional $116.4 million would increase the monthly cost for an average residential customer by ~$0.60.

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

- As part of the Price Mitigation initiatives, there was a desire to ensure that the funding (e.g. $243.4M) for R2 customers would be adjusted annually to reflect any increases on their electricity bills.
    - R2 rural consumers who receive rate protection under the RRRP have seen their monthly rate protection decline over time, as the fixed monthly amount of rate protection ($31.50) has not increased over time, while rates have been increasing annually.
- The proposed amendments to the regulation would add an escalating factor to the new base rate protection amount.
- Starting in 2018, and every year after, the total amount of rate protection available to Hydro One's R2 customers would be increased by a percentage, as calculated by the Ontario Energy Board.
    - This percentage would be based on the simple average, as calculated by the OEB, of the change in base distribution rates of all distributors from the previous year (this is a similar mechanism that is used with Algoma Power which is also a recipient of RRRP and has RRRP adjusted every year by the OEB).

3. Industrial Conservation Initiative Expansion (ICI)

- In 2010, when Ontario introduced ICI, the program was available to customers with a peak demand greater than 5 MW and in 2013 was subsequently expanded to allow eligible customers with a peak demand for electricity above 3 MW and less than or equal to 5 MW to opt in to the program.
    - ICI is intended to incent a greater number of Ontario businesses to lower their electricity costs by reducing electricity demand during peak hours. Reducing peak demand increases the reliability of the power grid, reduces greenhouse gas emissions and helps defer the need to procure new resources.
    - Currently, electricity consumers over 5 MW and consumers from 3-5 MW in certain energy intensive sectors are eligible for ICI (i.e., approximately 300 Class A electricity consumers).
- The Ministry of Energy is proposing to expand eligibility under ICI to include all electricity consumers and market participants with an average monthly peak demand greater than one megawatt by amending Ontario Regulation 429/04 (Adjustments Under Section 25.33 of the Act) made under the Electricity Act, 1998.
    - The base setting period for the expanded program would begin in 2016, with the benefit seen by new consumers starting July 1, 2017 (i.e., the beginning of the next adjustment period).
- ICI would be expanded so that all electricity consumers over 1 MW are eligible for the program.
    - Newly eligible consumers in the program would include: mid-sized industrial, institutional and commercial category (i.e., automotive supply chain companies, office towers, large shopping malls, greenhouses and others).
    - With these changes, over 1,000 new businesses are estimated to be eligible to participate in ICI.

4. Ontario Clean Energy Benefit Act
5. and 6. Consequential Amendments

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

- In addition to enacting the provisions for the 8% rebate, Bill 13 also included amendments to the *Ontario Clean Energy Benefit* Act, 2010 that provided the necessary authority to prescribe cut-off dates for retroactive claims.
- Proposed amendments would establish February 1, 2017 as the cut-off date for customer with an eligible account to come forward with unpaid OCEB claims.
- LDCs/USMPs would be given a 6 months period to process any claims submitted before February 1, 2017.

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

- This proposed amendment is consequential to the implementation of the Ontario Rebate for Electricity Consumers Act, 2016 as it aligns new invoicing requirements with established rules.

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

- This proposed amendment is consequential to the implementation of the Ontario Rebate for Electricity Consumers Act, 2016 as it aligns 8% program requirements with the regulatory framework governing exempted distributors such as landlords.

6. Minister's Regulation – Invoicing Requirements

- In order to ensure that consumers are made aware of the new rebate, a proposed new Minister's regulation under ORECA would be created to provide clear direction to energy vendors regarding.
- LDCs have indicated they will likely be operational by January 1 2017, however, the legislation gives LDCs until July 1 2017 to become operational in delivering the 8% rebate and associated messaging.

On Bill Messaging

- On bill messaging will be permanently displayed on electricity bills (e.g. as long as 8% rebate is in place).

Messaging for the 8% rebate

- After discussion with Ministry of Finance, the Ministry is proposing **[8% Provincial Rebate]** as the required line item phrasing.
    - At the Working Group, some LDCs flagged their billing systems have a 30 character limit. The above phrasing complies and should result in fewer exemption requests.
- Suggested call-out messaging is **[Ontario is providing a rebate on your electricity costs equal to the Provincial portion of HST].**

Messaging for RRRP (for H1 R2 customers only)

- RRRP will not be listed as separate line item on the invoice; however, a call-out message will be required: **[Your delivery charge is reduced through Rural or Remote Rate Protection by X per month].**

Envelope Messaging (See next slides)

Messaging for the 8% rebate

- Energy vendors will be directed to include prescribed messaging on the envelope to alert consumers to the new 8% rebate. (A 6 month transitional period will be permitted).
- Messaging on envelopes is required for a minimum of one year by LDCs

Bill Insert Messaging (See next slides)

- Energy vendors will be directed to include a bill insert with prescribed language providing consumers with information regarding the new 8% rebate. The bill insert is included once a customer starts receiving the 8% rebate.
- Customers of Hydro One (R2) who receive RRRP will be provided with additional information about the RRRP program on bill inserts targeted to those customers.

Envelope Design and Bill Insert Mock-Up

Envelope

Anytown Hydro Logo

8% Provincial Rebate

J. Smith
1134 Fifth Street
Anytown, Ontario
A1B 1C1

Ontario is helping reduce electricity costs for families, businesses and farms

Bill-Insert

On January 1, 2017, your electricity costs went down 8%.

Ontario's government is reducing electricity costs by rebating an amount equal to the provincial portion of the HST on your monthly hydro bill. That's an 8% rebate for Ontario families, and on average will mean $130 more in your pocket each year.

This is part of Ontario's plan to help people with the costs of everyday living by reducing electricity costs. Across Ontario, about five million residential consumers, farms and small businesses will benefit from this rebate.

[LDC name] will implement these savings onto your bill by July 1, 2017. Applicable savings will be retroactive to January 1, 2017.

Eligible rural ratepayers will receive additional relief that will decrease total electricity bills by an average of $540 a year or $45 a month, inclusive of your 8% rebate. This decrease will be reflected in the delivery charge, as a result of the enhanced Rural or Remote Rate Protection (RRRP)

To learn more visit Ontario.ca/energy

Additional RRRP message for RRRP customers only

Bill Mock-Up

SAMPLE MONTHLY BILL STATEMENT

Anytown Hydro-Electric Limited

Account Number:
000 000 000 000 0000

Meter Number:
00000000

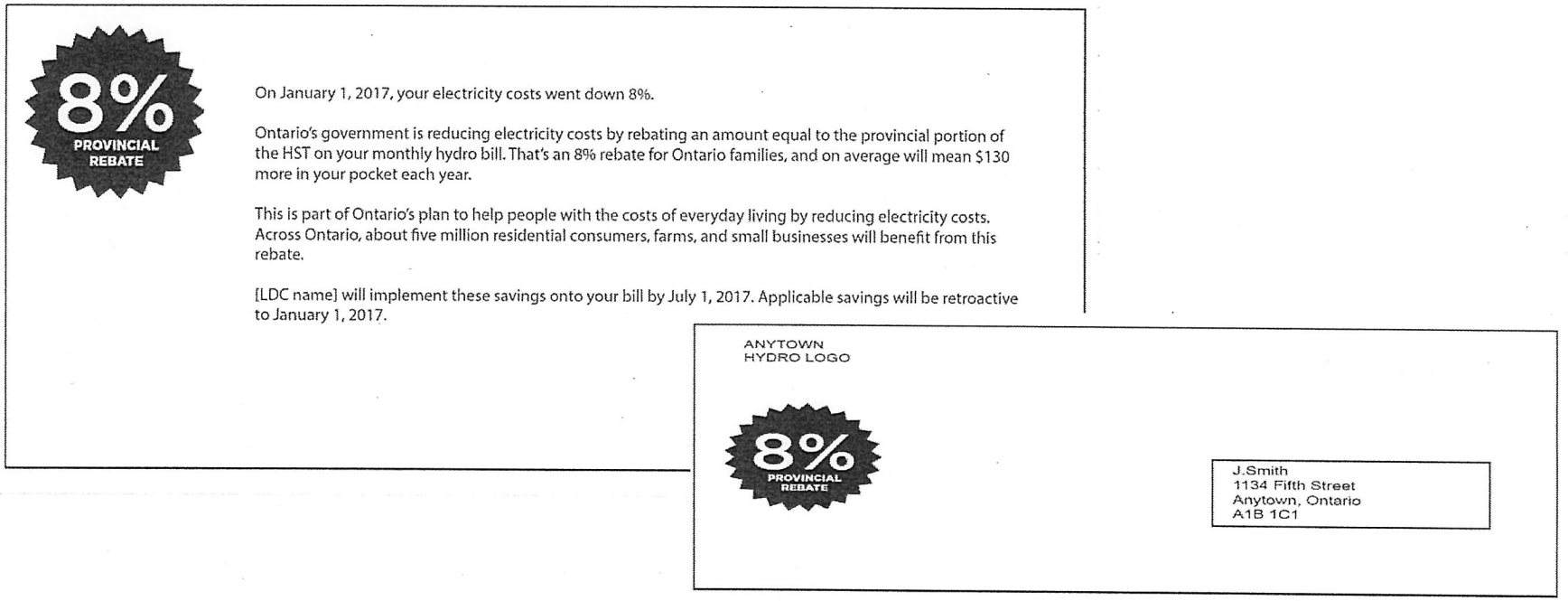
Your Electricity Charges

Electricity	
Off-Peak @ 8.700 ¢/kWh	41.20
Mid-Peak @ 13.200 ¢/kWh	16.35
On-Peak @ 18.00 ¢/kWh	23.60
Delivery	53.07
Regulatory Charges	4.79
Debt Retirement Charge	0.00
Total Electricity Charges	**$139.00**
HST	18.07
8% Provincial Rebate	(11.12)
Total Amount	**$145.95**

Discussion with LDCs on Bill Inserts and Envelope Design

- The language for the bill inserts and on-envelope messaging will be prescribed in regulation, as well as broad direction on message placement. However the specific design requirements (such as the starburst design below) will not prescribed through regulation.

- The Ministry will work with LDCs to provide some design suggestions that could be incorporated into the design of the insert and envelope that LDCs work up. See below for some of the design options:



Post Cabinet Milestones – Operational Requirements

- The proposed regulatory package puts in place significant portion of the necessary framework to deliver the 8% rebate; however, some additional operational components will need to be completed prior to the program launch in January 1, 2017.

- **MOUs:** there were MOUs put in place when the OCEB was created to ensure that work activities with the different entities was clear.
  - MOU with OFA: provides clarity on initiatives that OFA would be responsible for (e.g. settling the IESO invoice and paying IESO). OFA provided a draft of the revised MOU, Ministry staff are reviewing.

  - MOU with IESO: provides roles for the IESO, reporting requirements, payment process. Ministry has provided a revised draft for IESO review.

  - MOU with MOF: outlines the responsibilities of MOF with respect to administering sections of the Bill for which MoF is responsible, and states the deliverables that each ministry would complete (e.g. audits, spot checks of the program). MOU can be place early next year (no requirement to have in place Jan 1).

- **Ministry Portal:** staff working with Government Services to create new portal for rebate program. The portal will be largely similar to the current OCEB Portal.

- **IESO Portal:** IESO will need to create a new portal (similar to OCEB) to process LDC payments and to receive LDC data. IESO aiming to have portal operational before end of year.

Next Steps

Regulation Package:

- Finalize regulations and LRC package for Nov 14 LRC / Nov 16th Cabinet
- Monitor Regulatory Registry for any submissions to amend LRC package as needed (regulatory registry closes Nov 12th)

Bill Presentment:

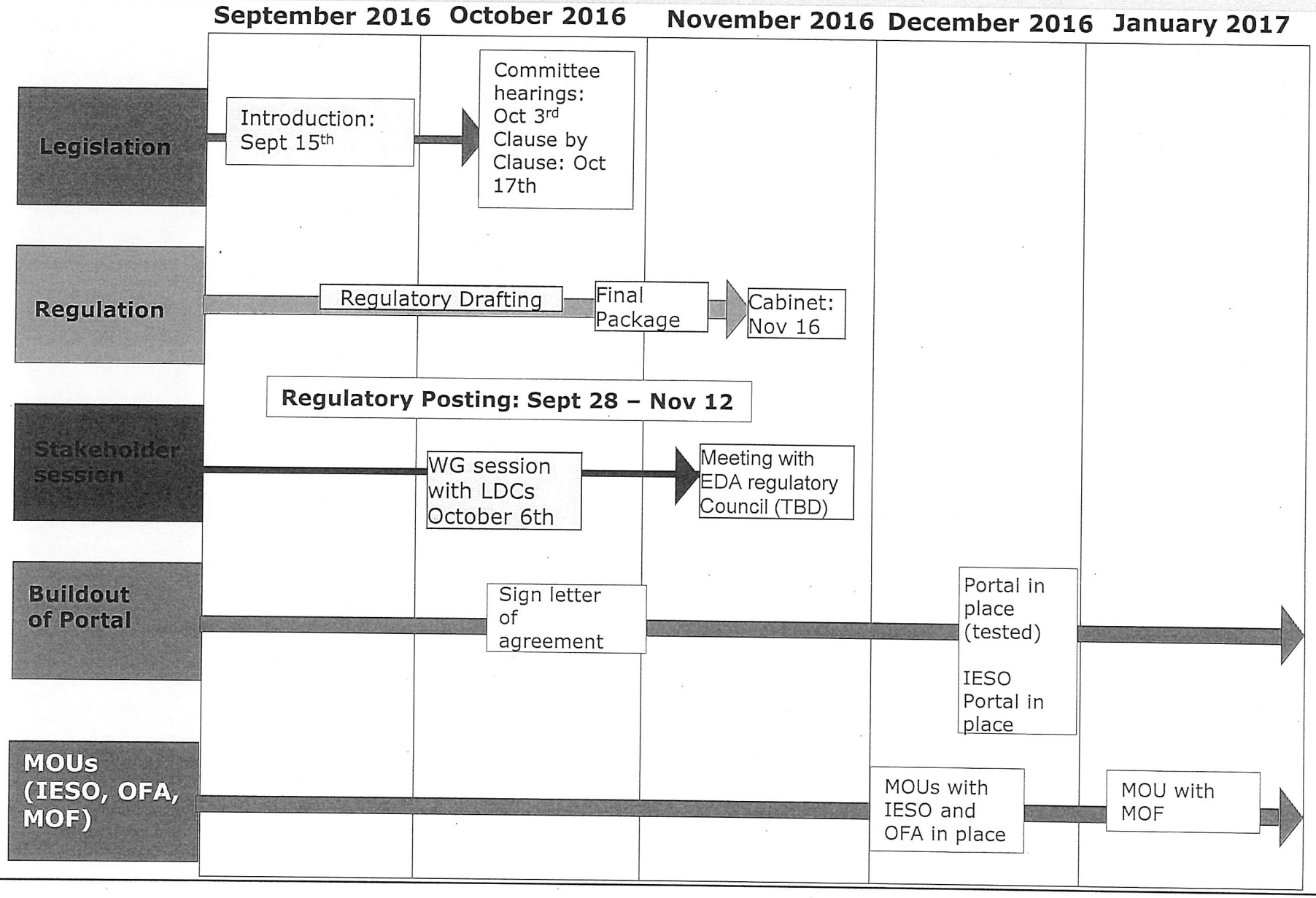
- Share proposed messaging with LDCs to place on electricity bills so LDCs can update their billing systems to deliver the 8% by January 1 2017

- Share envelope and bill-insert designs with LDCs

Operational Requirements:

- Work with IT and IESO to ensure portal is operational by January 1 2017
- Work with OFA and IESO to finalize MOUs

Rate Mitigation Package Timeline



Appendix

General Regulation - Overview

- The proposed General Regulation under the *Ontario Rebate for Electricity Consumers Act, 2016* would put in place a framework very similar to the framework developed to deliver the Ontario Clean Energy Benefit, including provisions addressing
  - **Time-limitation for retroactive claims-** establish a two-year time limitation for retroactive claims
  - **Base invoice amounts for invoices** - direction on what amounts should be included in the calculation of the 8% rebate.
  - **Flow through of financial assistance** – direction that unit sub-meter providers must pass through the rebate to eligible customers.
  - **Financial assistance re: fees and charges imposed by unit sub-meter providers** – direction for unit sub-meter providers on applying the rebate to their fees and charges.
  - **Paying rebate directly to consumers -** provisions that permit direct payment to consumers for transitional purposes such as closing an account with outstanding rebate still owing.
  - **Duty to provide information –** provisions that require LDCs and other vendors to provide the Ministry with specific information needed for verification and forecasting purposes.
  - **Records** –making unit sub-meter providers subject to same record-keeping requirements as LDCs under the Act.
  - **Requirements to provide information for reimbursement purposes –** direction to electricity vendors and unit sub-meter providers on types of information that must be provided and to whom in order to be reimbursed.
  - **Reimbursement to electricity vendors and unit sub-meter providers –** direction on reimbursement process.
  - **Requirement to establish a variance account –** subject to OEB approval, requiring LDCs to establish and maintain variance accounts for the purposes of delivering the rebate.

List of IPA Communities

1. Eabametoong First Nation
2. Keewaywin First Nation
3. North Spirit Lake First Nation*
4. Weenusk First Nation*
5. Pikangikum First Nation
6. Poplar Hill First Nation
7. Nibinamik First Nation*
8. Wunnumin Lake First Nation
9. Muskrat Dam First Nation*
10. Wawakapewin First Nation

* These communities and or its third party provider had a contract with the Ministry of Energy and actively received the Ontario Clean Energy Benefit.

Ontario

MINISTRY OF
ENERGY

Electricity Rate Mitigation Update

October 26 2016

Status: Bill 13

- Bill 13, the *Ontario Rebate for Electricity Consumers Act, 2016*, was introduced on September 15th.
- On September 29, Bill 13 passed second reading and was referred to the Standing Committee on Justice.
- At committee stage, public hearings were held on October 3rd and clause-by-clause considerations were held on October 17th.
- Bill 13 was reported back to the legislation with no amendments on October 18.
- On October 19, the *Ontario Rebate for Electricity Consumers Act, 2016,* passed third reading and is waiting Royal Assent. It is scheduled to come into force on January 1, 2017.

Status Overview – Key Regulations

- **8% Rebate General Regulation:**
  - Working with LSB on comments on the first Draft of the regulation received from Legislative Counsel. Expect an updated draft shortly.
- **Minister's Regulation on 8% Bill Presentment:**
  - Draft received form Legislative Counsel;
  - Preferred language shared with Legislative Counsel – who flagged concerns with authority to prescribed preferred language for bill insert. See next slides for details.
  - Staff require clarification on level of prescription required for envelope messaging (see slide 5).
- **RRRP Amendment (442/01):**
  - Draft received from Legislative Counsel; Consultation draft shared with OEB and Hydro One to ensure drafting is clear.
  - Legislative Counsel has flagged some concerns with authority to prescribe the proposed bill insert language, as drafted. See next slide for details.
- Other required Regs are proceeding through drafting.

Proposed RRRP Bill Insert Messaging

- LSB shared proposed envelope and bill insert messaging for RPP and RRRP customers with Legislative Counsel.
- Legislative Counsel has expressed concerns with the Ministry's authority to prescribe language not associated with the education of consumers.
- Proposed alternative messaging options are on the following slide.
    - Approval of changed language is required this week in order to meet Cabinet tracking requirements.
- Slides 7 to 9 showcase the two design treatments for the 8% and RRRP bill inserts as well as the envelope.

RPP Alternative Bill Insert Messaging Options

Current Message

On January 1, 2017 your hydro bill wend down 8%

Ontario's government is taking action to reduce electricity costs and will rebate an amount equal to the provincial portion of the HST on your monthly hydro bill. That's an 8% rebate for Ontario families, and on average this will mean $130 more in your pocket each year.

This is all part of Ontario's balanced plan to build the province up and help people in their everyday lives. Across Ontario, about five million residential consumers, farms and small businesses will benefit from these changes.

[LDC name] will implement these savings onto your bill by July 1, 2017. Applicable savings will be retroactive to January 1, 2017.

To learn more visit Ontario.ca/energy

Proposed Alternative Message (all bills)

Ontario is helping reduce your electricity costs.

Ontario's government is reducing electricity costs by rebating an amount equal to the provincial portion of the HST on your monthly hydro bill. That's an 8% rebate for Ontario families, and an average savings of $130 each year.

Across Ontario, about five million residential consumers, farms and small businesses will benefit from this rebate.

[LDC name] will implement these savings onto your bill by July 1, 2017. Applicable savings will be retroactive to January 1, 2017.

To learn more visit Ontario.ca/energy

RRRP Alternative Bill Insert Messaging Options

Proposed Additional Message for RRRP

- Eligible rural ratepayers will receive additional relief that will decrease total electricity bills by an average of $540 a year or $45 a month. This decrease will be reflected in the delivery charge, as a result of the enhanced Rural or Remote Rate Protection (RRRP)

This messaging would appear on the bill inserts of Hydro One's R2 customers receiving RRRP only.

done before in a reg?

CONFIDENTIAL

RRRP Bill Insert Mock-up

→ electr costs went down 8%

8% PROVINCIAL REBATE

On January 1, 2017 your hydro bill went down

Ontario's government is taking action to reduce electricity costs and will rebate an amount equal to the provincial portion of the HST on your monthly hydro bill. Eligible rural ratepayers with will receive additional relief on the delivery charge, bringing total support to nearly $60 per month.

This is all part of Ontario's balanced plan to build the province up and help people in their everyday lives. Across Ontario, about five million residential consumers, farms and small businesses will benefit from these changes.

[LDC name] will implement the rebate onto your bill by July 1, 2017. Applicable savings will be retroactive to January 1, 2017. The Rural or Remote Rate Protection (RRRP) enhancement will take effective January 1, 2017.

To learn more visit Ontario.ca/energy

Ontario

→ by ↓ electr. costs

more like a kapow → fewer pts

8% PROVINCIAL REBATE

On January 1, 2017 your hydro bill went down

Ontario's government is taking action to reduce electricity costs and will rebate an amount equal to the provincial portion of the HST on your monthly hydro bill. Eligible rural ratepayers with will receive additional relief on the delivery charge, bringing total support to nearly $60 per month.

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[LDC name] will implement the rebate onto your bill by July 1, 2017. Applicable savings will be retroactive to January 1, 2017. The Rural or Remote Rate Protection (RRRP) enhancement will take effective January 1, 2017.

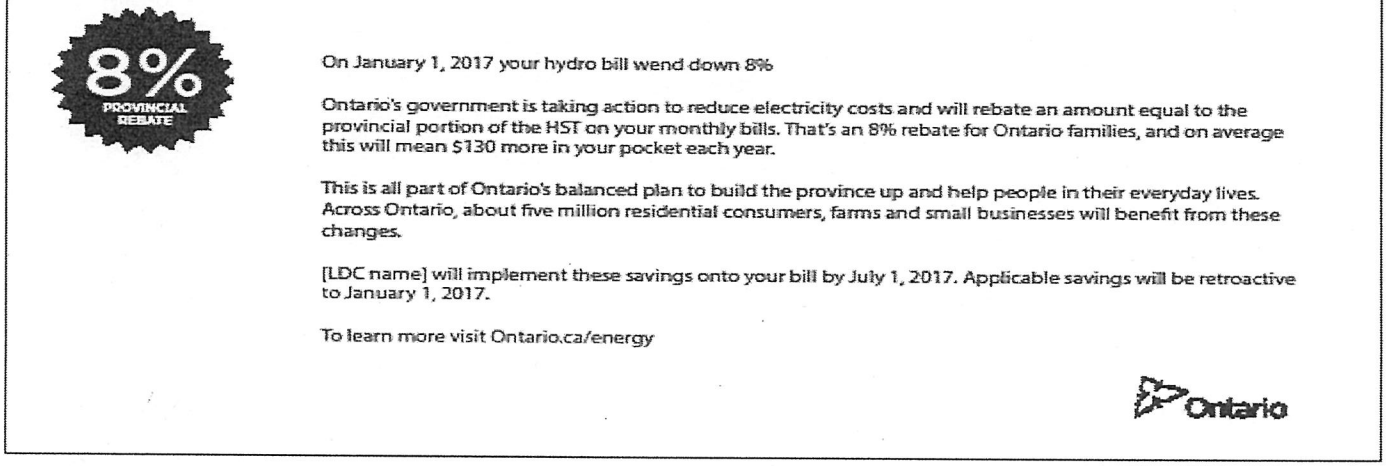
To learn more visit Ontario.ca/energy

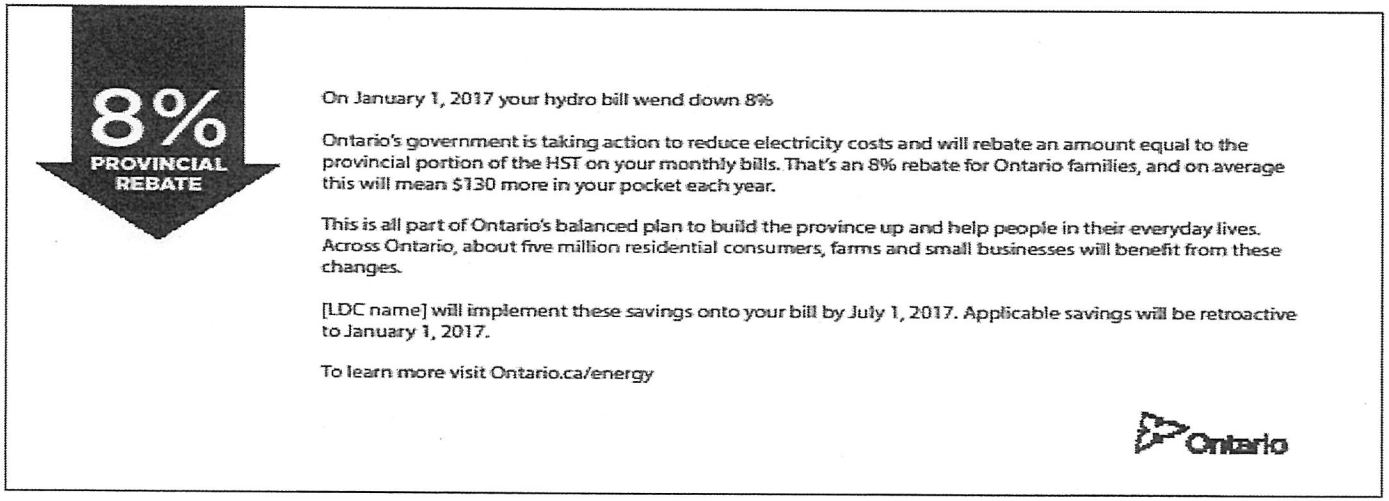
Ontario

~~or send them the art~~

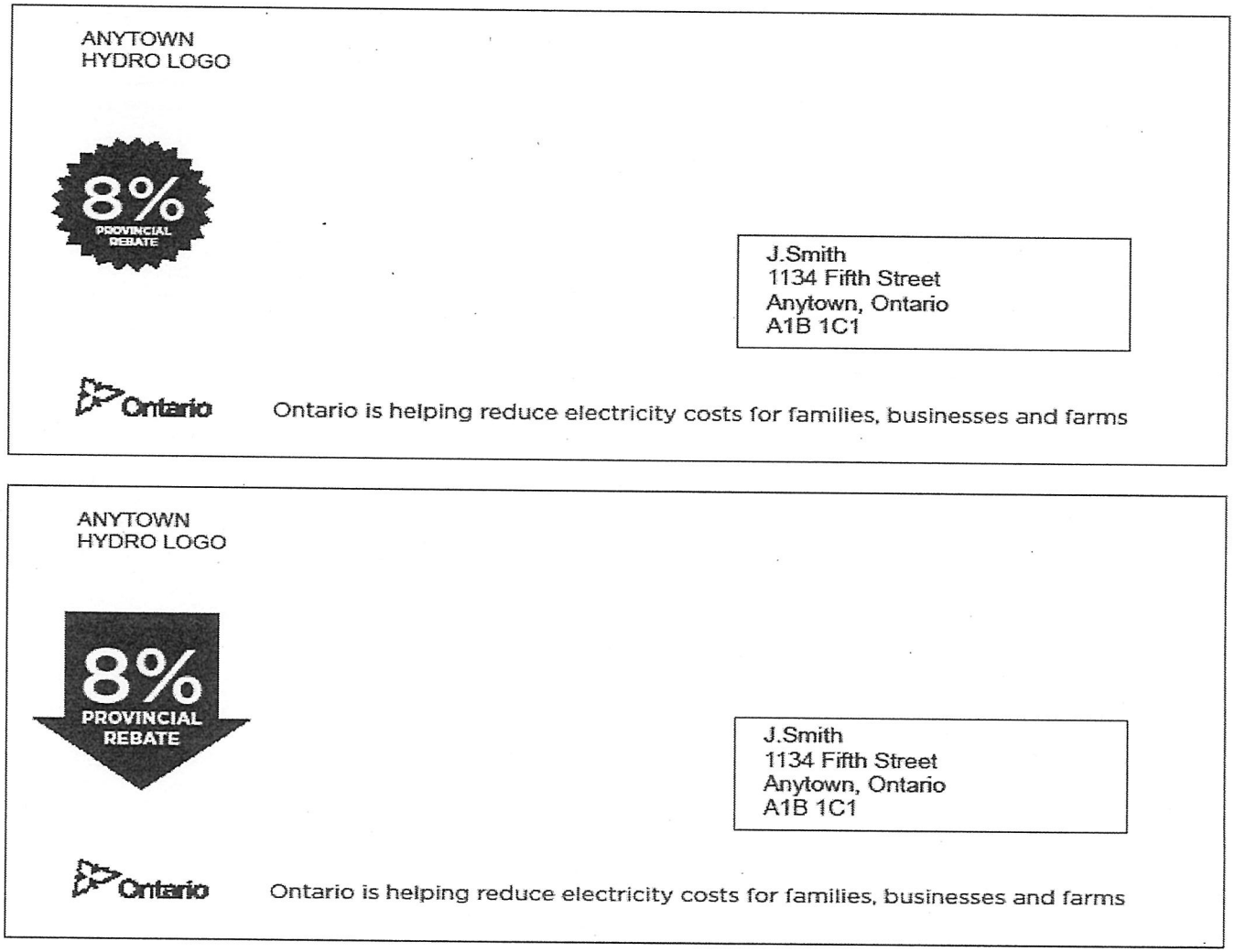
graphic representation? be loose in the reg. but provide sample art wk

8% Bill Insert Mock-up





Envelope Design Mock-Up



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Ontario Clean Energy Act, 2016

EXPLANATORY NOTE

The *Ontario Clean Energy Act, 2016* authorizes financial assistance for Ontario electricity consumers in respect of electricity costs relating to homes and farms. The Act also authorizes financial assistance for consumers whose demand for electricity is not more than 50 kilowatts or whose annual electricity consumption does not exceed 250,000 kilowatt hours, unless different kilowatt amounts are set by regulation. Consumers receive the financial assistance by means of a 8 per cent credit to their electricity accounts for each billing period. The amount of the credit for a billing period is required to be shown on invoices issued to consumers for the billing period. The Act authorizes the making of regulations to limit the financial assistance to a maximum number of kilowatt hours of electricity per account per month or other period of time. The financial assistance is available with respect to electricity consumed on or after January 1, 2017 and before a date to be set by regulation.

The Act authorizes the making of regulations to reimburse electricity vendors for amounts credited to consumers' accounts under the Act. The Act authorizes the making of various other regulations, including to set out other ways for consumers to receive financial assistance, to alter the default rules in the Act for how to calculate the financial assistance and to limit the application of the Act.

The Act contains administrative and enforcement provisions, including requirements relating to record keeping by electricity vendors and authorization for inspections and inquiries with respect to amounts of financial assistance provided and reimbursements to electricity vendors. The *Ontario Energy Board Act, 1998* is amended so that provisions of the *Ontario Clean Energy Act, 2016* and regulations made under it will be enforceable by the Ontario Energy Board.

Provincial Rebate Legislation

Legislation could be drafted similar to the now discontinued *Ontario Clean Energy Benefit Act, 2010.* The following are key points that should be considered when the drafting the legislation:

- **Rebate amount:** A consumer is entitled to receive a rebate for the provincial portion of the HST (8%) for the cost of electricity during the current billing period.
- **Eligible consumer:** Should include all consumers of electricity in Ontario (residential, commercial and industrial), and only the final consumer should be eligible (i.e., exclude resellers of electricity).
- **Eligible period:** The period should commence January 1, 2017 and onwards.
- **Eligible account:** There should be no limitations on electricity usage to qualify for the full rebate.
- **Base invoice amount:** List items that should be included in the calculation to determine the rebate, such as: electricity, delivery, and regulatory charges, and DRC[1], but not 13% HST.
- **Exclusions:** List items that should be excluded from the base invoice amount, such as:
  - The balance of any amounts carried forward from previous invoices
  - All penalties and interest
  - Any charges that do not relate to the consumption of electricity
  - HST payable in respect of excluded amounts
- **Payment of rebate:** The amount should be paid by crediting the consumer's eligible account for the relevant billing period.
- **Invoices:** Electricity vendor who issues an invoice to a consumer should clearly show on invoice:
  - A credit equal to amount of rebate provided to consumer for billing period; and
  - The net amount of the invoice after the credit.

Transitional: Specify deadline for electricity vendor to adapt its invoices to comply legislation *[a decision needs to be made on this]*; consumers entitled to receive the rebate as of eligible period.

[1] The Debt Retirement Charge (DRC) for businesses and industrial users will end as of April 1, 2018. The DRC for residential users ended as of January 1, 2016.

Bill presentment and sub-metering pass through would be addressed by the Ministry of Energy in existing regulations.

Ontario

MINISTRY OF
ENERGY

Electricity Rate Mitigation
Bill Presentment

October 2016

Bill Presentment

- The bill presentment related requirements will be set out in a **Minister's regulation** under the *Ontario Rebate for Electricity Consumers Act, 2016* (ORECA).
    - The Minister's Regulation does not need to go through the LRC process but does need to be filed with the Registrar.
- The Regulation will include the exact language which distributors and other bill issuers must use when reflecting the 8% rebate on consumers' bills. LL7
    - This will include the line item and any on-bill messaging, envelope messaging, and the form of any required bill insert.
    - The Regulation will allow for the Minister to issue exemptions and alternatives to LDCs unable to comply for technical or operational reasons, as may be identified by LDCs.
- As part of the Ministry's Working Group on implementation issues, discussions will be held with LDCs and sub-meter providers to determine the approach to adding bill lines/messages to reflect the 8% rebate.
    - ENERGY staff are convening the working group on October 6th.
    - The discussion will also include other communications opportunities such as envelope messages, and how utilities unable to meet the January start date (and therefore required to provide retroactive payments) will advise consumers.

Slide 2

LL7 Are there limitations to what language can be used? For example, can you call it a tax rebate on the bill when it isn't a rebate of tax (i.e. ORECA doesn't rebate tax, it provides rebate of 8% of certain parts of a customer's bill)?

As you'll see in ouor comments, we have concerns from a tax perspective.
Lawson, Lynn (MOF), 10/11/2016

Proposed Language for Bills

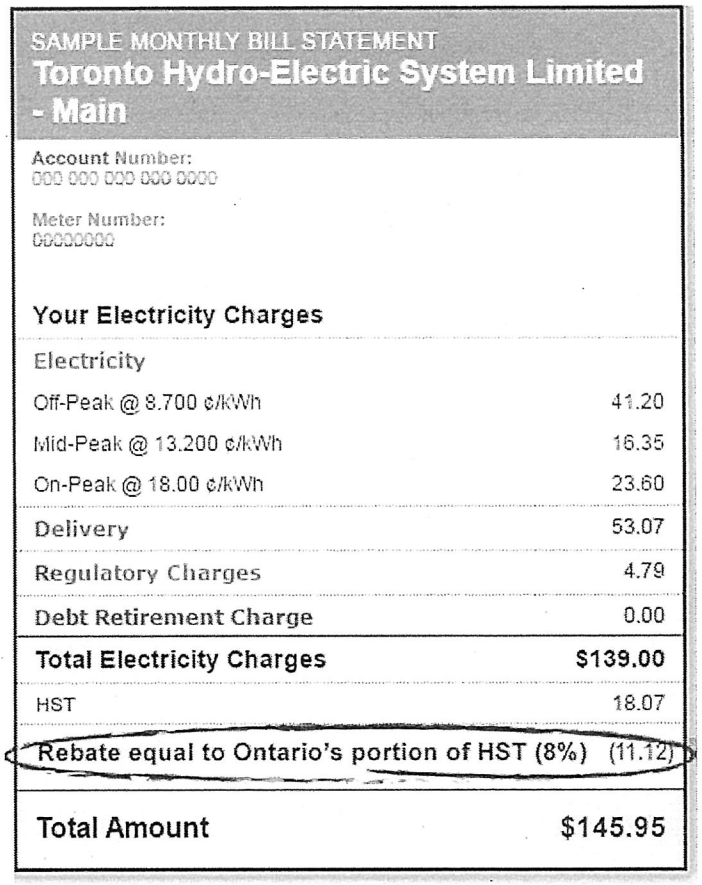
- For discussion at this working group, ENERGY would like to assess MOF comfort with the following proposed line items for electricity invoices:

  Option 1: ~~Provincial Tax Rebate (8%)~~ Rebate equal to Ontario's portion of HST (8%)

  Option 2: ~~Rebate of Ontario's Portion of HST (8%)~~

  ~~**Option 3:** 8%~~ Provincial Rebate

  Option 3: Ontario Rebate



SAMPLE MONTHLY BILL STATEMENT

Toronto Hydro-Electric System Limited - Main

Account Number:
000 000 000 000 0000

Meter Number:
00000000

Your Electricity Charges	
Electricity	
Off-Peak @ 8.700 ¢/kWh	41.20
Mid-Peak @ 13.200 ¢/kWh	16.35
On-Peak @ 18.00 ¢/kWh	23.60
Delivery	53.07
Regulatory Charges	4.79
Debt Retirement Charge	0.00
Total Electricity Charges	**$139.00**
HST	18.07
Rebate equal to Ontario's portion of HST (8%)	(11.12)
Total Amount	**$145.95**

Slide 3

LL1 This is also the wording used in the graphic to the right.
Lawson, Lynn (MOF), 10/11/2016

LL3 The HST is a federally legislated and imposed tax.
Under CITCA (the HST agreement),Ontario does not have the authority to unilaterally rebate Ontario's portion of the HST.

Ontario has the flexibility to ask the federal government to provide a point-of-sale (POS) rebate of the 8% Ontario portion of the HST for a specific item provided certain conditions are met. A point of sale rebate of the provincial portion of the HST on electricity would require substantial negotiations with Canada.

Instead, the province decided to proceed with a rebate equal to the provincial portion of the HST, rather than enter into negotiations to effect an actual rebate of the provincial portion of the HST.
Lawson, Lynn (MOF), 10/11/2016

LL5 Similar to OCEB, the invoice could have a line elsewhere to explain that the rebate is equal to the provincial portion of the HST.
Lawson, Lynn (MOF), 10/11/2016

LL6 Similar to OCEB, the invoice could have a line elsewhere to explain that the rebate is equal to the provincial portion of the HST.
Lawson, Lynn (MOF), 10/11/2016

LL2 This isn't a tax rebate. There is no provincial tax on electricity and we do not have the authority under CITCA to unilaterally rebate the provincial portion of the HST. Instead, this is a rebate of 8% of the electricity costs --the same costs that attact HST. It therefore happens to be an amount equal to the provincial portion of the HST but it is not a tax rebate. This is also reflected in the legislation that gives rise to the rebate -- at no point in the legislation does it become a rebate of tax.

It is important from a tax perspective that businesses and LDCs understand that this is not a tax rebate. Both the proposals that refer to tax (referring to a "tax rebate" or "HST rebate") confusion for businesses and LDCs would reasonably result. Some LDCs may think they are to remit only 5% tax rather than 13%. Businesses may think that they paid less tax and therefore claim smaller input tax credits. The goal, as we understand it, was for businesses to continue to claim ITCs at 13% and to also benefit from the 8% rebate. This goal is easier to achieve with the clear use of language when describing the rebate.

Further, Canada Revenue Agency has stong concerns with language that would suggest that this is a HST rebate. CRA also indicated that the province may wish to send its regulations to the CRA for review to ensure that they create no tax problems.

Lawson, Lynn (MOF), 10/11/2016

APPENDIX: Proposed Working Group Membership

Proposed Working Group Membership	
Bluewater Power	Hydro Ottawa
Brantford Power	IESO & OEB
Burlington Hydro	London Hydro
Electricity Distributors Association	Oakville Hydro
Enercare Connections (sub-meter provider)	Powerstream
Enwin	Thunder Bay Hydro
Essex Powerlines	Toronto Hydro
Goderich Hydro	Veridian Connections
Horizon Utilities	Waterloo North Hydro
Hydro One	Greater Sudbury Hydro

- ENERGY used the recent OESP working group as a starting-point for membership in a working group established to facilitate the implementation of the 8% rebate and the ICI.
- ENERGY has received a strong response from invitees.

Ontario

MINISTRY OF
ENERGY

Electricity Rate Mitigation

Fiscal Prep Committee
November 2, 2016

Delivering the Electricity Rate Mitigation Initiative

- On September 12, in the Speech from the Throne, the government committed to introducing measures that would provide consumers with rate relief on their electricity bills, including three main initiatives:
  1. Providing roughly 5 million eligible customers with an 8% rebate
  2. Expanding rate protection for eligible rural or remote customers
  3. Expanding eligibility under the Industrial Conservation Initiative (ICI)
- On September 12, the Ministry of Energy received Cabinet approval to introduce legislation that would enable a broader Electricity Rate Mitigation Strategy for electricity consumers across the province.
- On September 15, the Minister of Energy introduced Bill 13, the *Ontario Rebate for Electricity Consumers Act, 2016*, (ORECA) that puts in place an 8% rebate for residential, small business customers and farms. Bill 13 is scheduled to come into force on January 1, 2017.
  - The rebate could only be changed or removed by amending that Act.
  - The rebate is uncapped (regardless of your energy consumption consumers will receive the rebate)
- To implement the rate relief provided for under Bill 13, a number of additional regulations and regulatory amendments are needed to support the electricity rate mitigation strategy.

Consultation

- The Ministry engaged with stakeholders in a number of ways in developing the proposed regulations and regulatory amendments needed to support the rate mitigation initiative.

Regulatory Registry:

- On September 28th, the Ministry of Energy posted a proposal for comment on the Regulatory Registry to provide stakeholders with the opportunity to comment on the electricity mitigation initiative.
- The posting included proposed changes to RRRP, ICI and new regulations needed to support the 8% rebate.
- The posting closes on November 12th.

Working Group:

- The Ministry hosted an LDC Working Group session on October 6th. Nearly 40 LDCs representatives attended in person or by phone.
- The Working Group provided important feedback for the Ministry to consider in the development of the Regulatory package including billing system limitations that were incorporated into proposed bill presentment requirements.

Standing Committee of Justice - Public Hearings for Bill 13:

- On October 3, a number of organizations as well as individual citizens made presentations to the Standing Committee on Justice regarding Bill 13.

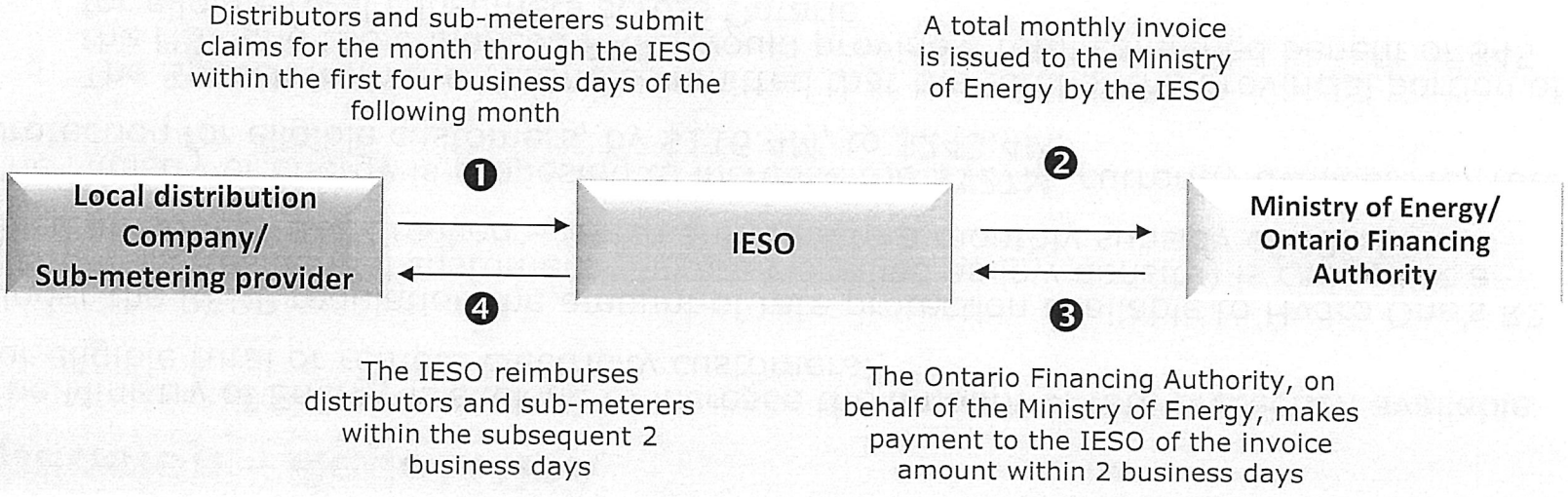
Summary of Regulatory Package

- There are six regulations or regulatory amendments that are tracking for approval for LRC / Cabinet
- There is also one Minister's Regulation on Invoicing requirements that does not require LRC or Cabinet approval, however this will form part of the package to inform Cabinet of bill presentment decisions.

1. General Regulation to implement the 8%: Creating a new General Regulation made under the *Ontario Rebate for Electricity Consumers Act, 2016.*	• New regulation that would provide the necessary mechanics to support the implementation of the 8% rebate, including treatment of Independent Power Authorities (IPAs)
2. Rural or Remote Electricity Rate: Amending O. Reg. 442/01(Rural or Remote Electricity Rate Protection) made under the *Ontario Energy Board Act, 1998.*	• Amending a regulation to update the Rural or Remote Rate Protection (RRRP) program, to provide increased rate relief to eligible rural customers (low-density customers of Hydro One)
3. ICI: Amending O. Reg. 429/04 (Adjustments Under Section 25.33 of the Act) made under the *Electricity Act, 1998*	• Amending the regulation to expand eligibility for Class A status to all electricity consumers with an average peak demand over 1MW, regardless of sector. Newly eligible consumers will have to opt-in, should they wish to participate.
4. OCEBA Amending O. Reg. 495/10 (General) made under the *Ontario Clean Energy Benefit Act, 2010*	• Amending a regulation to prescribe a cut-off date for electricity consumers to submit Ontario Clean Energy Benefit claims to bill issuers and a second cut-off date for bill issuers to submit reimbursement claims
Consequential Amendments **5. Amending O. Reg. 275/04** (Information on Invoices to Certain Classes of Consumer of Electricity) **6. Amending O. Reg. 161/99** (Definitions and Exemptions) made under the Ontario Energy Board Act, 1998.	• Some minor regulatory amendments consequential to implementing 8% rebate. • Updating invoicing regulation to allow rebate line item to appear on invoices.
7. Creating a new Minister's Regulation on Invoicing Requirements	• Made under the *Ontario Rebate for Electricity Consumers Act, 2016*, including direction on required wording for line item, placement on invoice, bill inserts, and on-envelope messaging.

1. General Regulation – Key Points

- The proposed General Regulation under the *Ontario Electricity Rebate Act, 2016* would put in place a framework very similar to the framework developed to deliver the Ontario Clean Energy Benefit.
- The legislation and regulation provides instruction and clarity to LDCs on the 8% rebate and how it is to be calculated (e.g. rebate is calculated before taxes, clarifies that the rebate is applied to those receiving OESP post-OESP amount)
- The proposed regulation also provides an outline on how the payments flow through to customers (per the diagram below)
- The proposed General Regulation also provides a process for Independent Power Authorities and customers of Cornwall Electric and other exceptional cases to receive the provincial rebate



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

- The Ministry of Energy is seeking to increase the amount of rate protection available for eligible rural or remote electricity customers.
- Under the RRRP regulation the amount of rate protection available to Hydro One's R2 customers (residential customers who are classified as low density) is capped at a fixed amount of $127 million – which amounts to a monthly subsidy of $31.50.
- The Ministry of Energy is proposing to increase the $127M, currently available for rate protection for eligible customers, by $116.4M, to $243.4M.
    - The Speech from the Throne committed that the total of the provincial portion of the HST and the enhanced RRRP would provide a total combined benefit of $45 for eligible rural consumers across Ontario.
    - To do so, the original Cabinet Minute approved an increase of $110 million; however, based on Hydro One's updated number of eligible customers, the proposed $110 million is not sufficient to provide the estimated $29 per month or combined benefit of $45 per month, as originally estimated by the Ministry.
    - Increasing the funding by $6.4 million to $116.4 million would ensure that eligible customers would see an approximate increase of $29 in the monthly subsidy from $31.50 to $60.50 per month.
    - The increased RRRP subsidy would bring the average bill for a Hydro One R2 customer closer in line with the average bill for other rural customers across the province.
- Current funding for the RRRP program is paid for by all electricity customers across the province. The additional $116.4 million would increase the monthly cost for an average residential customer by $0.60*.

*The Ministry calculated this number using data available. The final cost will be calculated by the Ontario Energy Board

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

- As part of the Price Mitigation initiatives, there was a desire to ensure that the funding (e.g. $243.4M) for R2 customers would be adjusted annually to reflect any increases on their electricity bills.
    - R2 rural consumers who receive rate protection under the RRRP have seen their monthly rate protection decline over time, as the fixed monthly amount of rate protection ($31.50) has not increased since 2004 while rates have been increasing annually.
- The proposed amendments to the regulation would add an escalating factor to the new base rate protection amount.
- Starting in 2018, and every year after, the total amount of rate protection available to Hydro One's R2 customers would be increased by a percentage, as calculated by the Ontario Energy Board.
    - This percentage would be based on the simple average, as calculated by the OEB, of the change in base distribution rates of all distributors from the previous year (this is a similar mechanism that is used with Algoma Power which is also a recipient of RRRP and has RRRP adjusted every year by the OEB).

3. Industrial Conservation Initiative Expansion (ICI)

- In 2010, when Ontario introduced ICI, the program was available to customers with a peak demand greater than 5 MW and in 2013 was subsequently expanded to allow eligible customers with a peak demand for electricity above 3 MW and less than or equal to 5 MW to opt in to the program.
    - ICI is intended to incent a greater number of Ontario businesses to lower their electricity costs by reducing electricity demand during peak hours. Reducing peak demand increases the reliability of the power grid, reduces greenhouse gas emissions and helps defer the need to procure new resources.
    - Currently, electricity consumers over 5 MW and consumers from 3-5 MW in certain energy intensive sectors are eligible for ICI (i.e., approximately 300 Class A electricity consumers).
- The Ministry of Energy is proposing to expand eligibility under ICI to include all electricity consumers and market participants with an average monthly peak demand greater than one megawatt by amending Ontario Regulation 429/04 (Adjustments Under Section 25.33 of the Act) made under the Electricity Act, 1998.
    - The base setting period for the expanded program would begin in 2016, with the benefit seen by new consumers starting July 1, 2017 (i.e., the beginning of the next adjustment period).
- ICI would be expanded so that all electricity consumers over 1 MW are eligible for the program.
    - Newly eligible consumers in the program would include: mid-sized industrial, institutional and commercial category (i.e., automotive supply chain companies, office towers, large shopping malls, greenhouses and others).
    - With these changes, over 1,000 new businesses are estimated to be eligible to participate in ICI.

4. Ontario Clean Energy Benefit Act
5. and 6. Consequential Amendments

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

- In addition to enacting the provisions for the 8% rebate, Bill 13 also included amendments to the *Ontario Clean Energy Benefit* Act, 2010 that provided the necessary authority to prescribe cut-off dates for retroactive claims.
- Proposed amendments would establish February 1, 2017 as the cut-off date for customer with an eligible account to come forward with unpaid OCEB claims.
- LDCs/USMPs would be given a 6 months period to process any claims submitted before February 1, 2017.

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

- This proposed amendment is consequential to the implementation of the Ontario Rebate for Electricity Consumers Act, 2016 as it aligns new invoicing requirements with established rules.

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

- This proposed amendment is consequential to the implementation of the Ontario Rebate for Electricity Consumers Act, 2016 as it aligns 8% program requirements with the regulatory framework governing exempted distributors such as landlords.

6. Minister's Regulation – Invoicing Requirements

- In order to ensure that consumers are made aware of the new rebate, a proposed new Minister's regulation under ORECA would be created to provide clear direction to energy vendors regarding.
- LDCs have indicated they will likely be operational by January 1 2017, however, the legislation gives LDCs until July 1 2017 to become operational in delivering the 8% rebate and associated messaging.

On Bill Messaging

- On bill messaging will be permanently displayed on electricity bills (e.g. as long as 8% rebate is in place).

Messaging for the 8% rebate

- After discussion with Ministry of Finance, the Ministry is proposing **[8% Provincial Rebate]** as the required line item phrasing.
    - At the Working Group, some LDCs flagged their billing systems have a 30 character limit. The above phrasing complies and should result in fewer exemption requests.
- Suggested call-out messaging is **[Ontario is providing a rebate on your electricity costs equal to the Provincial portion of HST].**

Messaging for RRRP (for H1 R2 customers only)

- RRRP will not be listed as separate line item on the invoice; however, a call-out message will be required: **[Your delivery charge is reduced through Rural or Remote Rate Protection by X per month].**

Envelope Messaging (See next slides)

Messaging for the 8% rebate

- Energy vendors will be directed to include prescribed messaging on the envelope to alert consumers to the new 8% rebate. (A 6 month transitional period will be permitted).
- Messaging on envelopes is required for a minimum of one year by LDCs

Bill Insert Messaging (See next slides)

- Energy vendors will be directed to include a bill insert with prescribed language providing consumers with information regarding the new 8% rebate. The bill insert is included once a customer starts receiving the 8% rebate.
- Customers of Hydro One (R2) who receive RRRP will be provided with additional information about the RRRP program on bill inserts targeted to those customers.

Envelope Design and Bill Insert Mock-Up

Envelope

Anytown Hydro Logo

8% Provincial Rebate

J. Smith
1134 Fifth Street
Anytown, Ontario
A1B 1C1

Ontario is helping reduce electricity costs for families, businesses and farms

Bill-Insert

On January 1, 2017, your electricity costs went down 8%.

Ontario's government is reducing electricity costs by rebating an amount equal to the provincial portion of the HST on your monthly hydro bill. That's an 8% rebate for Ontario families, and on average will mean $130 more in your pocket each year.

This is part of Ontario's plan to help people with the costs of everyday living by reducing electricity costs. Across Ontario, about five million residential consumers, farms and small businesses will benefit from this rebate.

[LDC name] will implement these savings onto your bill by July 1, 2017. Applicable savings will be retroactive to January 1, 2017.

Eligible rural ratepayers will receive additional relief that will decrease total electricity bills by an average of $540 a year or $45 a month, inclusive of your 8% rebate. This decrease will be reflected in the delivery charge, as a result of the enhanced Rural or Remote Rate Protection (RRRP)

To learn more visit Ontario.ca/energy

Additional RRRP message for RRRP customers only

Bill Mock-Up

SAMPLE MONTHLY BILL STATEMENT

Anytown Hydro-Electric Limited

Account Number:
000 000 000 000 0000

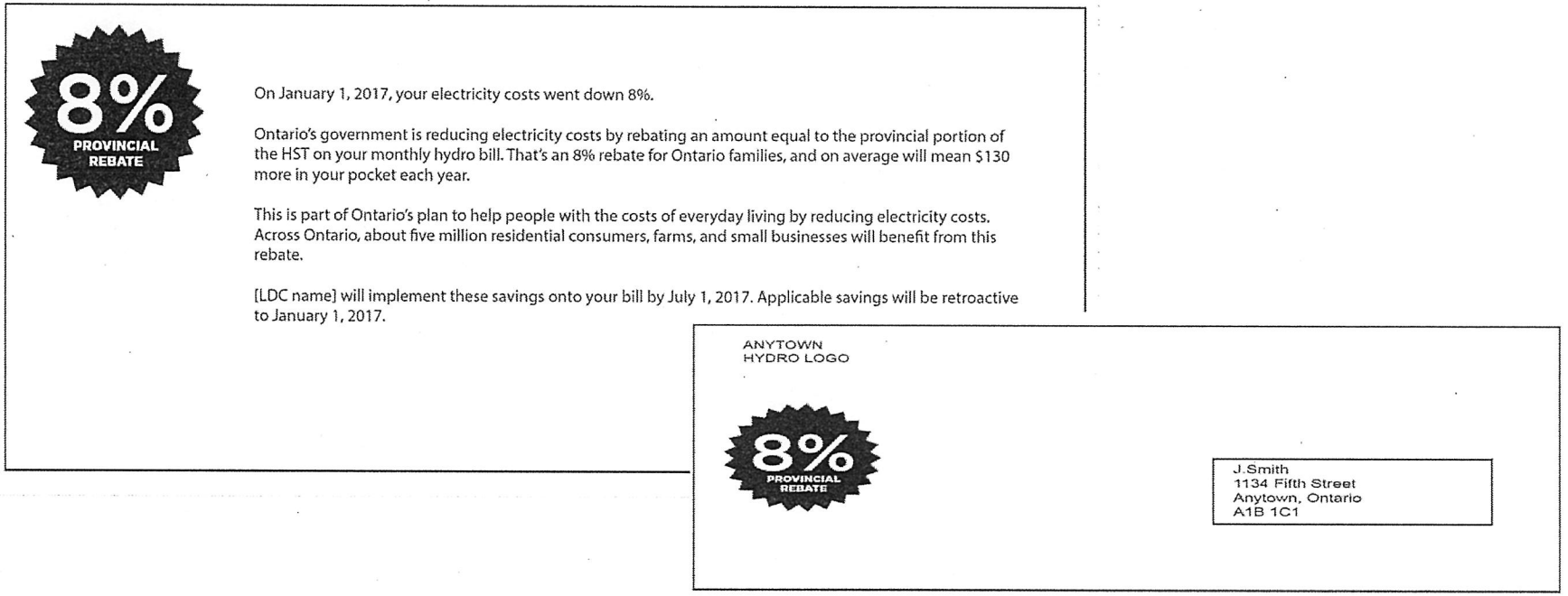
Meter Number:
0000000

Your Electricity Charges	
Electricity	
Off-Peak @ 8.700 ¢/kWh	41.20
Mid-Peak @ 13.200 ¢/kWh	16.35
On-Peak @ 18.00 ¢/kWh	23.60
Delivery	53.07
Regulatory Charges	4.79
Debt Retirement Charge	0.00
Total Electricity Charges	**$139.00**
HST	18.07
8% Provincial Rebate	(11.12)
Total Amount	**$145.95**

Discussion with LDCs on Bill Inserts and Envelope Design

- The language for the bill inserts and on-envelope messaging will be prescribed in regulation, as well as broad direction on message placement. However the specific design requirements will not prescribed through regulation.

- The Ministry will work with LDCs to provide some design suggestions that could be incorporated into the design of the insert and envelope that LDCs work up. See below for some of the design options:



Post Cabinet Milestones – Operational Requirements

- The proposed regulatory package puts in place significant portion of the necessary framework to deliver the 8% rebate; however, some additional operational components will need to be completed prior to the program launch in January 1, 2017.

- **MOUs:** there were MOUs put in place when the OCEB was created to ensure that work activities with the different entities was clear.
  - MOU with OFA: provides clarity on initiatives that OFA would be responsible for (e.g. settling the IESO invoice and paying IESO). OFA provided a draft of the revised MOU, Ministry staff are reviewing.

  - MOU with IESO: provides roles for the IESO, reporting requirements, payment process. Ministry has provided a revised draft for IESO review.

  - MOU with MOF: outlines the responsibilities of MOF with respect to administering sections of the Bill for which MOF is responsible, and states the deliverables that each ministry would complete (e.g. audits, spot checks of the program). MOU can be place early next year (no requirement to have in place Jan 1).

- **Portals:** The rebate program will require a mechanism to ensure there were payments flowing from MOF to the IESO and a way for the Ministry to verify the payments (similar to what was created under the Clean Energy Benefit program). A dedicated SharePoint access site will be created to ensure that IESO/ENERGY/MOF/LDCs can input data and make invoice payments. The website is created by the internal IT department within government (e.g. not a procurement).
  - **Ministry Portal:** staff working with Government Services to create new portal for rebate program. The portal will be largely similar to the current OCEB Portal.

  - **IESO Portal:** IESO will need to create a new portal (similar to OCEB) to process LDC payments and to receive LDC data. IESO aiming to have portal operational before end of year.

Next Steps

Regulation Package:

- Finalize regulations and LRC package for Nov 14 LRC / Nov 16th Cabinet
- Monitor Regulatory Registry for any submissions to amend LRC package as needed (regulatory registry closes Nov 12th)

Bill Presentment:

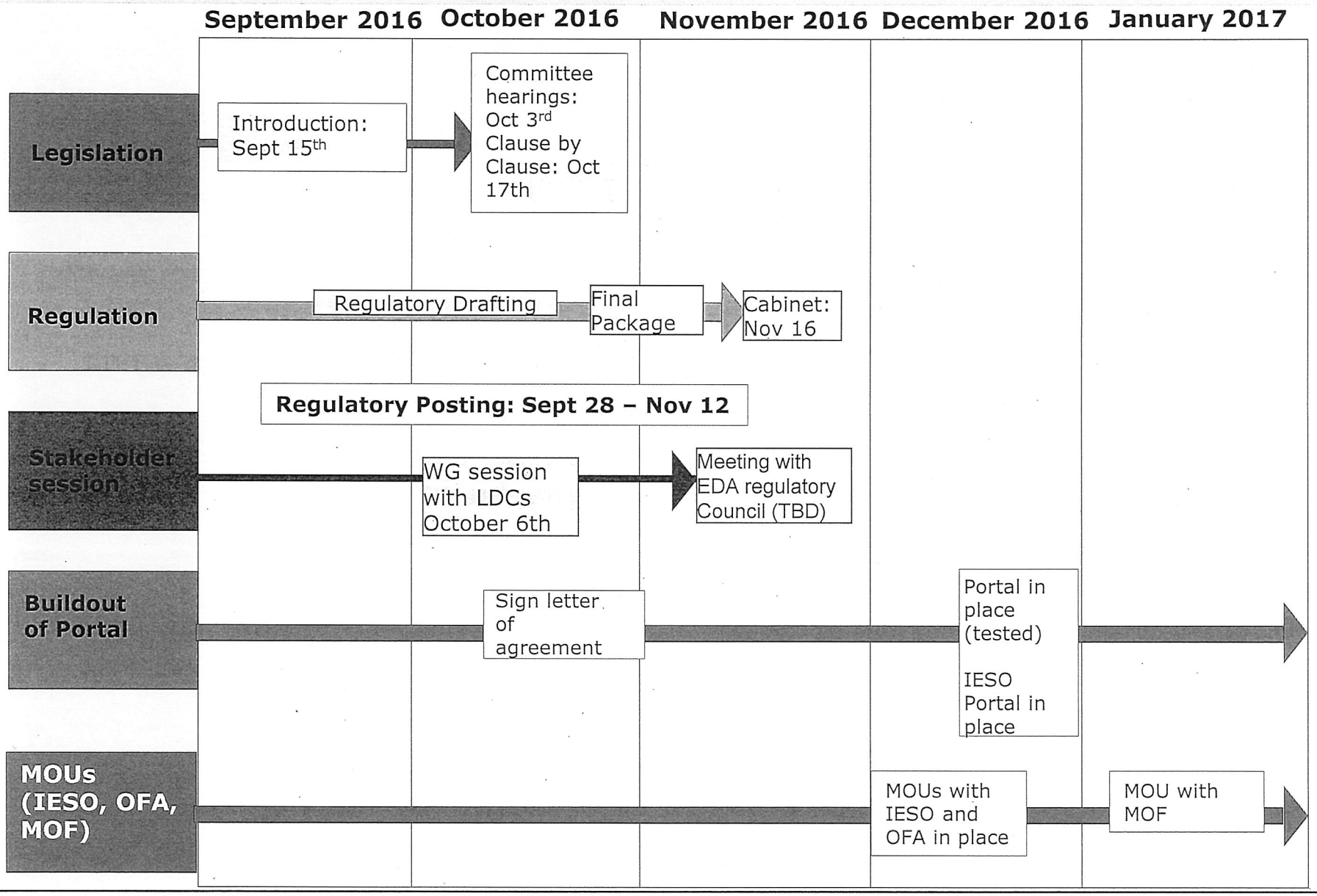
- Share proposed messaging with LDCs to place on electricity bills so LDCs can update their billing systems to deliver the 8% by January 1 2017

- Share envelope and bill-insert designs with LDCs

Operational Requirements:

- Work with IT and IESO to ensure portal is operational by January 1 2017
- Work with OFA and IESO to finalize MOUs

Rate Mitigation Package Timeline



Appendix

General Regulation - Overview

- The proposed General Regulation under the *Ontario Rebate for Electricity Consumers Act, 2016* would put in place a framework very similar to the framework developed to deliver the Ontario Clean Energy Benefit, including provisions addressing
  - **Time-limitation for retroactive claims-** establish a two-year time limitation for retroactive claims
  - **Base invoice amounts for invoices** - direction on what amounts should be included in the calculation of the 8% rebate.
  - **Flow through of financial assistance** – direction that unit sub-meter providers must pass through the rebate to eligible customers.
  - **Financial assistance re: fees and charges imposed by unit sub-meter providers** – direction for unit sub-meter providers on applying the rebate to their fees and charges.
  - **Paying rebate directly to consumers -** provisions that permit direct payment to consumers for transitional purposes such as closing an account with outstanding rebate still owing.
  - **Duty to provide information –** provisions that require LDCs and other vendors to provide the Ministry with specific information needed for verification and forecasting purposes.
  - **Records** –making unit sub-meter providers subject to same record-keeping requirements as LDCs under the Act.
  - **Requirements to provide information for reimbursement purposes –** direction to electricity vendors and unit sub-meter providers on types of information that must be provided and to whom in order to be reimbursed.
  - **Reimbursement to electricity vendors and unit sub-meter providers –** direction on reimbursement process.
  - **Requirement to establish a variance account –** subject to OEB approval, requiring LDCs to establish and maintain variance accounts for the purposes of delivering the rebate.

General Regulation – Access for Independent Power Authorities

- Under the proposed General Regulation, a parallel program for Independent Power Authorities (IPAs) would be created to ensure IPAs had the opportunity to participate and have customers receive the rebate.
- The proposed framework for the regulation would allow for the four IPA communities who previously participated in the Ontario Clean Energy Benefit program to transition their eligibility for the 8% rebate without requiring them to undertake a full application.
    - For the 6 communities who were not receiving the OCEB, they would still be eligible for the 8% rebate, but would need to go through the enrollment process.
- Significant efforts were made by the Ministry to enroll the six communities who did not receive the OCEB. Full enrollment of IPAs may be delayed or untenable for the following reasons:
    - Based on previous experience, the enrolment process would take several months. It is highly unlikely arrangements could be in place for January 1, 2017.
    - IPAs are not provincially regulated. Instead, they are federally funded, and there is no requirement for customer billing. It is not known if these communities have a billing system in place.

List of IPA Communities

1. Eabametoong First Nation
2. Keewaywin First Nation
3. North Spirit Lake First Nation*
4. Weenusk First Nation*
5. Pikangikum First Nation
6. Poplar Hill First Nation
7. Nibinamik First Nation*
8. Wunnumin Lake First Nation
9. Muskrat Dam First Nation*
10. Wawakapewin First Nation

* These communities and or its third party provider had a contract with the Ministry of Energy and actively received the Ontario Clean Energy Benefit.

Bill Mock-Up

SAMPLE MONTHLY BILL STATEMENT

Anytown Hydro-Electric Limited

Account Number:
000 000 000 000 0000

Meter Number:
00000000

Your Electricity Charges	
Electricity	
Off-Peak @ 8.700 ¢/kWh	41.20
Mid-Peak @ 13.200 ¢/kWh	16.35
On-Peak @ 18.00 ¢/kWh	23.60
Delivery	53.07
Regulatory Charges	4.79
Debt Retirement Charge	0.00
Total Electricity Charges	**$139.00**
HST	18.07
8% Provincial Rebate	(11.12)
Total Amount	**$145.95**

All eligible customers will see 8% rebate line on their bill

Bill Mock-Up (RRRP Customer)

SAMPLE MONTHLY BILL STATEMENT

Hydro One Networks Inc. - Residential - Low Density (R2)

Account Number:
000 000 000 000 0000

Meter Number:
00000000

Your Electricity Charges

Electricity	
Off-Peak @ 8.700 ¢/kWh	57.16
Mid-Peak @ 13.200 ¢/kWh	22.60
On-Peak @ 18.00 ¢/kWh	32.57
Delivery*	81.77
Regulatory Charges	7.68
Total Electricity Charges	**$201.78**
HST	26.23
8% Provincial Rebate	**($16.14)**
Total Amount	**$211.87**

* Your delivery charge is reduced through Rural or Remote Rate Protection by X per month

R2 customers will see additional messaging on RRRP on their bill. H1 has suggested an * on the Delivery line with messaging immediately below the line items on the bill

Ontario

MINISTRY OF
ENERGY

Electricity Rate Mitigation
Bill Presentment

October 2016

Bill Presentment

- The bill presentment related requirements will be set out in a **Minister's regulation** under the *Ontario Rebate for Electricity Consumers Act, 2016* (ORECA).
    - The Minister's Regulation does not need to go through the LRC process but does need to be filed with the Registrar.
- The Regulation will include the exact language which distributors and other bill issuers must use when reflecting the 8% rebate on consumers' bills. LL7
    - This will include the line item and any on-bill messaging, envelope messaging, and the form of any required bill insert.
    - The Regulation will allow for the Minister to issue exemptions and alternatives to LDCs unable to comply for technical or operational reasons, as may be identified by LDCs.
- As part of the Ministry's Working Group on implementation issues, discussions will be held with LDCs and sub-meter providers to determine the approach to adding bill lines/messages to reflect the 8% rebate.
    - ENERGY staff are convening the working group on October 6th.
    - The discussion will also include other communications opportunities such as envelope messages, and how utilities unable to meet the January start date (and therefore required to provide retroactive payments) will advise consumers.

Slide 2

LL7 Are there limitations to what language can be used? For example, can you call it a tax rebate on the bill when it isn't a rebate of tax (i.e. ORECA doesn't rebate tax, it provides rebate of 8% of certain parts of a customer's bill)?

As you'll see in ouor comments, we have concerns from a tax perspective.
Lawson, Lynn (MOF), 10/11/2016

Proposed Language for Bills

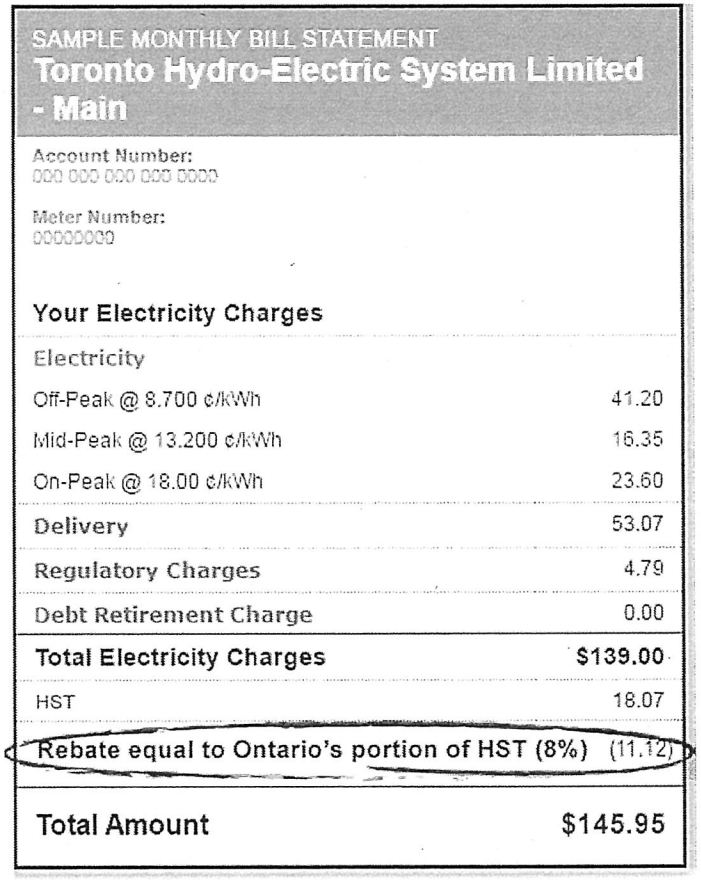
- For discussion at this working group, ENERGY would like to assess MOF comfort with the following proposed line items for electricity invoices:

  Option 1: ~~Provincial Tax Rebate (8%)~~ Rebate equal to Ontario's portion of HST (8%) LL2 LL1

  Option 2: ~~Rebate of Ontario's Portion of HST (8%)~~ LL3

  ~~**Option 3:** 8%~~ Provincial Rebate LL6

  Option 3: Ontario Rebate



SAMPLE MONTHLY BILL STATEMENT

Toronto Hydro-Electric System Limited - Main

Account Number:
000 000 000 000 0000

Meter Number:
00000000

Your Electricity Charges	
Electricity	
Off-Peak @ 8.700 ¢/kWh	41.20
Mid-Peak @ 13.200 ¢/kWh	16.35
On-Peak @ 18.00 ¢/kWh	23.60
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LL6 Similar to OCEB, the invoice could have a line elsewhere to explain that the rebate is equal to the provincial portion of the HST.
Lawson, Lynn (MOF), 10/11/2016

LL2 This isn't a tax rebate. There is no provincial tax on electricity and we do not have the authority under CITCA to unilaterally rebate the provincial portion of the HST. Instead, this is a rebate of 8% of the electricity costs --the same costs that attact HST. It therefore happens to be an amount equal to the provincial portion of the HST but it is not a tax rebate. This is also reflected in the legislation that gives rise to the rebate -- at no point in the legislation does it become a rebate of tax.

It is important from a tax perspective that businesses and LDCs understand that this is not a tax rebate. Both the proposals that refer to tax (referring to a "tax rebate" or "HST rebate") confusion for businesses and LDCs would reasonably result. Some LDCs may think they are to remit only 5% tax rather than 13%. Businesses may think that they paid less tax and therefore claim smaller input tax credits. The goal, as we understand it, was for businesses to continue to claim ITCs at 13% and to also benefit from the 8% rebate. This goal is easier to achieve with the clear use of language when describing the rebate.

Further, Canada Revenue Agency has stong concerns with language that would suggest that this is a HST rebate. CRA also indicated that the province may wish to send its regulations to the CRA for review to ensure that they create no tax problems.

Lawson, Lynn (MOF), 10/11/2016

APPENDIX: Proposed Working Group Membership

Proposed Working Group Membership	
Bluewater Power	Hydro Ottawa
Brantford Power	IESO & OEB
Burlington Hydro	London Hydro
Electricity Distributors Association	Oakville Hydro
Enercare Connections (sub-meter provider)	Powerstream
Enwin	Thunder Bay Hydro
Essex Powerlines	Toronto Hydro
Goderich Hydro	Veridian Connections
Horizon Utilities	Waterloo North Hydro
Hydro One	Greater Sudbury Hydro

- ENERGY used the recent OESP working group as a starting-point for membership in a working group established to facilitate the implementation of the 8% rebate and the ICI.
- ENERGY has received a strong response from invitees.

Ontario

Electricity Price Mitigation

Ministry of Energy ~~[and Ministry of Finance]~~

WORKING DRAFT

Date: September 14, 2016

Minister	Deputy Minister
Minister	Deputy Minister

Ontario

Context

- Electricity costs are increasing as the necessary investments are made to clean and modernize the province's electricity infrastructure.

- Ontario has taken action to replace coal-fired generation with cleaner sources of energy. Since 2003, the Province has invested more than $35 billion in over 16,000 megawatts (MW) of new and refurbished clean generation, including nuclear, natural gas and renewables.
  - This investment represents about 40% of our current supply and has helped decrease electricity sector emissions by approximately 80%.

- Over the same period, Hydro One has invested $15.5 billion to enhance and renew its transmission and distribution systems.

- The 2016 Budget and Climate Change Action Plan (CCAP) committed to offset the impact of cap and trade and to keep electricity rates affordable.
  - Ontario is implementing a cap and trade system effective January 2017.

Ontario

Context – Electricity Consumer Classes

- There are three classes of electricity consumers:

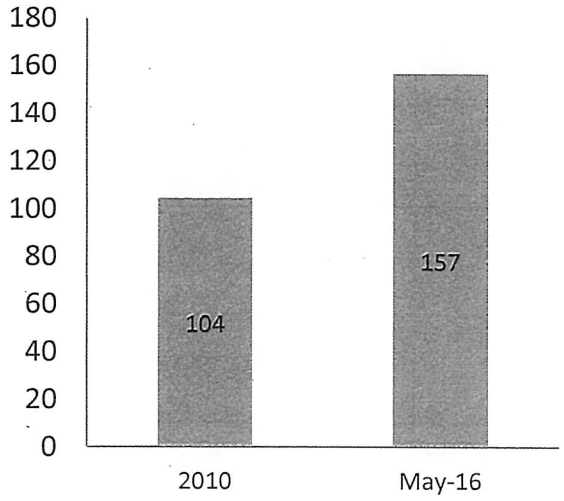
	Regulated Price Plan	Class B	Class A
Consumer Types	• Residential • Small Business • Farms	• Commercial • Institutional • Small industrial	• Large commercial • Large industrial
Load Size	Below 0.05 MW	Between 0.05 MW and 3 MW	Above 3 MW*
Total Consumption	58 TWh	57 TWh	26 TWh
Share of Consumption	41.1%	40.4%	18.4%

- The following slide provide further information on the prices paid by different classes of electricity consumers.

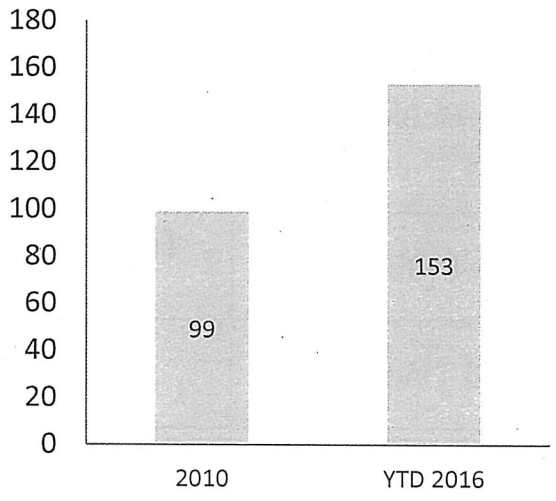
** **Note:** Consumers with peak demand between 3-5 MW in the manufacturing, mining, refrigerated warehousing, greenhouses and data-processing industries are currently eligible for Class A. All other 3-5MW consumers are Class B.

Context – Prices by Electricity Consumer Class

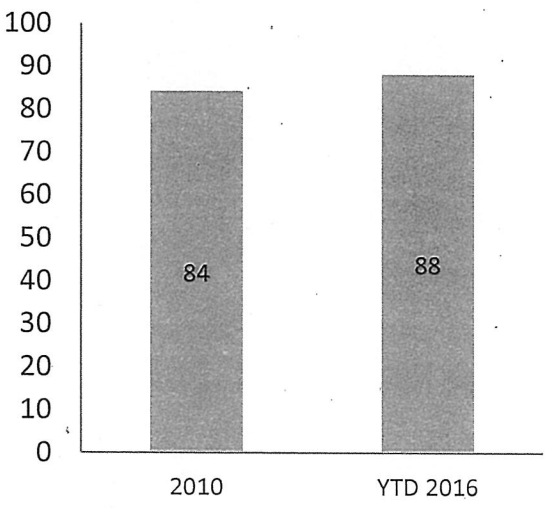
Typical Residential Bill (750/kWh per month)



Typical Commercial Price ($/MWh)



Typical Industrial Price ($/MWh)



- The Industrial Conservation Initiative (ICI) came into effect in 2010 which has helped eligible Class A consumers significantly reduce their electricity costs.

Note: 2016 represents May 2016 for residential and YTD June 2016 for industrial.

Ontario

Context – Rate Mitigation Levers

- To provide rate relief to Ontario electricity consumers, the government can use one or more of the levers outlined below:

  - **Tax-based Lever:**
    - Provide an on-bill rebate funded from the tax-base to all consumers or specific classes of consumers (i.e., the Ontario Clean Energy Benefit (OCEB) provided a rebated for eligible electricity consumers).

  - **Rate-based Lever:**
    - Shifts costs within the rate-base from one customer group to another to achieve electricity system benefits and/or policy goals (i.e., the Industrial Conservation Initiative (ICI) provides reduced prices for electricity consumers that shift consumption to off-peak hours).

  - **Cap and Trade Proceeds Lever:**
    - Use cap and trade proceeds to offset the cost of existing initiatives that help reduce greenhouse gas (GHG) emissions (i.e., the CCAP committed to offset the impact of cap and trade and to keep electricity rates affordable).

Ontario

Rate Mitigation Proposal – Overview

- The Ministry of Energy [and the Ministry of Finance] are proposing to implement the following electricity price mitigation initiatives. The approach identified below would provide relief to various electricity consumer classes:

  1) Provide an 8% rebate to consumer eligible for the Regulated Price Plan (i.e., residential, small business and farms), similar to OCEB;

  2) Expand ICI eligibility by lowering the threshold to 1 MW, to provide support to Class B consumers;

  3) Update the Rural and Remote Rate Protection (RRRP) program, to provide relief to rural customers; and

  4) Recycle cap and trade proceeds to commercial and industrial electricity consumers to keep electricity rates affordable.

- The following slides provide additional information on the above initiatives.

Ontario

Rate Mitigation Proposal – Impacts (2017)

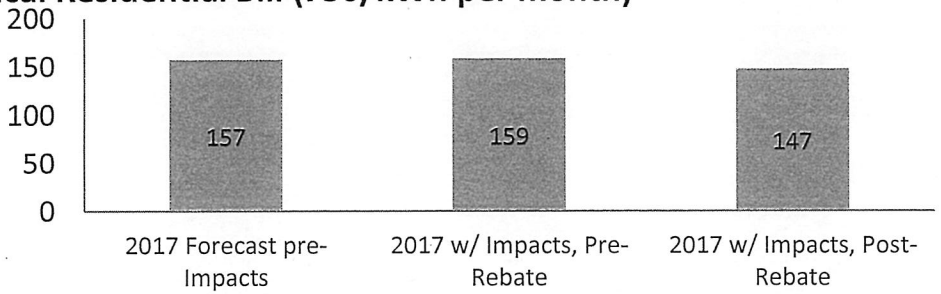
	Average Annual Fiscal Impact	Average Annual Greenhouse Gas Reduction Account (GGRA) Proceeds Impact	Regulated Price Plan (Residential) Impact		Class B (Commercial) Impact	Class A (Industrial) Impact	
			Average (750 kWh/ month)	*Rural** (1000 kWh/ month)*		*Existing*	*New*
8% rebate to Regulated Price Plan consumers, ICI Expansion, RRRP Update and Proceeds Recycling	$1.0 billion*	- $60 million annually (i.e., $0.24 billion over the first compliance period)	-$10/ month (-7%)	-$45/ month (-20%)	-$1/MWh (-1%)	-$1/ MWh (-1%)	Up to -$52/ MWh (-33%)

* **Note:** Preliminary estimate – subject to further analysis and verification.

** Rural customers refers to customers of Hydro One eligible to receive RRRP (R2 rate class customers)

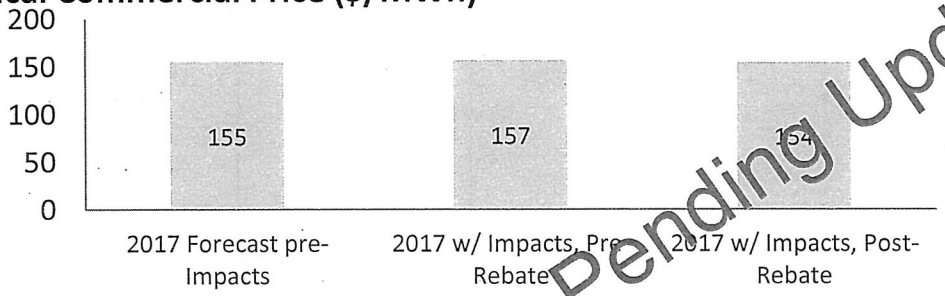
Rate Mitigation Proposal – Bill Impacts by Electricity Consumer Class

Typical Residential Bill (750/kWh per month)



- **Residential:** The net impact of the additional cost of programs and 8% rebate is a 7% reduction.

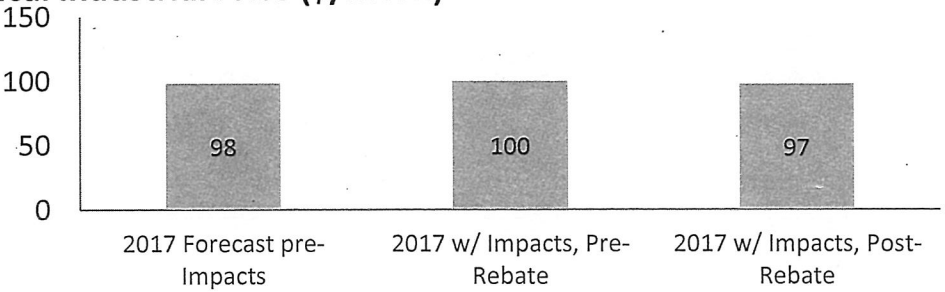
Typical Commercial Price ($/MWh)



Pending Update

- **Commercial:** The net impact of the additional cost of programs and proceeds recycling is a 1% reduction.

Typical Industrial Price ($/MWh)



- **Industrial:** The net impact of the additional cost of programs and proceeds recycling is a 1% reduction.

Note: The impact of ICI would not be added to bills until 2018 due to the time required to implement the expansion and for billing changes. However, the impact of ICI has been included above for illustrative purposes.

"RPP plus" <IPA's opt out retailer's

Ontario

1) 8% Rebate to Regulated Price Plan Eligible Consumers

- ENERGY is proposing to introduce legislation/regulation by X [placeholder for date] to provide a rebate of 8% to consumers eligible for the Regulated Price Plan. The below table indicates which consumers would or would not receive the benefit.

Eligible for the 8% rebate (< 50 kW or < 250,000 kWh/year)	**Not eligible for the 8% rebate** (> 50 kW or > 250,000 kWh/year)

• Residential Regulated Price Plan consumers
• Residential retail consumers
• Multi-unit residential buildings and other facilities used as residential rental units
• Long-term care homes and school residences
• Regulated Price Plan eligible farms
• Small businesses
  – Coffee / snack retailer
  – Convenience store
  – Apparel store
  – Hair salon
  – Small insurance office
	• Class A consumers
	  – Manufacturer
	  – Large grocery store
	  – Mines
	  – Auto assembly plants
	• Class B consumers (except farms that have opted out of the Regulated Price Plan)
	  – Commercial offices (low rise)
	  – Hotel
	  – General warehousing

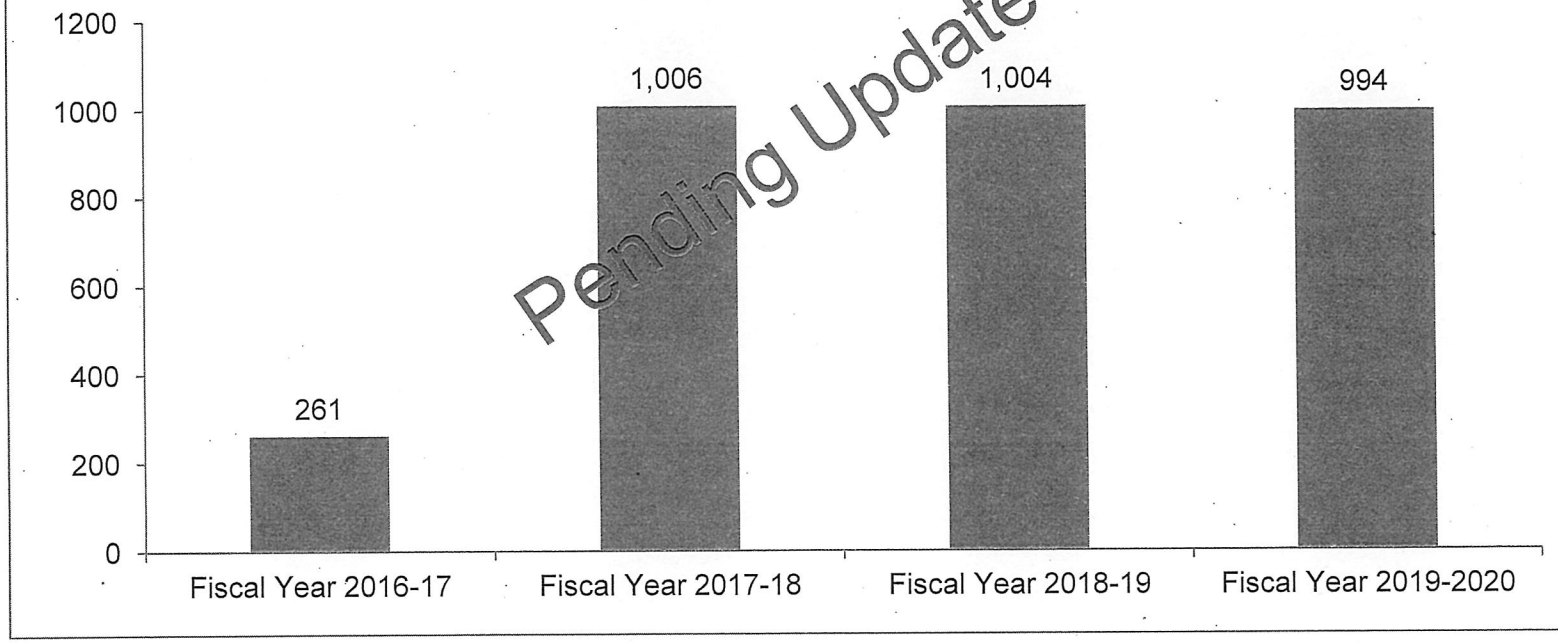
- Those ineligible to receive the 8% rebate will benefit from one or more of the other initiatives under this proposal (e.g., ICI expansion, proceeds recycling, etc).

Ontario

1) 8% Rebate to Regulated Price Plan Eligible Consumers – Projected Impact

- ENERGY estimates that the average annual cost of an 8% rebate to consumers eligible for Regulated Price Plan consumers would be approximately $1.0 billion between 2017 and 2020.

Impacts of the 8% rebate for Regulated Price Plan Consumers
in $ millions



Ontario

2) Industrial Conservation Initiative (ICI) Expansion

- ENERGY is proposing to amend O. Reg. 429/04 to expand ICI eligibility effective [X placeholder date].

- Currently, electricity consumers over 5 MW and consumers from 3-5 MW in certain energy intensive sectors are eligible for ICI (i.e., approximately 300 Class A consumers).
  - Consumers participating in ICI include the following sectors: pulp and paper, auto, manufacturing, chemicals and mines.

- ICI would be expanded so that all consumers over 1 MW are eligible for the program, which would:
  - Reduce electricity peak demand by incenting more consumers to lower their electricity demand during peak periods;
  - Reduce electricity bills for new ICI participants who are able to reduce their electricity demand during peak demand periods; and
  - Increase the electricity bills for non-ICI participants to ensure full cost recovery in the electricity system.

Ontario

2) ICI Expansion – Projected Impact

	Benefit to New ICI Participants	System Benefit	Financial Impact	Residential Bill Impact
	Bill Savings	Peak Demand Reduction (MW)	GA shifted to Class B ($M)	
Short-term	Up to 21%	80	47	Increase of $0.42/month
Long-term	Up to 34%	165	82	Increase of $0.74/month

- The different impacts refer to the amount of time it takes for new Class A consumers to respond to the expanded ICI eligibility
  - 'Short-term' refers to the expected impact once ICI billing begins for new Class A consumers (one year after expanded eligibility takes place).
  - 'Long-term' is the expected impact once new Class A consumers have had time to significantly change their behaviour and investment decisions in response to the ICI.

- The bill impacts assume a 25% uptake, which would increase Class A consumption by roughly 3 TWh, leaving an estimated 54 TWh in Class B that are either between 0.05-1 MW or choose not to opt in to ICI. This would represent an estimated 300 additional consumers in ICI, though they would represent a much smaller share of the consumption than the 300 consumers currently participating.

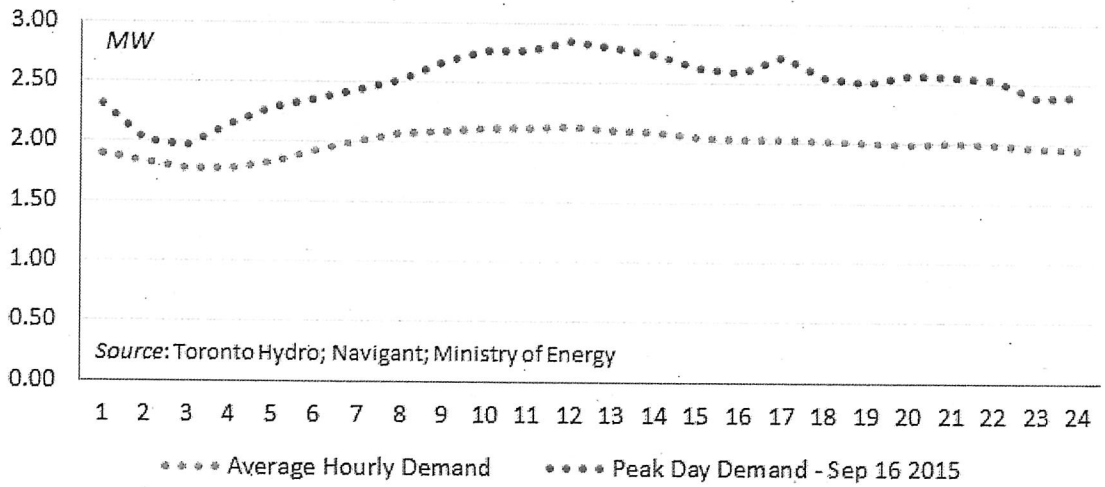
- Newly eligible consumers in the program would mostly fall into the small industrial, institutional and commercial category, including: automotive supply chain companies, office tower, large shopping mall, greenhouses and others.
  - A few examples of companies that would become eligible under such an expansion would be Kellogg, Canlan Ice Sports, Cambridge Towel, SLACAN and Casino Rama.

2) ICI Expansion – Illustrative Example of Newly Eligible Consumer

- Plastics manufacturers, such as Poly Five Plastics in Toronto, are among the consumers that would become eligible if the threshold was lowered.
- Such manufacturers fall under NAICS* code 32 and have relatively flat load profiles, reflecting around the clock production. This means they would be beneficiaries of ICI even with no change in consumption behaviour.
- Companies like Poly Five Plastics could expect to see greater savings if they are willing and able to respond to the higher prices during high demand hours.

Typical Demand Profile, 2-3 MW Consumer

Manufacturer, NAICS Code 32 - Nov 2014 to Oct 2015



Illustrative Bill Savings, 2-3 MW Consumer

Manufacturer, NAICS code 32

	Status Quo	*No Price Response*	*Short Term Response*	*Long Term Response*
	Class B	**Class A**	**Class A**	**Class A**
GA	75.26	58.06	43.55	29.03
Total bill	**126.28**	**109.09**	**94.58**	**80.06**
Savings		*-14%*	*-25%*	*-37%*

Source: Navigant; Ministry of Energy

* **Note:** North American Industry Classification System (NAICS) is the standard used by statistical agencies in classifying business establishments.

Ontario

3) Rural or Remote Rate Protection (RRRP) Update

- ENERGY is proposing to amend O.Reg 442/01 to provide an additional $110 million in rate protection to eligible rural or remote energy consumers, and consider options to periodically adjust the amount of rate protection available to these consumers going forward.
- RRRP is a ratepayer-funded subsidy program that helps offset the higher costs to distribute electricity to Ontario residents who live in rural or remote locations all across the Province.
- Today, RRRP is a $175-million program. For an average residential customer, the cost of supporting RRRP is roughly $1 per month. For other customers, the cost can range from $65 for a greenhouse to $8,000 for a medium industrial.
- The majority of the program funding ($125.5 million) provides a subsidy to Hydro One's lowest-density customers – classified as R2 customers. There are approximately 329,000 R2 customers. The current program provides a monthly subsidy for R2 customers of $31.50.
- RRRP funding supporting R2 customers has been capped at the current level since 2004. As a result, the impact of its assistance has diluted over time as electricity costs have risen.
- An additional $110 million in program funding would see an increased subsidy of ~$28 /month. This would bring R2 bills in line with Hydro One R1 (medium density) bills at 1000kWh.
  - This would increase the R2 portion of the RRRP to $235 million with a monthly impact on an average residential consumer of ~$0.60.
  - The RRRP could be indexed at inflation or "trued up" on a regular basis to ensure the subsidy remains constant.

Hydro One R2 Bill @ 1000kWh (Pre-HST)	
With Current RRRP Subsidy	**With Proposed RRRP Expansion**
~$229	~$201
Bill Comparisons	
Hydro One R1	~$201
Algoma Power (Receives RRRP)	~$197
Provincial Average	~$169
Lowest Cost LDC	~$149*

*The LDC with the lowest total bill is Fort Frances Power Corporation (FFPC). FFPC customers who are not enrolled with a retailer receive a $0.0125/kwh discount on power due to a historic (1905) mill agreement. In order to maintain the discount, FFPC maintains its ROE at 0%.

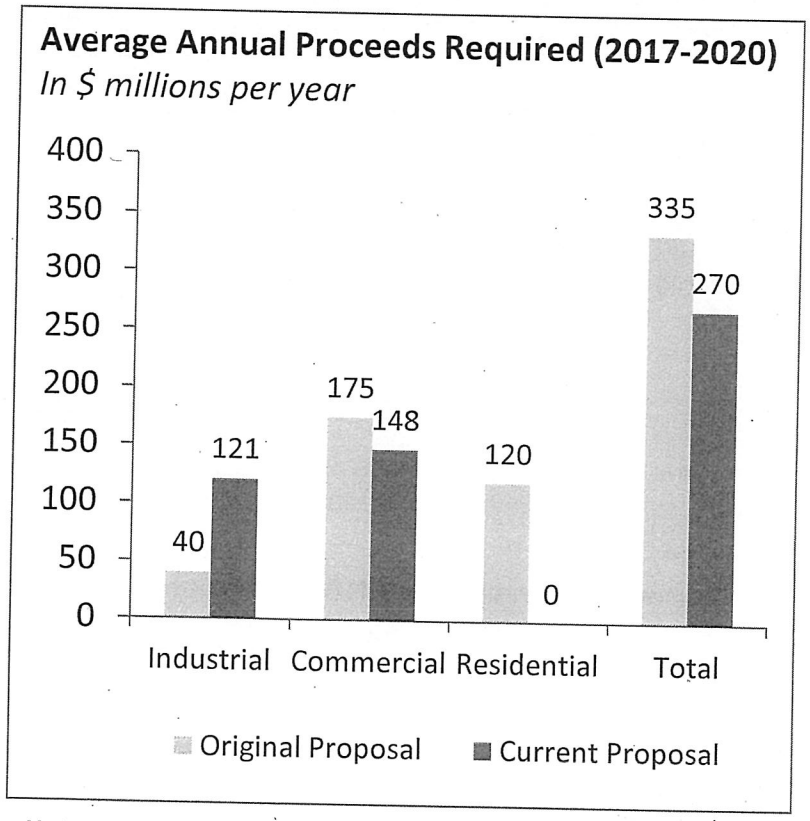
4) Cap and Trade Proceeds Recycling

- ENERGY is proposing to recycle proceeds to offset the impact of cap and trade on industrial and commercial electricity consumers to keep electricity rates affordable.

- The 2016 Budget committed to offset the impact of cap and trade for commercial and industrial consumers, while also providing a benefit of up to $2 per month for residential consumers.
  - To meet the 2016 Budget commitment, the Climate Change Action Plan (CCAP), committed $1.3 billion from the GGRA over the first compliance period (2017-2020).

- However, providing a 8% rebate to Regulated Price Plan consumers would allow for GGRA proceeds previously committed to residential consumers to be redirected to other consumers classes and/or GHG reduction initiatives in the fiscal plan.

- The current proposal would provide additional recycling to commercial and industrial consumers, while requiring an estimated $60 million less per year (i.e., a reduction of $0.24 billion over the first compliance period).



Note: The original proposal to offset the impact of cap and trade via GA to the average industrial, and would provide a benefit to commercial and residential consumers. Current proposal recycles proceeds volumetrically so that industrial electricity consumers are no worse off, offset the impact of ICI expansion and updating the RRRP while providing a benefit to residential and commercial consumers.

Ontario

Considerations

- New legislation would be required to enable the 8% rebate proposal. Legislation would closely mirror the *Ontario Clean Energy Benefit Act*, 2010.
  - Amendments would also be required to various regulations to expand ICI and RRRP.

- On-bill rebate delivery would likely require adjustments to Local Distribution Company (LDC) billing systems, which could impact delivery costs and timelines. In the past, LDCs have asked for at least six months' notice when implementing billing system changes.
  - While LDCs have experience with rebate delivery through the Ontario Clean Energy Benefit (OCEB) and Ontario Electricity Support Program (OESP), which should simplify program implementation, unique considerations may arise. For example, options that provide rebates to specific classes of consumers are more administratively complex than broader offerings.
  - One option to address any timing concerns is to allow LDCs to provide retroactive payments if their systems cannot be updated in time for January 1, 2017. This was done with the OCEB.

- It is recommended that ENERGY (possibly through the Ontario Energy Board) consult with LDCs to accurately assess these impacts once the program has been announced.

- Detailed messaging on bills (for "low-volume" consumer bills) could be implemented by amending O. Reg. 275/04 (made under the Ontario Energy Board Act, 1998).

- Recycling of cap and trade proceeds to industrial and commercial electricity consumers would still be required to meet or surpass the 2016 Budget commitment that they be no worse off due to the introduction of cap and trade.

Fiscal Planning Assumptions and Mitigation

- The 2016 Budget fiscal plan does not include a provision that could cover the potential full cost of $7.2 billion over four years for this electricity mitigation approach.

- However, the Climate Change Action Plan did commit to funding of about $1.3 billion over four years for electricity mitigation for industrial, commercial and residential consumers from GGRA proceeds.

- Consideration could be given to allocating a portion (or all) of the GGRA proceeds currently earmarked for electricity mitigation towards other existing initiatives that also reduce greenhouse gas emissions (i.e., identify more in-plan initiatives to be supported by GGRA proceeds – see next slide) – thereby providing an overall fiscal plan offset.

- In the absence of any offset strategies, the full cost of the rate mitigation approach would add to the pressures and risks that need to be managed in order for the government to balance the budget in 2017-18 and stay balanced in 2018-19 and beyond.
  - Other major risks include, for example, assumptions related to federal revenue (including Equalization), major expense risks identified by ministries, and potential funding for other initiatives under consideration.

- Other potential approaches to mitigating the fiscal impact through design parameters, include:
  - Designing the rate mitigation initiative in a way that reduces the overall cost of the program, for example:
    - Phasing-in the rate mitigation to limit the fiscal impact over the near-term path to balance.
    - Introducing a cap that would limit the rate mitigation to a monthly level of consumption (e.g., similar to the 3000 kwh cap that was in effect for the OCEB).
  - Reviewing other electricity and energy relief currently available (e.g. personal income tax credits).
  - Limiting recipients of the rebate program – for example, carving out PSBs.

- In addition, as part of the upcoming planning processes leading to Fall Statement and the 2017 Document, the government could review and consider other actions and tools to help mitigate the overall impact on the fiscal plan.

Legal Considerations (Draft)

order to avoid characterization as an unconstitutional tax, a non-tax levy must have a sufficient nexus between those who pay and the regulatory scheme in the sense that those who pay have caused the need for or benefit from the regulatory scheme. Although the case law is not developed on the extent to which some regulated actors can be required to subsidize others, risk is reduced to the extent that any cross-subsidization serves true regulatory goals rather than revenue re-distribution goals.

- HST Rebate (shift costs from rate-base to tax base by providing a rebate equal to the provincial portion of HST):
  - No legal risk has been identified.

- ICI Expansion (shift costs within rate-base by expanding eligibility for the ICI program to consumers of >1 MW):
  - Shifting costs to some consumers to lower rates for others without more carries the risk that the charge would be characterized as an unconstitutional tax. To establish that the charge is legitimate, it must be established that the purpose and effect of the charge is to facilitate the maintenance of a financially viable electricity system by way of load management or some other feature under which those who are subsidized provide an overall system benefit enjoyed by those who subsidize them.

- RRRP Update (shift costs within the rate-base by increasing the RRRP benefit paid to rural and remote customers):
  - Increasing the amount of revenue devoted to the RRRP or expanding the scope of consumers eligible for the program does not raise new legal risk. There is a good argument that the RRRP is a regulatory charge, as it socializes some of the costs of distributing electricity to rural consumers. Overall the risk that the RRRP would be characterized as a tax is assessed as moderate (meaning equally good arguments on both sides).

- Cap and Trade Proceeds Recycling (reduce impact on rate base and tax base by directing cap and trade auction proceeds to industrial consumers):
  - To be characterized as regulatory charges under the cap and trade program, auction revenues should be spent on programs that reduce GHGs.

Ontario

Communications

- Public high-profile communications would coincide with introduction of legislation (September 2016).
  - Stakeholder outreach/technical briefings with LDCs, Ontario Chamber of Commerce, AMPCO, OEB low-income table, AMO, etc.
  - Echo public announcements in southwest and north; proactive provincial/local media.

- **Positioning:**
  - A fiscally prudent plan to benefit all ratepayers in a lasting, meaningful way.
  - Rural customers will receive the largest single rate relief ever.
  - Businesses across Ontario will have even more opportunity to be competitive and manage their energy costs.

- **Issues Considerations:**
  - Significant benefit for rural and remote residential customers; net gain for all residential customers.
  - More complex to communicate, but can be presented as a full plan that includes reforms and improvements to the system.
  - Consistent with cap-and-trade commitment that no business sector will be left worse off, though small businesses outside ICI will benefit the least.

Ontario

Communications – Key Messages

- [Placeholder]

Ontario

Proposed Cabinet Minute

CABINET AGREED THAT:

1. THE MINISTRY OF ENERGY (ENERGY), WITH SUPPORT FROM THE MINISTRY OF FINANCE (MOF), SHALL PREPARE LEGISLATION THAT WOULD PROVIDE AN EIGHT PERCENT (8%) REBATE ON THE PRE-TAX COST OF ELECTRICITY FOR THE FOLLOWING CLASSES OF CONSUMERS:
   A. ALL CONSUMERS ELIGIBLE TO BE BILLED UNDER THE ONTARIO ENERGY BOARD'S REGULATED PRICE PLAN; AND
   B. ANY OTHER CONSUMERS WHO WERE ELIGIBLE FOR FINANCIAL ASSISTANCE UNDER THE *ONTARIO CLEAN ENERGY BENEFIT ACT, 2010* (OCEBA) DURING THE PERIOD THAT PROGRAM WAS IN PLACE,

2. THE LEGISLATION SHALL BE GENERALLY MODELLED UPON THE OCEBA, AND WOULD INCLUDE THE FOLLOWING ELEMENTS:
   A. THE REBATE WOULD BE AVAILABLE STARTING JANUARY 1, 2017 AND BEFORE SUCH DATE AS MAY BE PRESCRIBED.
   B. THE REBATE WOULD NOT BE SUBJECT TO A CAP UNLESS PRESCRIBED.
   C. THE LEGISLATION WOULD SPECIFY THE TYPES OF COSTS TO WHICH THE REBATE WOULD OR WOULD NOT BE APPLIED, WITH AUTHORITY TO MAKE CHANGES BY REGULATION.
   D. THE LEGISLATION WOULD ADDRESS INVOICING REQUIREMENTS, INCLUDING AUTHORITY TO PRESCRIBE HOW THE REBATE IS TO APPEAR ON CONSUMER ELECTRICITY BILLS.
   E. THE LEGISLATION WOULD INCLUDE AUTHORITY TO PRESCRIBE THE WAY IN WHICH THE REBATE IS TO BE FLOWED THROUGH TO CONSUMERS, AND THE WAY IN WHICH ELECTRICITY VENDORS PROVIDING THE REBATE ARE TO BE REIMBURSED.
   F. THE LEGISLATION WOULD INCLUDE RECORD-KEEPING REQUIREMENTS FOR ELECTRICITY VENDORS AND ANY OTHER PRESCRIBED PERSONS.
   G. THE LEGISLATION WOULD INCLUDE INSPECTION POWERS FOR INSPECTORS APPOINTED BY THE MINISTER OF FINANCE, INCLUDING POWERS RELATED TO RECOVERY OF OVERPAYMENTS.

Ontario

Proposed Cabinet Minute (cont'd)

3. ENERGY AMEND O. REG. 429/04 (ADJUSTMENTS UNDER SECTION 25.33 OF THE ACT) MADE UNDER THE *ELECTRICITY ACT, 1998* TO EXPAND ELIGIBILITY FOR CLASS A CONSUMERS AND CLASS A MARKET PARTICIPANTS UNDER THE INDUSTRIAL CONSERVATION INITIATIVE (ICI) TO ALL ELECTRICITY CONSUMERS AND MARKET PARTICIPANTS WITH A PEAK DEMAND ABOVE AN AVERAGE OF ONE MEGAWATT (1MW) WITH NO SECTORAL RESTRICTIONS ON PARTICIPATION.

4. ENERGY AMEND O. REG 442/01 (RURAL AND REMOTE RATE PROTECTION) MADE UNDER THE *ONTARIO ENERGY BOARD ACT, 1998* TO INCREASE THE TOTAL AMOUNT OF RATE PROTECTION AVAILABLE TO LOW DENSITY HYDRO ONE INC. CONSUMERS UNDER THE RURAL OR REMOTE RATE PROTECTION PROGRAM BY $110 MILLION, EFFECTIVE JANUARY 1, 2017.

5. ENERGY CONSIDER A MECHANISM TO PERIODICALLY ADJUST THE TOTAL ANNUAL AMOUNT OF RATE PROTECTION AVAILABLE TO HYDRO ONE INC. CONSUMERS UNDER THE RURAL OR REMOTE RATE PROTECTION PROGRAM, EFFECTIVE JANUARY 1, 2018.

6. ENERGY WORK WITH THE MINISTRY OF THE ENVIRONMENT AND CLIMATE CHANGE (MOECC) TO DEVELOP A PROPOSAL TO OFFSET THE IMPACT OF CAP AND TRADE FOR COMMERCIAL AND INDUSTRIAL ELECTRICITY CONSUMERS THROUGH RECYCLING OF CAP AND TRADE AUCTION PROCEEDS.

7. [PLACEHOLDER FOR BILL PRESENTMENT]

8. ENERGY AND MOF TO WORK WITH CABINET OFFICE (CO) AND PREMIER'S OFFICE (PO) ON COMMUNICATIONS PLAN.

Ontario

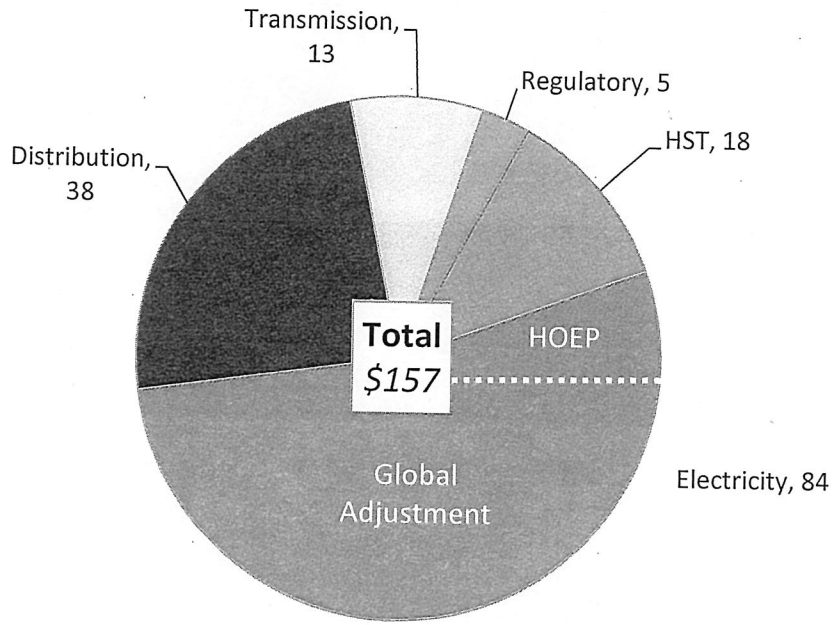
Appendix

Residential Electricity Prices

- There are approximately 5 million residential consumers in Ontario.
- The Regulated Price Plan includes nearly all residential consumers, as well as small businesses. Regulated Price Plan consumers pay a blended commodity rate regulated by the OEB, which is set every six months.
- For households, the Debt Retirement Charge (DRC) was removed from residential electricity bills as of January 1, 2016.
- In addition, the Ontario Electricity Support Program (OESP) provides an ongoing rate reduction directly on the bills of low-income electricity consumers who have applied and meet the eligibility requirements. The program is funded through the rate base.
- Rural customers, in particular those with electrical heating, pay higher monthly bills.

Typical Residential Monthly Bills ($)

As of May 1, 2016 (750 kWh/month)



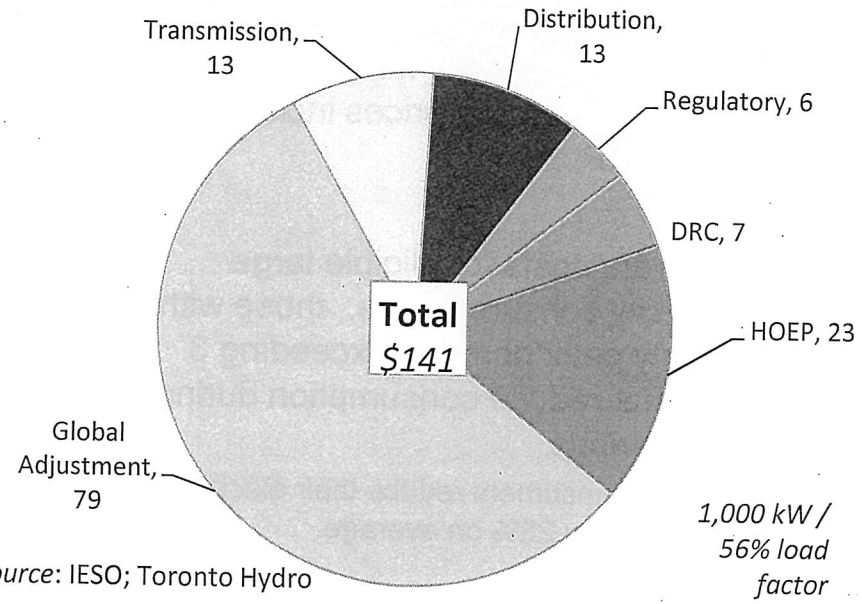
Source: OEB, Toronto Hydro

Commercial Electricity Prices

- There are approximately 400,000 commercial and institutional consumers in the province.
- There is a high degree of differentiation amongst consumers within the commercial sector in terms of size and consumption patterns. For example, an elementary school has a much different hourly load profile compared to a full service restaurant. This is an important consideration when looking at the bill impacts of policy options.
- These consumers are Class B consumers, and have separate line items on the electricity bill for HOEP and GA.

Typical Commercial Price ($/MWh)*

2015 Average (Non-Regulated Price Plan Class B)



Source: IESO; Toronto Hydro

- Consumers in the commercial sector do not pay time-of-use prices and have little incentive to shift demand away from high demand hours.
- Targeted pricing programs are currently not available for Class B consumers.

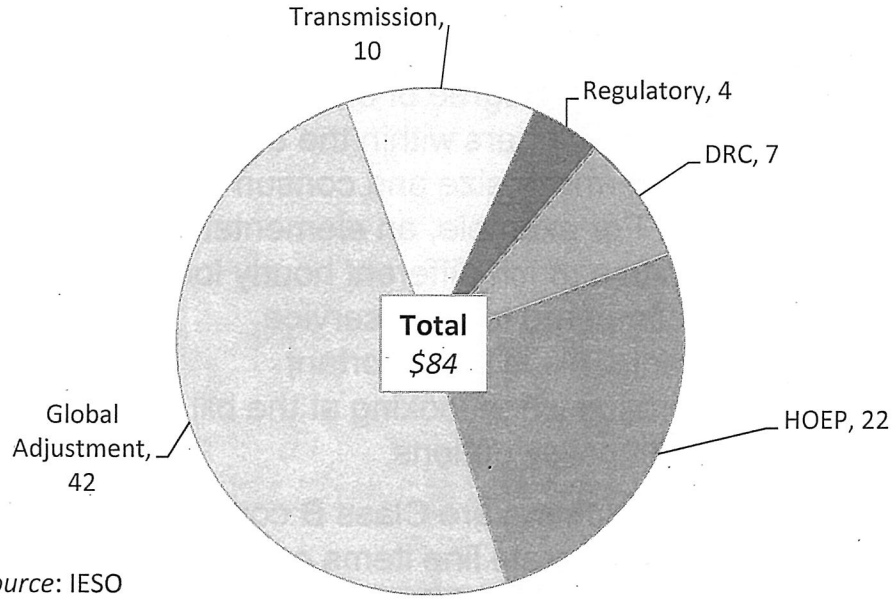
* **Note**: Most commercial consumers receive input tax credits for their HST.

Industrial Electricity Prices

- There are about 300 large industrial consumers in Ontario.
- Measures in place to mitigate industrial electricity prices include ICI and NIERP.
- ICI lowers costs for eligible large electricity consumers (i.e., those with monthly peak demand exceeding 3 MW) that reduce consumption during peak periods.
  - ICI consumers reduce their electricity rates by 25% on average.

Typical Large Industrial Price ($/MWh)*

2015 Average



Source: IESO

- Participants in NIERP receive a rebate of $20/MWh. On average, industrial electricity prices are reduced by about 20% through the program, reducing all-in prices to $64/MWh for these consumers. The program is funded through the tax base.

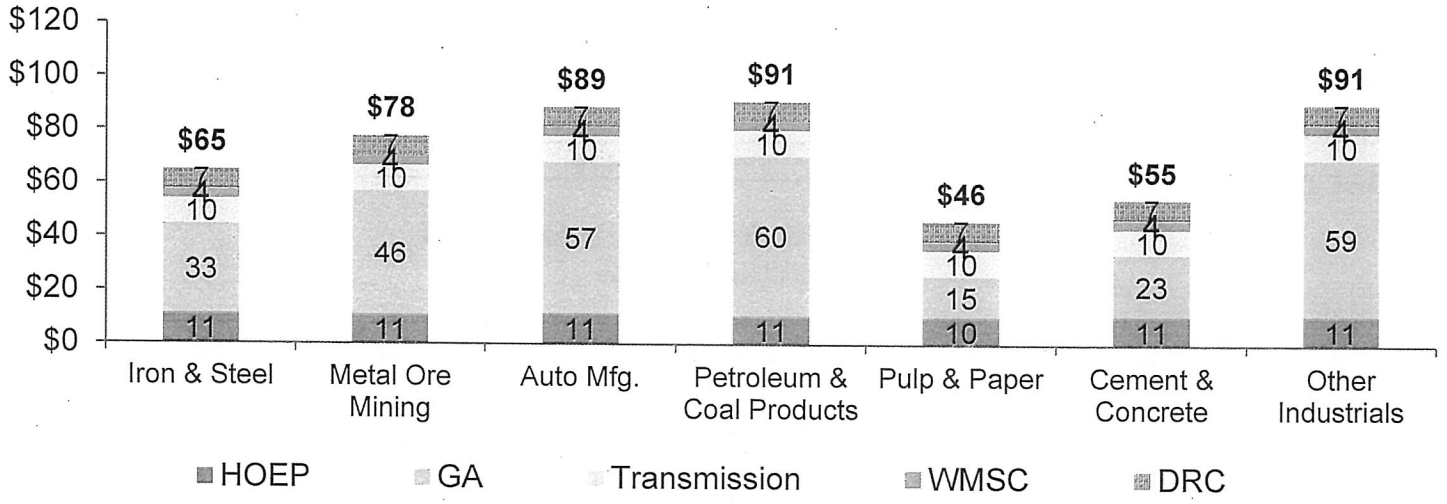
* **Note:** Industrial consumers receive input tax credits for their HST.

Industrial Electricity Prices by Sector

- While industrial consumers (Class A) benefit from participation in the ICI program, there is a significant amount of variability in the ability to shift away from peak periods across customer classes, impacting the savings achieved.

- The below chart shows the prices paid in 2015 across a number of industrial sectors. Consumers in the north that receive rebates under the Northern Industrial Electricity Rate Program (NIERP) achieve rates that are $20/MWh lower than the below.

Average all-in Class A, Transmission-connected Electricity Prices by Industrial Sector (estimated $/MWh), Year-to-Date June 2016



Note: HOEP = Hourly Ontario Energy Price, GA = Global Adjustment, WMSC = Wholesale Market Service Charges, DRC = Debt Retirement Charge

Current Cost Shifts in Ontario's Electricity System

- The tables on the right show the estimated cost shifts in the province's electricity system that result from three existing government programs: ICI, RRRP and OESP.

- Expansion of ICI and RRRP would place further pressure on electricity costs for other consumer classes

- While the OEB is still developing options, it is likely that any implemented First Nations rate assistance program will also shift costs onto non-First Nations customers.

Cost Shift Impacts - Residential Bill

Typical 750 kWh/month Toronto Hydro consumer

$/month	2011	2012	2013	2014	2015	2016
ICI	2.65	3.25	3.01	3.53	4.75	4.77
RRRP	0.90	0.82	0.84	0.92	0.93	0.94
OESP	-	-	-	-	-	0.84
Total	***3.55***	***4.07***	***3.85***	***4.46***	***5.68***	***6.55***

Cost Shift Impacts - Commercial Bill

Typical non-RPP Class B consumer

$/MWh	2011	2012	2013	2014	2015	2016
ICI	3.54	4.33	4.02	4.71	6.33	6.35
RRRP	1.20	1.10	1.12	1.23	1.24	1.25
OESP	-	-	-	-	-	1.13
Total	***4.74***	***5.43***	***5.14***	***5.94***	***7.57***	***8.73***

Cost Shift Impacts - Industrial Bill

Typical Class A consumer

$/MWh	2011	2012	2013	2014	2015	2016
ICI	-22.17	-26.36	-23.50	-25.91	-33.79	-33.92
RRRP	1.20	1.10	1.12	1.23	1.24	1.25
OESP	-	-	-	-	-	1.13
Total	***-20.97***	***-25.26***	***-22.38***	***-24.68***	***-32.56***	***-31.55***

Note

Negative value indicates a benefit; positive value denotes an incremental charge

Ontario

Historic and Forecast Prices by Electricity Consumer Class

Placeholder – graphs showing historic prices and OPO forecast

Note: 2016 represents May 2016 for residential and YTD June 2016 for industrial.

Ontario

HST – Overview

- The HST is a value-added tax. Unlike a sales tax, under a value-added tax most businesses effectively do not pay tax on their inputs because they are able to claim input tax credits (ITCs).
  - Through ITCs, the HST removes embedded sales taxes paid by businesses.
  - Only HST registrants that have taxable sales can claim ITCs. Businesses selling HST-exempt goods or services (such as financial services) are not eligible to claim input tax credits.

- Unlike businesses engaged in commercial activities, Public Service Bodies (PSBs) are generally not eligible to claim input tax credits. Instead, they can recover a portion of the HST paid by applying for PSB rebates from the Canada Revenue Agency.
  - PSBs consist of municipalities, universities, public colleges, school authorities, hospital authorities and charities and qualifying non-profit organizations.
  - See Appendix for additional information.

- To help low- to moderate-income individuals and families with the sales tax they pay on home energy costs (including electricity), Ontario provides tax relief through the energy component of the Ontario Energy and Property Tax Credit (OEPTC).
  - For the 2016 benefit year, eligible families and single people could get up to $224 to help with these costs, totalling about $445 million in tax relief.

- Ontario also provides tax relief through the Ontario Sales Tax Credit (OSTC), which was enhanced in 2010 to help low- to moderate- income individuals and families with the overall sales taxes they pay.
  - For the 2016 benefit year, eligible individuals can get up to $291 plus additional amounts of up to $291 for their spouse and each of their dependant children under age 19.
  - The 2016 OSTC is estimated to provide about $1.3 billion in tax relief.

Ontario

HST – Considerations

- An across-the-board 8% rebate could be criticized as providing HST relief to those who effectively do not pay HST (businesses) as well as to those who receive HST relief through Public Service Body rebates or income tax relief.

- Providing a rebate equivalent to the 8% provincial portion of the HST on electricity, could lead to pressure to provide similar relief for other fuels and energy sources.
  - Ontarians who heat their homes with electricity will benefit from the provincial rebate, while Ontarians who heat their homes with natural gas, heating oil, propane, etc. would continue to pay the full 13% HST on those other energy sources.
  - The costs of natural gas, heating oil, propane, etc. are expected to increase as a result of Ontario's forthcoming cap and trade program.

- The provincial rebate would be an amount equal to the 8% provincial portion of the HST on electricity. OCEB, in contrast, was 10% of the bill including HST.

- The Province may also need to change the reporting for the cost of the energy component of the Ontario Energy and Property Tax Credit, which provides relief for HST on home energy. The energy component is reported as an offset of HST revenue.
  - Ministry program expenses could increase by as much as $445 million (TBC).

- The greater degree of complexity in the design of the program, the more difficult it will be to draft, implement and administer.

- To improve the province's ability to track impacts and program outcomes, subsequent legislative amendments to enable exchanges of data with LDCs could be considered.

Ontario

Additional Information – Public Service Bodies

- Unlike businesses engaged in commercial activities, Public Service Bodies (PSBs) are generally not eligible to claim input tax credits. Instead, they can recover a portion of the HST paid by applying for PSB rebates from the Canada Revenue Agency.

- Ontario's rebate rates are intended to keep these sectors fiscally neutral relative to the Retail Sales Tax they paid on their inputs under the former RST system.

REBATE RATES FOR PSBs		
PSB Type	**Ontario (8%)**	**Federal (5%)**
Municipalities	78%	100%
Universities & Public Colleges	78%	67%
School Authorities	93%	68%
Hospital Authorities	87%	83%
Charities and Qualifying Non-Profit Organizations*	82%	50%

**A qualifying non-profit organization receives at least 40% of its funding from government.*

Ontario

Industrial Conservation Initiative Background

- In January 2011, Ontario amended O.Reg. 429/04 to implement the Industrial Conservation Initiative (ICI). This initiative established two classes of consumers:
  - "Class A" consumers are those with monthly peak demand exceeding 5 MW. They are charged global adjustment (GA) on the basis of their contribution to system peak demand during the highest 5 system demand hours of the year.
  - "Class B" consumers are all other consumers. They continue to be charged GA as a flat rate applied to their consumption.
- In May 2014, O.Reg. 429/04 was further amended to admit all consumers with monthly peak demand between 3 and 5 MW within certain energy-intensive industrial sectors into the ICI.
- This change has been successful in:
  - Incenting large consumers to significantly reduce their peak demand during the highest demand hours of the year, and
  - Providing large industrials with the ability to manage their electricity costs and remain competitive with competing jurisdictions.

Ontario

Expected Numbers of Newly Eligible ICI Consumers

- As part of their ICI survey, Navigant collected data on the number of consumers in the 1-2 MW, 2-3 MW and 3-5 MW categories. Navigant's response rate for the survey was approximately 76%. Approximately 300 consumers are currently participating in ICI.

- The table below sets out the number of consumers in each tranche from the survey along with an "adjusted number" which estimates the actual total number of customers in each tranche in the province (i.e., it accounts for the response rate).

- As expected, there are a greater number of consumers in the 1 -2 MW category than in the 2 – 3 MW category.

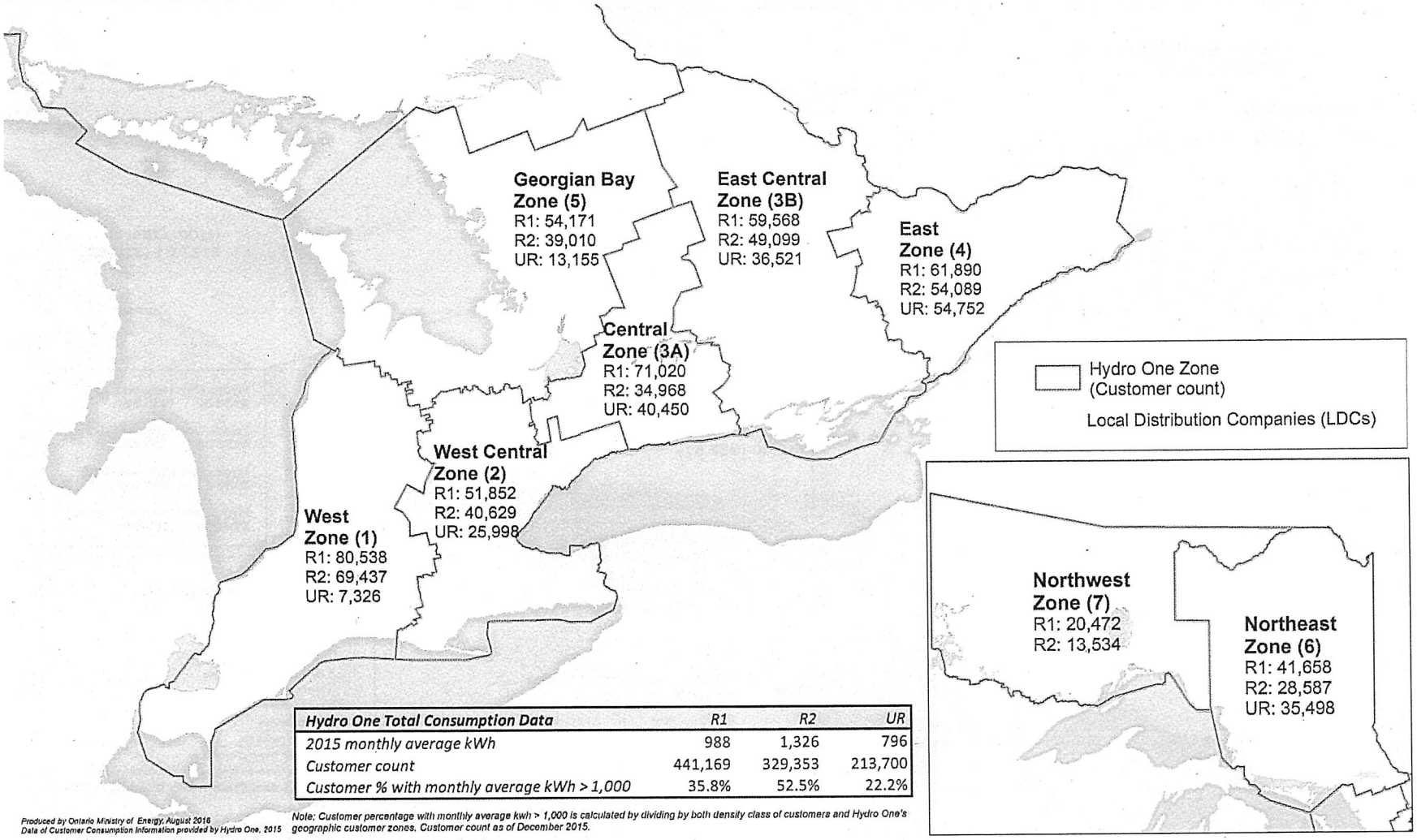
	1-2 MW	2-3 MW	3-5 MW*
# of customers – ICI survey	649	197	171
# of customers – Adjusted for response rate	854	259	225

Source: Navigant; Ministry of Energy

* Includes consumers that are already eligible for and participating in ICI. ENERGY estimates that approximately 75 of 225 estimated consumers in the 3-5 MW category are participating in ICI.

Ontario

Hydro One Consumers by Customers Class

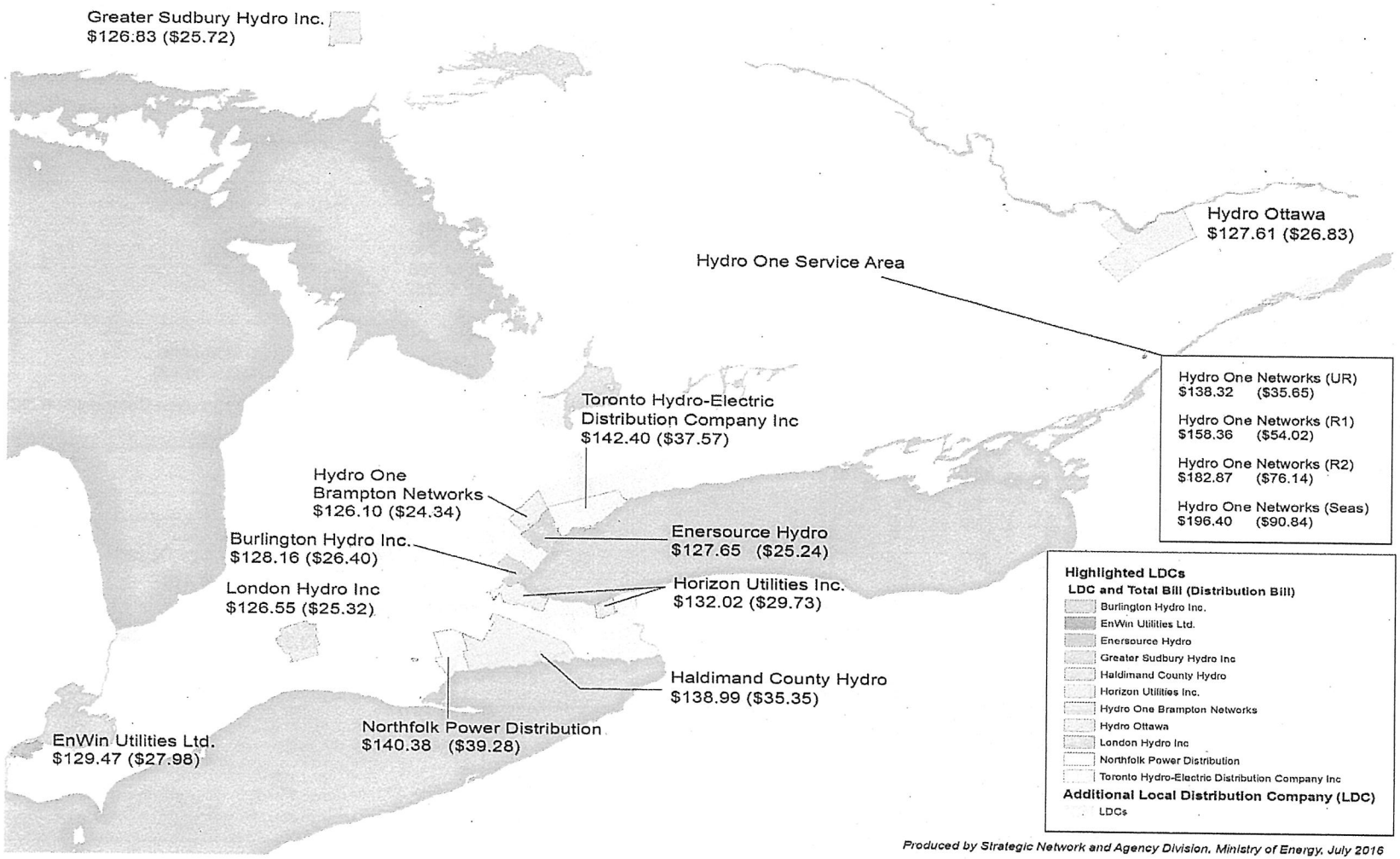


Hydro One Total Consumption Data	*R1*	*R2*	*UR*
2015 monthly average kWh	988	1,326	796
Customer count	441,169	329,353	213,700
Customer % with monthly average kWh > 1,000	35.8%	52.5%	22.2%

Produced by Ontario Ministry of Energy, August 2016
Data of Customer Consumption Information provided by Hydro One, 2015

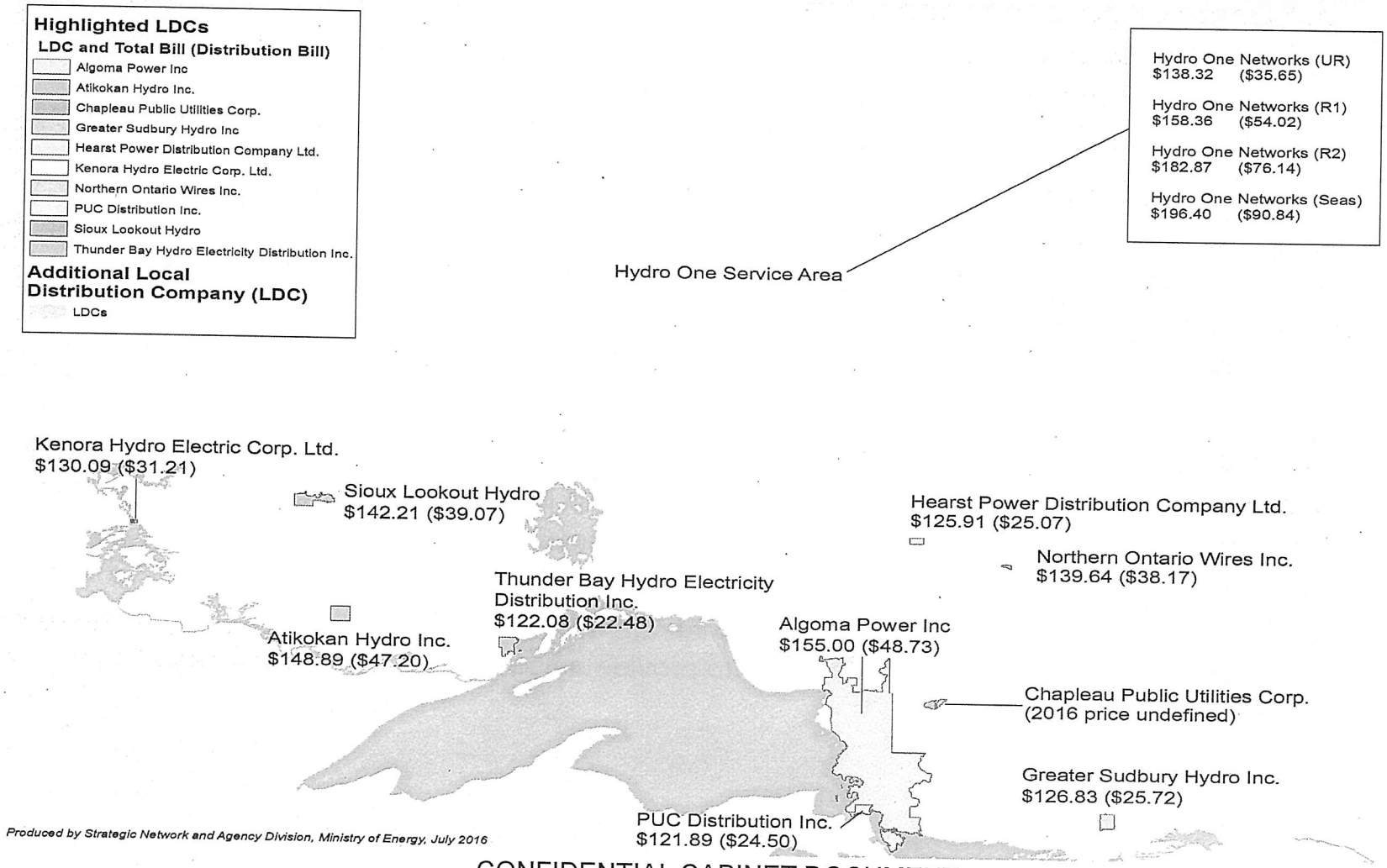
Note: Customer percentage with monthly average kwh > 1,000 is calculated by dividing by both density class of customers and Hydro One's geographic customer zones. Customer count as of December 2015.

Selected Rate Comparison – Total Bill and Distribution Rate



Produced by Strategic Network and Agency Division, Ministry of Energy, July 2016

Selected Rate Comparison – Total Bill and Distribution Rate



Produced by Strategic Network and Agency Division, Ministry of Energy, July 2016

Ontario

2016 Budget Commitment – Overview

- The 2016 Budget committed to offset the impact of cap and trade for commercial and industrial consumers, while also providing a benefit of up to $2 per month for residential consumers.

- To meet the 2016 Budget commitment, the Climate Change Action Plan (CCAP), committed $1.3 billion from the Greenhouse Gas Reduction Account (GGRA) over the first compliance period (2017-2020).
  - Of which $120 million would offset the impact to the average residential consumers, $170 million to commercial and $40 to industrial consumers.

- If a rebate equivalent to the 8% provincial portion of HST is provided for all or some electricity consumers, the resulting savings could be significantly greater than the 2016 Budget commitment and, therefore, the required GGRA proceeds may be reduced further.
  - These savings could be used for additional rate mitigation for certain consumers or redirected to other emissions reduction initiatives to provide a fiscal plan offset, as discussed on the next slide.

Alignment with CCAP

- Ontario's Climate Change Action Plan (CCAP) commits $6.0 – 8.3 billion over 4 years to greenhouse gas (GHG) reduction initiatives, funded by Cap and Trade auction proceeds.

- The CCAP includes up to $1.32 billion over 4 years to help keep electricity rates affordable for residential and industrial consumers. This initiative is estimated to reduce up to 3,000,000 tonnes of greenhouse gas by 2020.

$ Billions	2017-18	2018-19	2019-20	2020-21	Total
Total Committed in CCAP	**$1.5 – 2.1**	**$1.5 – 2.1**	**$1.5 – 2.1**	**$1.5 – 2.1**	**$6.0 – 8.3**
Electricity Price Mitigation	*Up to 0.3*	*Up to 0.3*	*Up to 0.3*	*Up to 0.3*	*Up to 1.3*

- Ontario's *Climate Change Mitigation and Low-carbon Economy Act, 2016* requires that all proceeds generated from Cap and Trade be used to help reduce greenhouse gas emissions.

- Should a portion of CCAP funding currently allocated to Electricity Price Mitigation be used to offset rate increases for certain industrial consumers, the remaining CCAP funding could provide a fiscal plan offset to the overall initiative by funding other existing initiatives that help reduce greenhouse gas emissions – for example:
  - Regional Express Rail;
  - Hamilton LRT;
  - Hurontario LRT; and
  - Energy efficiency in schools.

ICI – base period ending 2017

Ontario

MINISTRY OF
ENERGY

Electricity Rate Mitigation
Bill Presentment

Nov. 16th
LRC
→ direct to Cab. ret
- party closes on Nov. 12

October 2016

Bill Presentment

- The bill presentment related requirements will be set out in a **Minister's regulation** under the *Ontario Rebate for Electricity Consumers Act, 2016* (ORECA).
    - The Minister's Regulation does not need to go through the LRC process but does need to be filed with the Registrar.
- The Regulation will include the exact language which distributors and other bill issuers must use when reflecting the 8% rebate on consumers' bills.
    - This will include the line item and any on-bill messaging, envelope messaging, and the form of any required bill insert.
    - The Regulation will allow for the Minister to issue exemptions and alternatives to LDCs unable to comply for technical or operational reasons, as may be identified by LDCs.
- As part of the Ministry's Working Group on implementation issues, discussions will be held with LDCs and sub-meter providers to determine the approach to adding bill lines/messages to reflect the 8% rebate and the increased RRRP subsidy.
    - ENERGY staff are proposing to convene the working group on October 6th.
    - The discussion will also include other communications opportunities such as envelope messages, and how utilities unable to meet the January start date (and therefore required to provide retroactive payments) will advise consumers.
    - Any line item or messaging related to the increased RRRP subsidy will be set out in an amendment to the existing low-volume consumer bill presentment regulation (O. Reg. 442/01) since RRRP is unrelated to ORECA.

Proposed Language for Bills and Envelopes

- Current proposal for messaging on bills (see next slide for mockups):
  - RPP only customers:

    Line item: Rebate equal to Ontario's portion of HST (8%) ($xx.xx)

    Envelope: 8% off your electricity charges. See your bill or visit Ontario.ca/energy
  - RRRP customers:

    On-bill message: Delivery cost is reduced by $xx.xx through the Rural or Remote Rate Protection program.

    Envelope: Ontario is making electricity more affordable! Charges for eligible rural consumers now reduced by an average of 20%. See your bill or visit Ontario.ca/energy *(alternative: Hydro One webpage.)*

Bill Presentment – Sample bill messaging

SAMPLE MONTHLY BILL STATEMENT
Toronto Hydro-Electric System Limited - Main

Account Number:
000 000 000 000 0000

Meter Number:
00000000

Your Electricity Charges	
Electricity	
Off-Peak @ 8.700 ¢/kWh	41.20
Mid-Peak @ 13.200 ¢/kWh	16.35
On-Peak @ 18.00 ¢/kWh	23.60
Delivery	53.07
Regulatory Charges	4.79
Debt Retirement Charge	0.00
Total Electricity Charges	**$139.00**
HST	18.07
Rebate equal to Ontario's portion of HST (8%)	(11.12)
Total Amount	**$145.95**

SAMPLE MONTHLY BILL STATEMENT
Hydro One Networks Inc. - Residential - Low Density (R2)

Account Number:
000 000 000 000 0000

Meter Number:
00000000

IMPORTANT THINGS YOU SHOULD KNOW
**Delivery is already reduced by $60.50 through the Rural or Remote Rate Protection program.

Your Electricity Charges	
Electricity	
Off-Peak @ 8.700 ¢/kWh	56.55
Mid-Peak @ 13.200 ¢/kWh	22.44
On-Peak @ 18.00 ¢/kWh	32.40
Delivery**	81.77
Regulatory Charges	6.88
Debt Retirement Charge	0.00
Total Electricity Charges	**$200.04**
HST	26.01
Rebate equal to Ontario's portion of HST (8%)	(16.00)
Total Amount	**$210.05**

8% Rebate Considerations

- While compliance issues will be identified in greater detail at the working group session, initial discussions and past experience suggest certain implementation considerations will be of importance to LDCs:
    - Not all billing systems are the same and as the technical specifications can differ so too will the costs of complying with the Regulation.
    - There may be maximum character requirements imposed by the technology (ie. Burlington LDC has max 45 character limit for line items).
    - Several LDCs have a large French community, such as Cornwall, and will require additional space to provide the information in both official languages.
    - There may be concerns over the timing of implementation as the program commences on January 1st, 2017, however, electricity vendors under the Act have until July 2017 to fully transition to the new invoicing system
    - For those that are active on January 1, LDCs will seek direction on communication requirements for initial bills that include consumption prior to January 1. In these cases, the rebate will not equal a full 8% and may be confusing for customers.
- LDCs will also seek clarity on the length of time they are expected to provide on-envelope messaging, and requirements for communicating the program if they are not fully operational during the 6-month compliance period.
- ENERGY staff expect that LDCs can substantially comply with the proposed Regulation, and those that cannot can be effectively managed through the exemption process.

RRRP Specific Considerations

- ENERGY staff have consulted with Hydro One on its capacity to deliver on the desired messaging and it has noted some compliance considerations:
  - **Envelope Messaging:** Hydro One does not believe it has the capacity to target specific envelopes for its R2 customer class. Hydro One has contracted bill stuffing to a 3rd party vendor; creating a new envelope product solely for R2 customers would require the 3rd party to design a new inventory management system. This may not be technically feasible or costs may be prohibitive and may not be allowable based on the contracted arrangement.
    - If bill envelope messaging is required, there is risk it could be mistakenly delivered to R1 and urban rate class customers.
    - ENERGY staff foresee this could be an issue raised in the context of the 8% rebate as well, especially in terms of identifying eligible customers.
  - **On-Bill Messaging:** Would need to be evaluated in conjunction with 8% messaging to account for available space on the Bill. Preference would be to include in the standard messaging space as opposed to any new positioning on the Hydro One bill.
  - **Bill Re-Design:** Hydro One is currently in the process of re-designing its bill, slated for an August 2017 launch. Hydro One needs clarity on the requirements in the near term so as to incorporate into the new design and not delay the launch.

APPENDIX: Proposed Working Group Membership

Proposed Working Group Membership	
Bluewater Power	Hydro One
Brantford Power	IESO & OEB
Burlington Hydro	London Hydro
Electricity Distributors Association	Oakville Hydro
Enercare Connections (sub-meter provider)	Powerstream
Enwin	Thunder Bay Hydro
Essex Powerlines	Toronto Hydro
Goderich Hydro	Veridian Connections
Horizon Utilities	Waterloo North Hydro

- ENERGY intends to use the recent OESP working group as a starting-point for membership in a working group established to facilitate the implementation of the 8% rebate and the ICI.
- ENERGY sent invitations on September 30th for a consultation session on October 6th, and are awaiting confirmation from invitees on their participation.

+ Ottawa + Sudbury

CONFIDENTIAL - ONTARIO'S FAIR HYDRO PLAN IMPACT SUMMARY

COMMITMENT

- A 25% reduction in the after-tax monthly residential electricity bill in 2017 relative to what the bill would have been without Ontario's Fair Hydro Plan (OFHP)[1].
- The after-tax monthly residential electricity bill will increase annually at the rate of inflation in the years 2018-2021 (projections assume an increase of 2% per year).
- Savings for all RPP-eligible electricity consumers are due to three different initiatives:
  - Global Adjustment (GA) Financing – lower residential bills in the short term by borrowing money to partially pay for the total GA cost; increase residential bills in the long term to pay back GA financing debt (including accrued interest),
  - Tax-Basing Social Programs – shifting the cost of the Rural or Remote Rate Protection (RRRP) and Ontario Electricity Support Program (OESP) from ratepayers to taxpayers,
  - 8% Rebate – an 8% reduction in the total pre-tax residential electricity bill.
- Precise amounts borrowed to finance the GA are expected to be determined so as to achieve the goals stated above.

Average Monthly Residential Bill (750 kWh/month)	Actual 2016	2017	2018	2019	2020	2021
Total Bill (includes HST)	**158**	**164**	**167**	**170**	**181**	**178**
Total Bill (excludes HST)	140	145	148	150	160	158
Impact of GA Financing		-26	-26	-26	-32	-28
Impact of Tax-Basing Social Programs		-2	-2	-2	-3	-3
Subtotal		117	120	122	125	127
8% rebate		-9	-10	-10	-10	-10
HST		15	16	16	16	17
Revised Bill (includes HST)	**158**	**123**	**126**	**128**	**131**	**133**
Year-over-Year Change		-22%	2%	2%	2%	2%
Change from Forecast		**-25%**	**-25%**	**-25%**	**-28%**	**-25%**

Table 1: Projected average residential bill.

FURTHER OFHP ASSUMPTIONS

- The tax-basing of social programs and the 8% rebate are assumed to continue indefinitely.
- In the years beyond 2021, the after-tax monthly residential electricity bill will increase annually at the slowest constant rate possible (6.5% per year) such that the total accumulated GA financing debt does not exceed the total amount OPG has stated they are able to borrow ($28 billion).
- The total amount paid to service the debt in any given year is capped at a maximum amount ($2.2 billion) determined such that the total accumulated debt is fully paid by the end of 2047.
- An interest rate of 5% was assumed in the GA financing analysis, compounded monthly but only accrued at year end (i.e. intra-year interest accrual was not accounted for, equivalent to an effective interest rate of 5.116% accrued annually assuming uniform GA cost in each year).
- Further detail on the estimated GA financing forecast is available upon request.

[1] All statements of ratepayer impact strictly apply only to a typical Toronto Hydro customer consuming 750 kWh/month. Similar savings will accrue to all RPP-eligible customers but the precise savings will differ depending on the distributor and specific consumption profile.

APPENDIX : Projected GA Financing Impact and Associated Debt[2]

	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Average monthly residential bill w GA financing impact and tax *($/month)*	123	126	128	131	133	142	151	161	172	183	195	215	214	216	219	221
Year-over-year change in bill *(%)*	-22.1	2	2	2	2	6.5	6.5	6.5	6.5	6.5	6.5	10.5	-0.4	0.9	1.2	1
Impact of GA financing pre-tax *($/month)*	-26.1	-26.1	-26.2	-32.8	-28.7	-23.9	-19.9	-13.5	-11.8	2	4.2	21.8	21.8	21.7	21.7	21.5
Total Accumulated Debt *($ billion)*	2.5	5.1	7.9	11.4	14.6	17.8	20.8	23.2	25.6	26.7	27.7	26.8	26	25.1	24.1	23.1
Total Change in Accumulated Debt *($ billion)*	2.5	2.6	2.8	3.5	3.2	3.2	2.9	2.4	2.4	1.1	0.9	-0.8	-0.9	-0.9	-1	-1
	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048
Average monthly residential bill w GA financing impact and tax *($/month)*	223	224	221	222	222	223	224	225	226	227	228	229	230	230	231	210
Year-over-year change in bill *(%)*	0.8	0.6	-1.5	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	-9.3
Impact of GA financing pre-tax *($/month)*	21.4	21.3	21	20.9	20.8	20.7	20.6	20.5	20.4	20.4	20.3	20.2	20.1	20	19.9	0
Total Accumulated Debt *($ billion)*	22	20.9	19.7	18.5	17.2	15.9	14.4	12.9	11.3	9.7	7.9	6.1	4.2	2.1	0	0
Total Change in Accumulated Debt *($ billion)*	-1.1	-1.1	-1.2	-1.2	-1.3	-1.4	-1.4	-1.5	-1.6	-1.7	-1.7	-1.8	-1.9	-2	-2.1	0

Table 2: Projected GA Financing Impact and Associated Debt

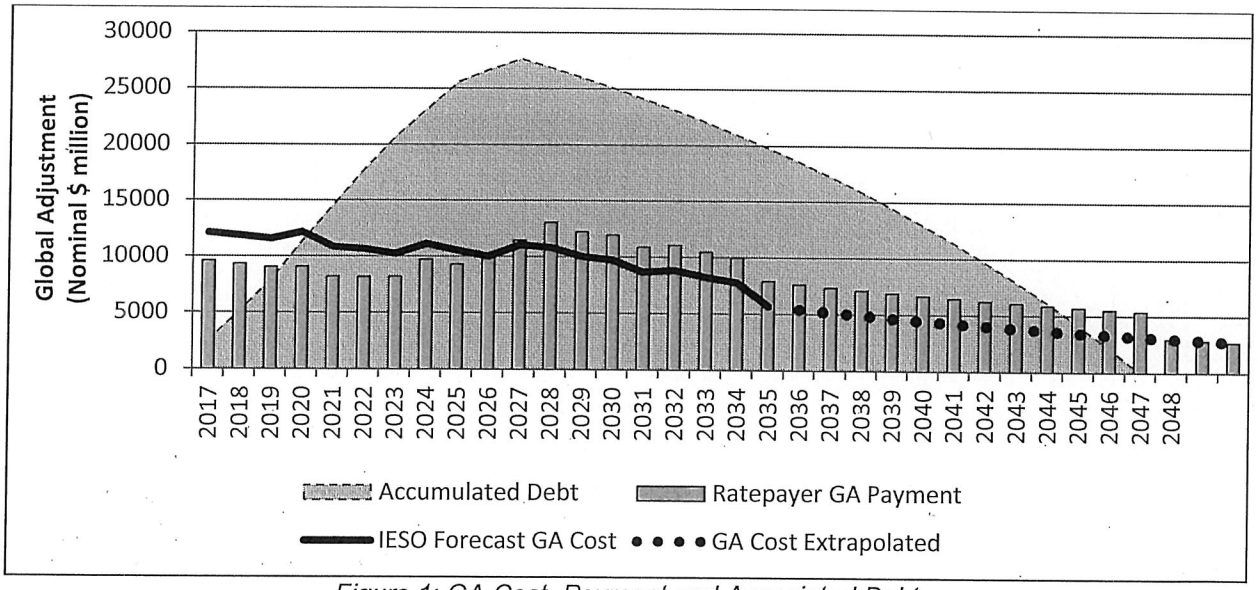


Figure 1: GA Cost, Payment and Associated Debt

[2] Although it is intended that RRRP and OESP will continue to be funded by the tax base indefinitely, the savings due to tax-basing these social programs were not included in the years 2022-2050 in the estimated residential bill forecast presented in Table 1. The OFHP is assumed to have been implemented January 1, 2017 for the purposes of this analysis.

Fair Hydro Plan

IESO Issues

1. We have received advice from KPMG that it is critical to the ability of IESO to book a regulatory asset (which in turn is critical to the overall transaction) that the statutory language ensures that IESO has an effective right of recovery in respect of any IESO Funding Shortfall not transferred to the SPV. The IESO proposes that s 25.33 of the EA/O Reg 430/04 be amended, as necessary, to provide for the IESO to record the IESO Funding Shortfall amount in a variance account and to provide for the OEB to eliminate and dispose of the variance account balance as part of the RPP adjustment process under the OEB Act , with such necessary OEB accounting order.

2. As currently defined, the definition of the term "IESO Funding Shortfall" references an amount and not an IESO right of recovery. There needs to be a defined term or concept referencing the IESO right of recovery in respect of the shortfall, since that is what we are selling. This right of recovery needs to be divisible since it may be transferred in part and from time to time. As used in the context of a sale by us (which is how it is mostly used) the defined term should reference the concept and not the amount. The amount is relevant to the trust as purchaser, since it drives the right of recovery.

3. Amend definition of "Disposition" and "Disposition Documents" so as to eliminate circularity. As the terms are currently defined, they only operate if there is in fact an effective disposition. Torys have agreed to provide revised draft language. In addition, since the asset has been bifurcated, the IESO should not be referred to as disposing of the Regulatory Asset. In effect, the IESO disposes of its rights in respect of the Funding Shortfall and the Trust acquires the Regulatory Asset.

4. Provide that any sale (or other transfer or Disposition) by IESO to the financing trust is without recourse to IESO and provide that all collection obligations are on a reasonable efforts, or consistent efforts, basis only.

   (a) Section 5(1) is to be amended to eliminate "shall collect".

   (b) Section 5(3) to be amended to eliminate obligation to remit on an invoiced rather than collections basis.

   (c) Section 5(4) to be amended to eliminate "shall collect".

   (d) In Section 5(2), the defined term "Transition Charge Collections" is misused since it references collections by an Absolute Assignee.

5. Redefine relationship between IESO as servicer and the electricity distributors as sub-servicers. While the electricity distributors can be sub-servicers of IESO as servicer, IESO can assume no responsibility for their performance obligations. Again, we are advised that this is critical from an accounting perspective.

6. Clarify or delete the concept of "Deemed Collections". In our view, there should be no Deemed Collections expect in the narrow case where a collecting party has benefitted from a set-off. This again goes to whether there is a full risk transfer and is important to the accounting analysis.

7. IESO does not support daily remittances and daily remittances are not consistent with the operation of the system. At the very least, this should be left open to be addressed in the commercial documents.

8. Consider manner of calculation of "Repayments" in relation to the "Finance Amount". As drafted, principal repayments owed in a Reference Period drive the Finance Amount and therefore the Period Transition Charges. Repayments are defined as net of payments made by applying the proceeds of a Refinancing. Estimates should be calculated on the basis of anticipated Refinancings and therefore should be expressed some basis on which Repayments are anticipated. As well, a refinancing effected subsequent to the Relevant Period should factor into the True-Up.

9. The terms "Alternative Servicer" and "Alternative Collection Agent" are used inconsistently. The Alternative Servicer stands in the place of IESO and should have not responsibility for invoicing or collecting from customers (see Sections 4(1), 4(4) and 5(2)). The "Alternative Collection Agent "should be used as the person who acts in place of the electricity distributors (see Section 5(2)). It may also be appropriate to better distinguish bills sent by IESO to electricity distributors from invoices sent be electricity to retail customers.

10. Partial payments by retail customers to electricity distributors should be allocated to Transition Charges on a ratable basis, and once allocated shall be segregated. We propose that electricity distributors continue as at present to pay on a billed basis, but that an adjustment be made subsequently in their favour out of the Transition Charges Account on account of uncollected Transition Charges. IESO would then remit the net amount. This allows maximum usage of the existing system while still passing the credit risk to the Trust. Uncollected amounts should roll into the True Up. In any event, all of this should be left for the regs.

11. Making the prudential security provided by the electricity distributors available to secure Transition Charge remittance obligations would require a significant review of documents, an assessment of the amount of the security and possible revisions of existing documents. Given the True Up we do not regard this as a necessary element.

In any event it should not be provided for in the legislation and if actually required should be addressed in the regs or in the commercial documents.

12. Provide legislative basis for provision of commercial undertakings of the sort provided for in NTDs set out in Article 6. Undertakings of this sort should be negotiated concurrently with financial close and should not be provided for in the legislation.

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Intergenerational Fairness in Hydro Rates Act, 2017

[OLC Notes re this draft:
Some of the decisions regarding roles for Minister, OEB etc. may just now (7:15 pm or so) now have been landed but haven't caught up to Dan or I justyet – hopefully by tomorrow mid-morning we'll have more percision.]
- Because you asked for a comprehensive document instead of receiving drafts of smaller components of the bill, I have worked as quickly as possible to present a draft bill based on the Blakes document. *[NTD-Thanks, Tara – that has been really helpful – having everything in one place is much easier for me in particular, thank you!]*
- Please note that I have not dealt with all elements of the Blakes document in this draft. For example, I have not yet dealt with any provisions of the Blakes document dealing with the "True-Up Amount". *[ntd: Understood, we'll have to keep abreast of what has and hasn't yet been addressed. Thanks for flagging this.]*
- I have drafted most of the provisions based on my own reading of the Blakes document. I am aware that my understanding of what is needed may therefore be inaccurate in several places. *[NTD: Understood, but we appear to be reading the document in the same way in most respects. There are questions we have as well and we are working to resolve them.]*
- In some places, I have included place holders or questions in order to flag items that I need to return to in the next draft. *[NTD: Understood, thank you.]*
- Where possible, I have tried to annotate the drafting to indicate the provisions of the Blakes document that I have relied upon, but I have not done so consistently due to time pressures and in some cases didn't bother because I thought it was obvious. *[NTD-Understood. Thanks, Tara.]*
- When reviewing the draft and providing the next instructions please acknowledge each of my notes/questions with a written comment in the draft, even if it is just to flag for me that you will be answering the question at a later time. *[NTD: Yes, will do.]*-This will help me to understand which notes should remain in the next draft and which can be removed. *[NTD: Fair enough, thanks, Tara!]*]

Preamble

[OLC Note: You mentioned that you may want to include a Preamble and a Purpose clause in the Bill for constitutional law purposes. *[NTD: Yes, that's correct. We have been receiving constitutional law advice from Prof. Peter Hogg (who is also Counsel to Blakes) as well as another leading constitutional law expert. The advice we've been receiving thus far is that these kinds of clauses provide valuable interpretive context which is anticipated to be quite helpful were Government required to defend its approach*

before a reviewing court or tribunal.]x` I have included some preliminary wording for both a preamble and a purpose clause based on Article 1 of the Blakes document to get the discussion started but you'll obviously be seeking advice from constitutional law experts on what would achieve your intended outcome. Please note that the wording of both the preamble and the purpose clause should be *carefully* considered as they may be relied upon to interpret the Bill and may have unintended consequences. *[NTD: Agree. We are certainly continuing to seek constitutional law advice.]*Please also note that there is some uncertainty about whether a Preamble may be amended by motion after Second Reading of the Bill, *[ntd: Very important point, thanks for pointing this out. Please leave that note in for the next draft – thanks!]* whereas the purpose clause can be amended in the same way as any other provision of the bill may be amended.]*[ntd: One has to wonder what practical utility was designed or intended to be sought by creating a distinction in the Standing Orders like that – very arcane in my view.]*

The Government of Ontario has invested in decarbonizing and modernizing the Province's electricity infrastructure. Electricity costs have increased for consumers as a result of this investment.

Given the long-term benefits that future generations of Ontarians will receive from this Government's investment, it is appropriate to allocate the costs of this investment fairly among present and future consumers.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

[OLC Note: The Table of Contents is included to assist you in reviewing the draft but please note that the structure of the bill is still very much up for discussion.]

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PART I
GENERAL

[OLC Note: All definitions will need to be re-evaluated as the drafting of the substantive provisions becomes more settled. *[ntd: understood, thanks, Tara. Probably a good idea to retain this important note (it will hopefully remind us all to continue to actively evaluate whether the definitions work in the various circumstances they need to.]* All definitions are preliminary at this point until we have a better handle on how each term is going to be used. *[NTD: Understood.]*]

Definitions

1. (1) In this Act,

"funding obligation" means a payment obligation incurred by or on behalf of the regulatory asset owner under the Financing Plan [for the purposes of this Act]; ("French")

[OLC Note: Will have to consider the above definition more carefully as the drafting evolves. *[NTD: Yes, agreed – we'll all have to actively evaluate these definitions. See suggested revision for your consideration. It tries to draw the specific link to the "Finance Plan" in a more explicit and direct manner than referencing the "purposes of this Act". We think that linkage is important to make explicit.*]

"green generation assets" means electricity generation facilities that are constructed, acquired or developed in connection with the green generation contracts and any related equipment; ("French")

"green generation contracts" means the contracts entered into by the IESO for electricity to be supplied during the period beginning on May 1, 2017 and ending on the prescribed date, other than contracts with Bruce Power L.P or Bruce Power A. L.P.; ("French")

[OLC Note: Consider whether you might want to leave the underlined phrase to regulations (since the company names may change over time, etc.). *[ntd: to your point, perhaps leave initial reference in legislation but include "or its successors or assigns". .* Also wondering whether you'd want some reg-making power to exclude certain contracts generally (e.g. might there be new contracts that would arise that you would not want to have included in the green generation contracts?). *We would need some reg-making power to exclude other contracts/generators [To confirm with Dan/Blakes]*]

"green generation costs" means the costs incurred [by the IESO?] in relation to the green generation contracts; ("French")

"IESO" means the Independent Electricity System Operator continued under Part II of the *Electricity Act, 1998*; ("SIERE")

"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, subject to subsection (4),

(a) the period beginning on the day this Act receives Royal Assent and ending on June 30, 2017,

[OLC Note: Didn't you want to make this retroactive to May 1, 2017? Or is that not necessary?]*[ntd: We have to confirm this point for next instructions.]*

(b) the period beginning on July 1, 2017 and ending on December 31, 2017,

(c) every six-month period following the period mentioned in clause (b); ("French")

"regulation" means a regulation made under this Act; ("règlement")

"service area", with respect to a [licensed distributor or licensed retailer? *Ntd: lets refer to both for now, please*], means the area in which the distributor is authorized by its licence to distribute electricity or the area in which the retailer is authorized by its licence to retail electricity, as the case may be; ("secteur de service") *[ntd: out of order – just flagging, thanks.]*

[OLC note: The above definition is adapted from the *Electricity Act* definition. Does this work? *[NTD: It works for us but will continue to receive comments from other.]*

"regulatory asset" means the regulatory asset established under section X; ("French")

"regulatory asset owner" means, collectively, the owners of the regulatory asset, which may include,

(a) the IESO, to the extent that it retains any ownership interest in, to or under the regulatory asset, and

(b) a transferee, to the extent that it has acquired and owns any ownership interest (including a specified portion on a divided basis or by way of an undivided interest) in, to or under the regulatory asset; ("French")

[OLC Note: Does one "own" an ownership interest? Good point: I think "and possesses" might work – or "holds".]

"specified consumer" means a consumer within the meaning of the *Electricity Act, 1998* who meets the criteria set out in subsection (2); ("French")

"transfer" means an assignment, conveyance, disposition or sale; ("French")

"transferee" means any person to whom all or part of the regulatory asset has been transferred; ("French")

"transition charge" means the charge of that name that is included on the invoice of a consumer under this Act; ("French")

"vendor" means a licensed distributor, a licensed retailer or such other person as may be prescribed; ("French")

[OLC Note: ENE LSB noted that the definition of "vendor" needs to be considered further. Also, your instructions were to include the IESO in the definition of "vendor" but I don't think that works. Please confirm. NTD: I believe that the IESO theoretically (and perhaps actually, for a few) does serve (just a few) eligible consumers who are directly connected but we'll confirms for next draft.]

Specified consumers

(2) For the purposes of the definition of "specified consumer" in subsection (1), the person must meet any one of the following criteria:

[OLC Note: Need to consider that a person could fall in and out of meeting the criteria below… for example could uses 251K in 2017 but only 240K in 2016. Yes, that happens but not normally since they'd probably be billed on a different basis (e.g. demand) if that was their consumption pattern - they likely qualify for the "demand less than 50 kilowatts" in any event so our expectation is that they would still be captured. It's a point we'll have to ~~consider~~bear in mind but we don't think it changes the draft here.]

1. The consumer has a demand for electricity of 50 kilowatts or less, or such other amount as may be prescribed.

[OLC Note: Does "50 kilowatts" mean the same thing as "50 kilowatt hours of electricity"? *[NTD: No, 50 kilowatts is a demand threshold that relates to the highest instantaneous draw from the distribution system that a consumer has during a month – this is an a reasonably high threshold for a residential-class consumer.]* What does "demand" mean? Does it need to be linked to a period of time (e.g. monthly?). I'm assuming that it is something different from "annual use". *[ntd: yes, correct on both*

counts – it is a monthly in frequency and not an annual concept.] Also by saying "or such other amount as may be prescribed, do you mean to say that the amount may change over time? *[ntd: When we first started using ~~that~~monthly demand as an eligibility criteria for a type of residential consumer classification, we thought we might increase it or decrease it. However, its remained the demand threshhold for these lower volume consumers since some time in 2003~~2~~.* Consider what the implications may be for people who are under the 50 kW threshold but then over a different threshold. *[NTD: Yes, we have considered that in many past derivations of this approach to classification of residential consumers. Policy has always been to allow consumers to have several doors which they can meet, so that they only have to meet one of the eligibility criteria to qualify, even if they don't meet any of the others.]*]

2. The consumer annually uses [consumes?] *[NTD: We have used "uses" and that seems to work. "Consumers" correct but then you'd have to write "The consumer annually consumes….]* not more than 250,000 kilowatt hours of electricity, or such other amount as may be prescribed. *[NTD: For these references, we drew from O. Reg. 95/05 made under the Ontario Energy Board Act, 1998 (Classes of Consumers and Determination of Rates), s. 4(2) – which was essentially the basis for the Ontario Rebate for Electricity Consumers Act, 2016 eligibility criteria, though we tweaked the criteria a bit around multi-residential complexes – see sub-para 4 iii the "without regard to the s.5 of the RTA…" language .].*

3. The consumer,

    i. carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and

    ii. holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act.

4. The consumer has an account with an electricity vendor that 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 consumer satisfies such criteria as may be prescribed.

Same

(3) In this Act, a reference to a specified consumer of an electricity vendor who is a licensed distributor or a licensed retailer means a specified consumer who [~~resides?~~] has an account with an electricity vendor for the provision of electricity in Ontario. ~~in the service area of the distributor or retailer, as the case may be.~~

[OLC Note: Does this work to explain what we mean when we say "a vendor's specified consumer"? *[NTD We think we need to settle on "electricity vendor" as the term and expand the description to ensure that it captures any specified consumer in Ontario who has an account with the electricity vendor for the provision of electricity in Ontario.]*~~]~~

Reference period

(4) Clauses (b) and (c) of the definition of "reference period" do not apply if the Fair Allocation Plan specifies different reference periods.

[OLC Note: Subs. (4) is quite unusual as it would allow for an external document prepared by an external body to essentially override the legislation. Are you sure you don't want to impose some parameters? *[NTD: Fair point, please keep this point in for the next draft. Thank you!*]

Intention of the Legislature

(5) 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.

[OLC Note: The above subsection is intended to address the instruction included in the Blakes doc in Article 12 (5) - "Severability". This kind of provision is generally not considered necessary but the above is based on a provision that was included in the *Climate Change Mitigation and Low-carbon Economy Act, 2016.* Please advise if this achieves your desired objective.] *[ntd: This is good and should be kept in until or unless an explicit instruction to override or change it is received. Thanks!]*

Same

(6) The fact that any provision of this Act is held to be invalid [or ceases to be in effect for any reason *[ntd: yes, looks good.]*] 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.

[OLC Note: This is meant to address Article 12 (4) of the Blakes doc. This provision is a bit unusual and will have to be considered further to ensure that it achieves the desired

outcome. *[NTD: understood. It appears to increase the durability of the obligations so it would be good to retain.]*

Purpose

2. The purpose of this Act is to provide for the fair and cost-effective allocation of green generation costs among specified consumers throughout the useful life of green generation assets.

[OLC Note: Do you need a provision that states "This Act binds the Crown"?] *[NTD: We may, we'll have to consider this further for the next draft. Please keep note in for next draft, thank you.]*

Undertaking by Lieutenant Governor in Council

3. [Drafting TBD - Article 10 of Blakes document under consideration by OLC] *[NTD: Understood. We've received a draft from Mark S. and will provide comments to him soonest, once we receive Blakes input.]*

PART II
TRANSITION CHARGES

[OLC Note: Rather than deal with different concepts of charges (e.g. period transition charges; transition charges etc.) can we leave the details to either the Fair Allocation Plan or the regulations? *[ntd: We'll explore this idea with Blakes etc.]* It seems to me that the most crucial point to communicate in the Bill is that the IESO will charge electricity vendors and that electricity vendors will charge specified consumers an amount on every invoice. See possible reg-making authority set out below. *[NTD: Fair enough, we'll take this back. Please retain this note. Thank you.]*]

DUTY OF SPECIFIED CONSUMERS TO PAY

Specified consumers to pay transition charge

4. (1) Upon receipt of an invoice that includes a transition charge determined under this Act, a specified consumer shall pay the transition charge to the vendor 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 payment of the amounts is inconsistent with the Fair Allocation Plan applicable at the time when the payment is due;

[OLC Note: As drafted, subs. (1) indicates that the amount must have been determined in accordance with the methodology set out in the Fair Allocation Plan, so I'm not sure what we mean by clause (a). Isn't the whole point of the Fair Allocation Plan to ensure that

the amounts are calculated properly? *NTD: The actual transition charges (amounts to be recovered from consumers) are to be derived from the Finance Plan which, itself, is supposed to be based on the Fair Allocation Plan. If for some reason the OPG Finance Plan somehow results in the amounts to be recovered from consumers via Transition Charges to be "out of sync" with the Fair Allocation Plan in force at the time, clause (a) is supposed to ensure that those amounts are still capable of being recovered from consumers. NTD for clients:* ***Consumer protection issue: should there be any provisions designed to protect the consumer from an inordinate transition charge? (one that is out of sink with the Fair Allocation Plan)?***]

(b) whether the payments relate to [financial obligations] incurred in a manner that did not comply with the Financing Plan; and

[OLC Note: Again, what is the point of the Financing Plan if it is not going to have any legal effect on what people have to pay? *[NTD: Its supposed to be the basis upon which the Financing Plan (borrowing activities of OPG/Trust) and the basis upon which Transition Charges are generally based. Keeping the linkage between the Fair Allocation Plan, the Finance Plan and Transition Charges is designed to strengthen the constitutional case. However, the obligation on consumers to pay is to be robust enough to survive any discrepancy between the Transition Charges and the Fair Allocation Plan.*
]

Indebtedness of specified consumer

(4) An unpaid transition charge that is required to be paid by a specified consumer under this section constitutes indebtedness of the consumer to the regulatory asset owner.

Same

(5) The indebtedness mentioned in subsection (4) is a [single and separate? NTD: Yes, please leave in "single and separate" for the next draft.] 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.

[OLC Note: The phrase "single and separate" doesn't appear anywhere in Ontario's Current Consolidated Laws (Statutes and Regulations). Understood, it may be that it's a term that is used in the U.S. for expressing these kinds of concepts. We have to note the US law (for the purposes of creating the binding legal obligations we're attempting to create) and this may be just one of a number of drafting adjustments we're being asked to adopt, if it is possible to do so.] I also haven't been able to find either term in relation to the phrase "debt obligation". Is there another way to describe what is meant by this phrase in the Ontario context? Is there some other statutory context in which we have tried to communicate this same idea -- would be good to consider precedent language.] [NTD: we will look at the PPSA to see if in fact that statute provides us with a parallel "Ontario-based" context. Please keep the note in for the next draft.]

Irrevocability of transition charge

5. Any transition charge shown on an invoice issued to a specified consumer under this Act is irrevocable[and may not be set off or by-passed].

[OLC Notes:

1. What is meant by "set off" *[ntd: reduced or nullified by using another credit: e.g. if one was on equal billing with their distributor, paid a flat monthly fee of, say, $150, then regularly built up a credit on their bill relating to the commodity charges, that credit could conceivably be used to "off set" (or be set-off) against these charges – would likely not happen for a host of other reasons (e.g. the manner in which the OEB passes through the commodity and fixes transmission and distribution rates, but theoretically I think that's the scenario they're trying to protect against].*and "by-passed"? *[NTD: By pass is simply "avoidance" (saying that "the transition charges not to be bypassed" means that they are not to be avoided (it's the basis of an anti-avoidance statement or provision)*

Instructions also include the following….

***Anti-avoidance; No-by-pass** – Transition Charges attributed to a Ratepayer in respect of any Finance Amount incurred under ~~with~~ the ~~Treasury~~ Finance Plan applicable at the time the related Funding Obligation was incurred may not be avoided and shall be [non-by-passable].] [NTD: Yes, we still see it this way but we're happy to further explore. If you are not comfortable including this language or something like it, could you keep the note in for the next draft?]*

2. Instructions in Article 3 (5) refer to the "irrevocability" of the charges. When would the "irrevocability" take effect? *[NTD: The irrevocability would take effect at the time that the "electricity vendor" (e.g. distributor, (or retailer, if on retailer consolidated billing) **invoices** the consumer. By that time, the electricity vendor should have received the appropriate information from the IESO and have been able to calculate the consumers' Transition Charge.]* At some point before invoicing? *[NTD: We'll confirm but we think its upon invoicing the consumer.]* Only upon entering the information on the invoice? *[ntd: please keep the note in but draft to "upon invoicing the consumer"]* What if the invoice is issued but the person never receives the invoice? *[NTD: The consumer would still be liable, just as they would be today regarding invoicing for all other electricity charges.]* What if there is an error in the calculation of the invoice? *[ntd: same answer]* Or if there is some other kind of mix-up where the wrong invoice is sent to a person? *[ntd: same answer – errors and ommissions don't vitiate a rightful claim or obligation in this regard.]* There is some indication in the instructions that there may be some ability to adjust the amount based on a "manifest calculation error" but what does that mean? *[ntd: We're planning to take this up with Blakes and the client – we want to include a provision that protects the consumer against aggregious errors in calculating transition charges. I gather, practically speaking, that if the initial calculation of the Transition Charges were for some reason found to be wrong (too high, too low), then the amount would be "trued up" but none of that is specified in the Blakes document. There are regular true-ups involved in this new strategy but I think the "manifest calculation error" is of a higher order of inaccuracy than the normal variances that are going to be*

regularly trued-up against. Please keep your good note to draft in and we'll explore further with clients and Blakes. (See Article 4 (5) in instructions).

I note that in the instruction on Article 4 (1), you state: "Upon the inclusion of a Transition Charge in an Electricity Invoice, the obligation to pay such amount shall be deemed to have been imposed on and billed to the applicable Ratepayer". Does this mean the person is deemed to be billed even if they never see the invoice and even if there is an error in the invoice?] *[NTD-: This has to be part of the same discussion to ensure there are adequate consumer protection measures in place. While not receiving the invoice for costs that are properly incurred is not a defence to having to pay the obligation, there should be rules (our hypothesis) designed to ensure the consumer receives adequate notice, time to pay/catch up, etc. We intend to check the Ontario Energy Board's Distribution System Code to see how billing errors are dealt with there.]*

DUTIES OF IESO

IESO to determine transition charge for vendor

6. (1) The IESO shall apply the methodology set out in the Fair Allocation Plan to determine the amount payable on a monthly basis by each vendor on behalf of the vendor's specified consumers for transition charges.

IESO to invoice vendors

(2) The IESO shall issue an invoice to each vendor for the transition charges in accordance with the regulations.

IESO to collect

(3) The IESO shall, as an agent of the regulatory asset owner, make reasonably diligent efforts to collect transition charges from vendors.

Deposit

(4) The IESO shall promptly deposit payments for transition charges in the account established under section X.

IESO's to remit

(5) The IESO shall remit amounts received to the [ra holder *[ntd: yes, the Regulatory Asset owner – the one that holds or owns the interest in the RA*] in accordance with the regulations.

DUTIES OF VENDOR

Vendor to determine transition charge for specified consumer

7. (1) In order to recover transition charges invoiced to an electricity vendor under subsection [previous section] (1), each electricity vendor shall apply the methodology set

out in the Fair Allocation Plan to determine the proportionate share of transition charges payable on a monthly basis by each of its specified consumers.

Vendor to invoice specified consumers

(2) The vendor shall issue an invoice to each specified consumer for the applicable amount of transition charges in accordance with the regulations.

Vendor to collect

(3) (1) Each vendor shall, as an agent of the regulatory asset owner, make reasonably diligent efforts to collect transition charges from specified consumers.

Deposit

(4) The vendor shall promptly deposit payments for transition charges in the account established under section X.

Remittance to IESO

(5) The vendor shall remit all amounts received to the IESO in accordance with the regulations.

PART III
HOW TRANSITION CHARGES ARE DETERMINED

FAIR ALLOCATION PLAN

[NTD: Latest thinking is that the first five years of the plan would be set out in the Bill. This means moving over some of the provisions from the draft RPP reg. amendments. See the mark-up of the draft RPP amending reg. for details.]

Fair Allocation Plan

8. (1) In order to ensure the fair allocation of green generation costs among specified consumers beginning on May 1, 2017, the Minister, with the approval of the LGIC, shall prepare a written plan entitled the Fair Allocation Plan.

[OLC Notes:

- Do you want to impose a timing requirement on the preparation of the plan? When does the plan take effect? *[NTD: Latest thinking is that the first plan would be "hard wired" into the legislation (with some detail in the regulations) based on the "proxy-consumer" concept. Therefore, we would include a provision that states explicitly that the elements of the substantive provision we provide for in this bill represents the Fair Allocation Plan for the first [five] years.]*
- Do you want to impose a publication requirement for the plan? *[ntd: Yes, seems reasonable – likely on OPG's website or other Government website.]*

- Do you want to have the plan subject to LGIC approval? OEB review/approval?] *[NTD- **Great question – please maintain this NTD for the next draft. It appears (just now heard very late today) that Minister is to be able to approve the Fair Allocation Plan (with LGIC approval)]***

[OLC Note: Please confirm whether the "funding shortfall" should be mentioned above or if it is accurate to refer to the green generation costs.]
[NTD: we're concerned that there needs to be a process for determining impact on the proxy consumer of the transition costs arising out of the Finance Plans which are based on the Fair Allocation Plan. Please provide an NTD to this affect so that we can pursue this with Blakes and the clients.]

Amendments to plan

(2) The Minister may amend the plan at any time as the Minister considers advisable.

[OLC Notes: *[NTD: We are hearing now that the Minister is not to be empowered with the authority to amend or change the Fair Allocation Plan. Once the plan is "set" its to operate in an unimpeded fashion.]*
- What does the Minister have to do in order to implement the amendments? (e.g. LGIC approval of amended plan required? Notification to anyone? Publication?) ***[NTD: Re amendments –We'll have to confirm our instructions here – the plan is to only be amended on under a very limited set of circumstances to be articulated in the next draft.]***
- do you want to impose limits on the scope of amendments that can be made?] *[NTD: We hope to be able to provide further, clearer instructions on circumstances in which the FAP may be amended.]*

[OLC Note: What is the legal significance of the Fair Allocation Plan? For example, do we want a provision that says something like "The IESO and the OEB shall comply with the plan?] *[ntd: The Fair Allocation Plan represents the statute-based approach for fairly allocating Green Generation Initiative costs across multiple generations of prescribed consumers. It is the basis of the Finance Plans and the Transition Charges. Yes, we think it would be a great idea to have a provision which states that the OPG Financing Entity, the IESO and electricity vendors must comply with the Fair Allocation Plan.]*

Principles

9. In preparing the Fair Allocation Plan, the Minister shall have regard to the following principles:
[NTD: we're concerned that there needs to be a process for determining impact on the proxy consumer of the transitions arising out of the Finance Plans which are based on the Fair Allocation Plan. Please provide an NTD to this affect so that we can pursue this with Blakes and the clients.]

1. Green generation costs should be allocated over a period not to exceed the later of,

    i. the last day of the estimated remaining useful life of the green generation assets, and

    ii. the last day on which the IESO has obligations under the green generation contracts.

2. The share of green generation costs allocated to a particular group of consumers in respect of a reference period should be proportionate to a reasonable assessment of the benefits of the green generation contracts to the group of consumers over that reference period.

3. The estimated green generation costs allocated to a group of consumers for a reference period should not exceed the estimated value of the green generation assets [during and after the reference period?].

4. No group of consumers should bear an unreasonably disproportionate share of the green generation costs and adjustments should be made over time if the Minister is of the opinion that a group of consumers has paid more than is reasonably proportionate.

5. Allocation of the green generation costs should be determined for reference periods.

6. A reasonable estimate of the rate of inflation should be applied.

Methodology

10. (1) The Minister shall set out in the Fair Allocation Plan the methodology to be used for allocating green generation costs among specified consumers, which methodology shall include the inclusion by vendors of transition charges on the invoices of specified consumers.

Same

(2) The Lieutenant Governor in Council may make regulations governing the methodology, which may include requiring the Minister to have regard to prescribed considerations when selecting the methodology.

FINANCING PLAN

Financing Plan to be prepared by prescribed entity

11. (1) In order to ensure that decisions made by the IESO or a transferee relating to the financing of [unrecovered costs associated with the creation and implementation of the green generation ~~costs~~initiative? ~~the funding shortfall as determined under section X?]~~ *[This deserves confirmation, but the Blakes document refers to the Financing Plans as "....allocating the unrecovered transition costs across present and future Ratepayer Groups which appears to line up with the FAP. Problem is that the definition for "unrecovered transition costs" isn't instantly relatable to the other concepts we've derived so far in this draft. The Green Generation Initiative embodies essentially the same principle and it is present in the description of the Financing Plan (see Article ...]* are consistent with the Fair Allocation Plan and are cost-effective, the Ontario Energy Board shall prepare and propose to the Minister a plan entitled the Financing Plan. ***[ntd: Our current information / instruction is that the OEB would not be responsible for preparing the Financing Plan, the latest information ENERGY LSB has is that Financing Plans would be prepared by the OPG for execution by its Financing Trust.]*** [OLC Note: Do you want to impose a timing requirement on the preparation of the plan? ***[NTD: Good question. Practically speaking it has to happen within the first few months but we should have an NTD to confirm the timing of this.]*** When does the plan take effect?] ***[NTD: Please retain this NTD – it needs further discussion/consultation with Blakes.]***

Other prescribed entity

(1.1) If the another entity is prescribed for the purposes of this Part, that entity shall have all of the obligations and duties of the Ontario Energy Board under this Part and all references to the Board in this Part are deemed to be references to that entity. ***[NTD: This, too, needs an NTD: It is not clear what role the OEB would have and whether a replacement entity is required. Please maintain this NTD for the next draft.]***

Approval by Minister

(2) Upon receipt of a proposed Financing Plan or proposed amendments to the plan,, the Minister shall, in writing, ***[NTD: The issue of whether the Minister would be providing this kind of approval or any supervision over the Financing Plan has to be confirmed. This provision should stay but please include an NTD to ask for a decision on this point. Thank you!]***

(a) approve the proposed plan or proposed amendments; or

(b) make any amendments to the proposed plan or proposed amendments that the Minister considers appropriate and approve the plan or amendments subject to those further amendments.

Publication

(3) The approved Financing Plan and any subsequent amendments to the plan under this section shall be made available to the public in a manner approved by the Minister. *[NTD-:Same. Needs confirmation as to the Minister' role and manner of publication (assume Financing Plan is to be posted, once it is approved, on OPG's website) – please include an NTD on this point as well.]*

Amendments to approved plan

(4) The Financing Plan may be amended at any time by,

(a) the Ontario Energy Board, subject to the Minister's approval of any such amendments under subsection (2); *[ntd: The most recent understanding is that OEB would not be responsible for preparing or amending the Financing Plans, the latest information ENERGY LSB has is that Financing Plans would be prepared by the OPG Financing Trust in a manner consistent with the FAP. We'll have to confirm whether amendments are to be provided for and under what circumstances (including what safeguards or elements of supervision).]*or

(b) the Minister. *[ntd: same as NTD in the opening flush – Some of these decisions may now have been landed but haven't caught up to Dan or I justyet – hopefully by tomorrow mid-morning we'll have more percision.]*

[OLC Notes:
- What does the Minister have to do in order to implement the amendments? Notification to anyone? Publication?) *[NTD: Publication should be part of any creation or establishment of these Financing Plans. Please maintain an NTD for this in the next draft.]*
- do you want to impose limits on the scope of amendments that can be made?]
[NTD: Good question, please maintain an NTD for the next draft. Thanks!]
[OLC Note: Do you want to impose a requirement that the ~~Treasury~~ Financing Plan be reviewed every time the Fair Allocation Plan is amended?] *[NTD-Good point, please maintain for the next draft.]*

[OLC Note: What is the legal significance of the ~~Treasury~~ Financing Plan? For example, do we want a provision that says something like "The IESO and the OEB shall comply with the plan?] *[NTD: Yes, I think so – As we learn more about the Financing Plan, we're finding that the OEB must comply with it in establishing its RPP work. OPG must create the Financing Plans in a manner which is consistent with the Fair Allocation Plan. Transition Charges are to be based on the properly –made Fair Allocation Plans and are to be calculated and imposed on specified consumers in a manner consistent with both the Financing Plans and the FAP. However, in terms of compliance, the OEB would not be complying with the Financing Plan. The IESO and electricity vendors*

would be complying with the relevant Financing Plan applicable to the relevant reference period in calculating and imposing the Transition Charges on specified consumers.]

Contents of plan

12. (1) The Financing Plan shall include the following:

1. A description of one or more transfers that may be made in respect of the regulatory asset established under Part **.

2. A description of the basis upon which funding obligations may be incurred as a means of recovering [green generation costs? *[NTD: Please use "Green Generation Costs" for now and please provide an NTD to confirm. Thanks.]* the funding shortfall?] in a manner that is consistent with the applicable Fair Allocation Plan. *[NTD: Funding shortfall.]*

3. A description of the [potential? *[NTD: Not sure "potential" is required since the reference back to para 2 should be clear enough.]* funding obligations mentioned in paragraph 2, which may include the following:

    i. Indebtedness.

    ii. Payment obligations arising under or in respect of derivatives.

    iii. Payment obligations owing to service providers, administrative agents, finance entity intermediaries, capital markets intermediaries, advisors, lenders, credit enhancement providers, liquidity providers, disbursement counterparties, regulatory agencies and rating agencies.

    iv. Refinancing an existing funding obligation by applying the net proceeds obtained by incurring other funding obligations.

3. Such other matters as may be prescribed by the regulations.

Special purpose financing entities

(2) The Financing Plan may, in accordance with the regulations, ~~[contemplate?]~~ provide for ~~[direct?]~~ the establishment of one or more special purpose financing entities that may incur funding obligations.

Administrative agent

(2.1) The Financing Plan may require an entity other than the Ontario Energy Board to perform the functions described in section [xx], in which case that entity shall perform those functions in accordance with such terms as may be specified in the Financing Plan.

[NTD:The OEB's role and therefore the requirement for a replacement entity must be confirmed. Please leave the drafting "as is" but please also include an NTD to this effect. Thank you!]

Prohibition

(3) The Financing Plan shall not provide for funding obligations to be incurred with any recourse to any assets of the electricity vendors, the IESO, the Ontario Energy 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 or [an obligation in relation to a finance amount].

[OLC Note: What is meant by the phrase in square brackets? *[NTD: Please maintain this NTD and we'll confirm the intention here]*]

Funding obligations unaffected by amendment to Fair Allocation Plan

(4) No funding obligation incurred under the Financing Plan shall be affected by an amendment to the Fair Allocation Plan that is made after the funding obligation has been incurred.

[OLC Note: The above subs. (4) is based on instructions on the "irrevocability" of the transition charges. It seems to belong here. *[ntd: Yes, it does seem to fit so long as we also create an "irrevocability" requirement (provision) specifically tied to the Transition Charges themselves, not just the funding obligations incurred by the OPG Trust or administrative agent under/pursuant to the Financing Plan. Thanks.]* However we should clarify a few things:

1. What is meant by "incurred under" the Financing Plan? This could suggest that it has to be authorized by the FP, which I don't think you want, but please confirm. *[NTD: I actually do think that we want to ensure that funding obligations are created based on the Financing Plan – we have to ensure that the funding obligations are consistent with ("incurred in a manner consistent with") the Financing Plan. Its worth keeping an NTD clarifying whether the funding obligations are to be "authorized by" or just "consistent with" the FP.*
2. What is meant by "affected"?] *[NTD: Changed: no funding obligation would be changed or modified by changes to the FAP.]*

[OLC Note: Consider Article 8 (9) entitled "incurrences are binding" -- I believe we have already stated in the Part dealing with the regulatory asset that the rights are enforceable etc. even if charges have been imposed in a manner that does not follow the Financing Plan. Is more drafting required? Please advise.] *[ntd: please maintain for next draft, thank you!]*

FUNDING SHORTFALL

Definitions

13. In sections [subsequent sections under Funding Shortfall heading],

"applied surplus" means the amount calculated under section 16; ("French")
[OLC Note: In the Blakes document, this is the "IESO applied surplus". *[NTD: Understood, thank you. Please maintain NTD.]*]

"consumer contributions" means the amount calculated under section 15; ("French")
[OLC Note: In the Blakes document, this is the "GA Power Contract Contribution" *[NTD: Understood, thank you. Please maintain NTD.]*.]

"net payment" means the amount calculated under subsection 14.1 (1); ("French")
[OLC Note: In the Blakes document, this is the "IESO Power Contract Net Payment". *[NTD: Understood, thank you. Please maintain NTD.]*]

"net receipt" means the amount calculated under subsection 14.1 (2); ("French")
[OLC Note: In the Blakes document, this is the "IESO Power Contract Net Receipt". *[NTD: Understood, thank you. Please maintain NTD.]*]

"unapplied surplus" means the amount calculated under section 17. ("French")
[OLC Note: In the Blakes document, this is the "IESO unapplied surplus". *[NTD: Understood, thank you. Please maintain NTD.]*]

Funding shortfall

14. (1) For the purposes of this Act, the funding shortfall for a reference period shall be determined by applying the following formula:

$$(A - B) - C$$

Where,

A = the net payment for the reference period,

B = the consumer contribution for the reference period,

C = the applied surplus for the reference period.

Net payment

14.1 (1) The net payment for a reference period is determined as follows:

1. Calculate the sum of the amounts payable by IESO to generators under all green generation contracts for the reference period.

2. Calculate the sum of amounts payable by generators to the IESO under all green generation contracts for the reference period.

3. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1.

Net receipt

(2) The net receipt for a reference period is determined by subtracting the amount calculated under paragraph 1 of subsection (1) from the amount calculated under paragraph 2 of subsection (1).

Consumer contribution

15. The consumer contribution for a reference period is the aggregate of the payments to be made by the specified consumers in respect of the reference period for transition charges, as determined under the Fair Allocation Plan.

Applied surplus

16. The applied surplus for a reference period is the lesser of the following amounts:

1. The amount by which the net payment exceeds the consumer contribution for the period.

2. The unapplied surplus on the last day of the reference period that immediately preceded the relevant reference period.

Unapplied surplus

17. The unapplied surplus on a specified day shall be determined by applying the following formula:

$$(D + E) - (F + G)$$

Where,

D = the sum of all net receipts for the reference periods occurring before the specified date,

E = the sum of all consumer contributions for the reference periods occurring before the specified date,

F = the sum of all net payments for the reference periods occurring before the specified date, and

G = the sum of all applied surpluses for each reference period occurring before the specified date.

FINANCE AMOUNT

Definitions

18. In sections 19, 20 and 21,

"funding costs" means the amount determined under section 21; ("French")

"refinancing" means a repayment or repurchase of a funding obligation for cancellation by or on behalf of a transferee by applying the net proceeds obtained by the transferee incurring one or more other funding obligations. ("French")

[OLC Note: In the Blakes document, this is the "refinancing" definition. *[NTD: Understood, thank you. Please maintain NTD.]*]

Finance amount

19. (1) For the purposes of this Act, the finance amount for a reference period shall be determined by calculating the sum of the following:

1. The sum of all payments made by a transferee [during the reference period? *[NTD: please maintain this reference to "reference period" for this draft and please maintain an NTD to confirm. Thanks!]* 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 transferee under a funding obligation, excluding any payment made by applying the proceeds of a refinancing.

[OLC Note: Para. 1 is the definition of "repayment" from the Blakes doc. However, that definition include bracketed text that says: (*including making Finance Reserve Deposits).* I don't understand this because (1) Finance Reserve Deposit is listed as a separate line item in the definition of "finance amount" (see para. 4 below). In order to avoid duplication, can we exclude "finance reserve deposits" from para. 1?] *[NTD: Please maintain this as a NTD for the next draft – we'll try to confirm this for you then. Thanks!]*

2. The sum of all funding costs for the reference period.

3. The sum of all amounts payable by or on behalf of a transferee 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.

[OLC Note: Para. 3 is the definition of "redemption amount" from the Blakes doc. *[NTD: Understood, thank you. Please maintain NTD.]*]

4. The balance of the finance reserve at the end of the reference period, as determined under section 20~~3~~. *[NTD: I'm hopeful there won't be 203 sections in this proposed bill – hope you were referring to s.20 – Thanks!]*

5. The sum of any other amounts payable by a transferee for the reference period 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.

[OLC Note: Para. 5 is based on the definition of "additional funding charges". Since many of the items included in this definition are examples, I'm hoping we can focus our energy on getting the high level description in para. 5 right and then supplementing this by regulation with the examples if necessary. *[NTD:That seems like a fair approach.]* If it's essential to include the examples in the Bill then I will need to discuss what is meant by each of the different items in order to draft this. *[NTD: Understood. We'll confirm on our end.]*]

Finance reserve balance

20. (1) For the purposes of paragraph 4 of section 19, the balance of the finance reserve at the end of the reference period is determined by taking the following steps:

[OLC Note: This section is a modification of the definitions provided in the Blakes document for "Finance Reserve Deposits" and "Finance Reserve Withdrawals". The proposed definition of "FR deposit" involved a subtraction of the "FR withdrawal" so the term 'deposit' was not really descriptive of a pure deposit but rather the balance. ***[NTD: Understood, thank you. Please maintain NTD.]***]

1. Calculate the sum of all amounts deposited [to what account? *[NTD: we'll have to confirm this for you on next draft. Thanks!]*] during the reference period ~~made 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 from the account during the reference period from deposits previously made [e.g. during a previous reference period? *[NTD: Need to confirm.]*] as described in paragraph 1.

3. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1.

Funding costs

21. The funding costs for a reference period are determined by taking the following steps:

1. Calculate the aggregate of all interest and other periodic finance charges accruing, due and becoming payable or paid by or on behalf of the transferee during the reference period in respect of all funding obligations, including the following:

    i. Standby commitment fees or charges paid to any lender.

    ii. Credit enhancement fees or charges paid to any credit enhancer.

    iii. Liquidity fees or charges paid to any liquidity provider.

    iv. Payments, including termination payments, made under derivatives.

    v. Deposits 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 a funding obligation.

2. Calculate the aggregate of all amounts received by or on behalf of the transferees during the reference period in respect of a funding obligation, including reimbursement of any amounts referred to in subparagraphs 1 i to v.

[OLC Note: Para. 2 is the definition of "finance receipts" in the Blakes doc. *[NTD: Understood, thank you. Please maintain NTD.]*]

3. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1.

PART IV
THE REGULATORY ASSET

[OLC Note: The provisions in Articles 4 (9) and 5 (10) relating to the Regulatory Asset Owner having standing would perhaps fit best in the part dealing with the Regulatory Asset. I'm not sure why this provision would be needed in addition to what is already being stated below (if the statutory right is sold/assigned to the new owner then doesn't that bring with it the ability to enforce the right? *[ntd: Likely the plan is to belabour the point (belt & suspenders) for the benefit of the financibility of the plan.*) Please instruct.]

ESTABLISHMENT OF REGULATORY ASSET

Regulatory asset established

22. (1) The IESO has property rights and interests, which together constitute a regulatory asset, in the following:

[OLC Note: As a drafting matter, we would typically want each of the items in a list to be distinct from one another (no overlap between the items in the list). Could you please assist with reviewing the language to ensure that each item is distinct. *[NTD: We will and confirm on a future draft.*]

1. The right of the IESO to record its portion of the regulatory asset in its accounts.

[OLC Note: Should the "right" referred to in para. 1 be set out in the statute somewhere? Would the IESO have this "right" if the statute were silent on this matter? *[NTD: Perhaps in a clarification provision in directly under sub (1), such as a (1.1) For greater clarity, the IESO has the right to record amounts in its accounts which relate to the Regulatory Asset or its proportionate share thereof".*]

[OLC Note: For the paragraphs below where I have suggested a cross-reference, please take a look at the relevant sections and let me know if you think a cross-reference would work well. *[ntd: yes, we will.]* We could always put a parenthetical reference after the cross-reference to flag the topic for readers of the law, but this way we can be sure that we are lining up the rights with the actual rights that are being given under the statute. *[NTD: This bears further consideration, thanks.]*]

2. The rights of the IESO under sections [include cross reference to sections that authorize the IESO to impose, bill, invoice, collect and receive amounts and the right to determine the amounts? *NTD: Please work from that assumption. Thanks.*].

3. The right to enforce section [include cross-reference to the section that creates indebtedness of each specified consumer to pay the transition charges, together with all related late payment fees or interest charges]. *NTD: Please work from that assumption. Thanks.*].

4. The right to enforce section [include cross-reference to section that requires vendor to impose, bill, invoice, collect and receive transition charges, including amounts required to be remitted to the IESO and all collections and the proceeds of any enforcement action undertaken by the vendor to recover payments]. *NTD: Please work from that assumption. Thanks.*].

5. The right to enforce section [include cross-reference to section that sets out the duties of IESO to collect and receive remittances with respect to and to remit IESO Remittances to or to the accounts of the regulatory asset owner, each with respect to its Regulatory Asset, including all collections and the proceeds of any enforcement action undertaken by it…]. *NTD: Please work from that assumption. Thanks.*].

7. The right to receive and collect all transition charges under [include cross-reference]. *[NTD: We'll have to confirm for the next draft, thanks!]*

8. The right to all amounts and entitlements under each account created under sections [cross-ref to regulatory asset accounts sections *NTD: Please work from that assumption. Thanks.*]] and all amounts on deposit in those accounts.

[OLC Note: I believe those provisions refer to all of those amounts being held in trust for the regulatory asset owner. Is it necessary to layer this on top of that trust? *NTD: Please work from the assumption that it is for now, but we'll confirm for you on a future draft.*]

9. All rights of any kind, whether in tort, contract or otherwise, of the IESO that attach or are attendant or incidental to any of the other property rights or interests that comprise the regulatory asset.

[OLC Note: Para. 9 is essentially a cut and paste of the Blake's definition of "Related Rights". NTD- Understood, thank you.]

10. The right to all revenue, collections, claims, payments, money and proceeds of or derived from the rights described in paragraphs 1 to 9, 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.

[OLC Note: Please check to see if para. 10 is necessary or if any elements could be covered/addressed under one of the previous paragraphs.]NTD – we'll have to provide further instructions on a future draft, thank you.]

[OLC Note:
1. I wonder whether the proposal allows for double recovery in some cases (e.g. right to recover both amounts that the distributor has to remit AND the amounts that the consumers have to pay). *[ntd: Interesting point – we'll have to provide a safeguard of some kind for this - please provide an NTD in this regard.]* This would be addressed by ensuring each of the above items in the list is distinct from one another.
2. The "regulatory asset holder" would include the IESO for at least a bit of time at the beginning. But some of the items included in the list for the regulatory asset include *obligations of the IESO*. I understand that when the regulatory asset is sold/assigned, the IESO's obligation to accept remittances from distributors would be transferred to the

Financing Entity but I don't understand how this obligation could form part of the initial regulatory asset that the statute initially gives to the IESO itself. *[NTD: We'll have to consider a bit further – please maintain these notes but we hope to sort this out soon.]* Does the regulatory asset "grow" when it is assigned/sold to the financing entity and is no longer held by the IESO? *[NTD – great question but need to confirm – We would think that the regulatory asset is sold "as is" based on static amounts accrued "to date" but this needs to be confirmed.]* Is it necessary to handle rules relating to the IESO separately from other holders of the regulatory asset?] *[NTD: Needs confirmation – please maintain the NTD.]*

Same

(2) The establishment of the regulatory asset is not affected by failure to impose, attribute, invoice, accrue or collect transition charges.

No set-off, etc.

(3) The regulatory asset shall not be set off or reduced by any person in any circumstance, including,

(a) by a consumer, an electricity vendor, the IESO, an agent of the regulatory 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);

(c) by any affiliate or successor of a person mentioned in clause (a).

[OLC Note: Above is from Article 5 (12) of the instructions - I'm not sure if this is covered elsewhere in the draft. What do we mean by set off or reduced? *[NTD:appears to us to mean " cannot be changed in a manner which reduces its economic value to the owner of the regulatory asset by any of the listed events or circumstances, etc.]* Need to check how this provision lines up with other provisions dealing with set off and reduction (e.g. transition charges irrevocable).*[NTD – understood. We will as well on our end.]*]

TRANSFER OF REGULATORY ASSET

Transfer of regulatory asset

23. The IESO may transfer the regulatory asset to any entity.

[OLC Note: need to expand the rules in a subsequent draft to address other potential transferors an entity that receives the Regulatory Asset from the IESO may then go on to sell the Regulatory Asset to someone else. *[NTD: Yes, understood –please maintain this NTD. Thanks!]*]

Ownership of a portion of the regulatory asset

24. The regulatory asset owner may transfer ~~of~~ a portion of its rights and interests in the regulatory asset, including by way of a transfer of a divided or an undivided interest.

Validity of transfer

25. (1) A transfer of the regulatory asset is [final and binding? valid and enforceable?] *[ntd: ALL of the suggested phrases should be maintained for now, unless there are objections.]* and confers the regulatory asset upon the transferee in accordance with the terms of the transfer.

[OLC Note: I understand that the intention is to communicate the finality of the sale/transfer but some of the terminology included in the instructions relating to "validity of dispositions" seems to be redundant of what is drafted in subs. (1) above. *[NTD: understood, we'll review from this perspective.]*
The following terms do not appear in any current consolidated law (statutes and regulations) on e-Laws: "absolute transfer"; "true sale". I don't know what these terms mean or what they are adding beyond what we have already said in subs. (1). Please advise.]*[NTD: They likely appear as a function of the references to US law which we are forced to grapple with due to the nature of the exercise.]*

[OLC Note: Are there any circumstances under which the "transfer" should not be final and binding?] *[NTD: None known of at this point. Please maintain this NTD as its an important question/issue to confirm.]*

Same

(2) For greater certainty, subsection (1) applies despite the existence of any of the following:

1. Any provision of an Act, regulation or contract relating to the transfer.

[OLC Note: Given that we are including a conflict provision under the "Miscellaneous" part of the Bill, I'd think para. 1 could be removed and we could address any concerns in that conflict provision. Please advise. *[NTD: Not comfortable removing it yet. Please maintain with NTD for now. Thanks!]*]

2. Any consent that may be offered by a party to an agreement in respect of the transfer.

3. Any other circumstances, including the following:

[OLC Note: The risk with including the following list of circumstances in the statute is that someone might successfully argue (even though the list is drafted to be non-exhaustive) that because some other unforeseen circumstance is not listed, the transfer could be legitimately challenged on the basis of that other unforeseen circumstance.

[NTD: I acknowledge that the argument exists but find it specious – it seems to fly in the face of the clear meaning of "including" though I gather courts might look for ways to read flexibility into a statute – I'm not sure we can do anything to address this risk from a practical perspective.]

i. Revenues or other proceeds from transition charges have comingled with other amounts.

ii. Any interest (including any partial, residual or subordinated interest, whether direct or indirect) has been retained in the regulatory asset by the IESO.

iii. Any right to repurchase the regulatory asset in favour of the IESO has been retained.

iv. Any recourse that a transferee may have against the IESO is available. [OLC Note: What recourse would this be? *[NTD: We're not sure just yet - other than a cross-claim of some kind... we'll have to further consider.*]

v. Any indemnification rights or obligations are provided [to the transferee?] *[NTD: please leave as drafted for now – we'll consider for next draft.]* by the IESO.

vi. Any obligation [imposed on? [yes, imposed on]~~?~~ By what mechanism? This Act or at common law] the IESO to collect and remit transition charges on behalf of a transferee, including but not limited to, any retention by the IESO to bare legal title for the purpose of collecting transition charges.

[OLC Note: Since the obligation referred to in vi above is an obligation that we are creating in the statute, I can't imagine that it would need to be included in this list. Do you agree? NTD: at this point, given the "belt and suspenders" approach that appears to be advocated, I'm not sure it can be removed just yet.] Or is this referring to a different obligation?] *[NTD Not sure – lets consider further for next draft.]*

vii. The ascribed or intended treatment of the transfer by the IESO or the transferee for tax, financial reporting or other purposes.

Deemed perfection, etc.

(3) At the time a transfer is made, the transfer shall be deemed to have been and shall be perfected, vested, valid and binding as against the IESO and all other persons who have claims of any kind against the IESO.

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 transferee shall have priority over any liens in favour of such other persons.

ADMINISTRATION OF REGULATORY ASSET

Administrative agent

26. (1) Unless the Financing Plan [provides for? Requires? NTD: "provides for" should work] another entity to administer the incurrence and payment of funding obligations by transferees, the Ontario Energy Board shall perform those functions as agent of the regulatory asset owner.

Application of amounts

(2) For the purposes of performing the functions mentioned in subsection (1), the Ontario Energy Board shall ensure that any amounts transferred to it as agent for the regulatory asset owner shall only be applied or used to pay finance amounts, as determined under section 19, when they are due and payable.

Regulatory asset owner may grant pledge

27. (1) The regulatory asset owner may, [in accordance with the Financing Plan?] grant a pledge to or in favour of a person in, to and over all or a specified portion of the regulatory asset. *[NTD: Not sure – please maintain the NTD – thought it wouldn't be tied to the FP at this point in the transaction so would have to confirm.]*

[OLC Note: The drafting of s. 27 is very rough. I will need to work on the drafting of this section further… just trying to understand the concepts for now. Please advise as to whether this is correct.] *[NTD: We'll try to provide more direction on the next draft.]*

Types of pledge

(2) A pledge may be a lien, mortgage, charge, right of set-off or security interest.

Validity

(3) Subject to subsections (4) and (5), despite any limitations or restriction on the pledge that may arise under an Act or a contract, the pledge may be made to secure a funding obligation and when granted shall be valid and enforceable in accordance with its terms and shall be effective to confer upon the person to whom the pledge is granted a valid security interest in, to and in respect of the regulatory asset in accordance with the terms of the pledge.

Same

(4) Subsection (3) applies if the description of the regulatory asset in the agreement giving effect to the pledge expressly refers to this section.

Financing Plan may require consent

(5) If the Financing Plan requires the consent of any person before the pledge may be given effect, that consent must be obtained [in accordance with the regulations? The plan?] before the pledge takes effect. *[NTD: Fair question – please maintain NTD for now.]*

Deemed perfection and priority of pledges

(6) The pledge is deemed to have been and shall be perfected, valid and binding from the time when the Pledge is made and shall be valid and binding as against the regulatory asset owner and all other persons who have claims of any kind against the regulatory asset owner.

Same

(7) Subsection (6) applies regardless of whether the persons mentioned in that subsection have notice of the pledge and the security interests under the pledge shall have priority over any liens in favour of those persons.

Proceeds

(8) All proceeds of the regulatory asset that are subject to the pledge and that are received by the regulatory asset owner shall immediately be subject to the pledge and shall be perfected without any physical delivery of the proceeds, registration of any financing statement or any further act.

[OLC Note: Isn't the above subs. (8) already covered by the general section in our "Miscellaneous" part that deals with "no further acts or approvals required"? (Article 12 (3) of Blakes doc. NTD: Possibly, but given "belt and suspenders" approach being advocated, please maintain this for now and we'll have to review for conflicts/internal consistency.]

Perfection

(9) The pledge 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 regulatory asset subject to the Pledge, subject to the written consent of the person to whom the pledge has been granted.

Same

(10) The person to whom the pledge has been granted shall have a perfected security interest in revenues or other proceeds that are deposited in any [regulatory asset account] or other account of any vendor, the IESO, an agent of a vendor or the IESO or other person who may have commingled such revenues or other proceeds with other funds.

[OLC Note: Is the following something you want to specify in the Bill? *A Pledgee shall cause a financing statement to be filed in respect of a Pledge for informational purposes*

only under the [PPSA]. [NTD:We'll have to check – thanks for maintaining this NTD for now.]

Collective action required

28. If the IESO or a transferee owns a right or interest in the regulatory asset that comprises less than the entire property right and interest constituted by the regulatory asset, the right or interest shall only be enforced by the regulatory asset owner collectively, and any agreement among that collective in furtherance of the collective action shall be valid and binding on the regulatory asset owner as a collective in accordance with its terms.

[OLC Note: It seems that successors may need to be addressed here. Also Pledgees have not yet been addressed in this draft. *[NTD: Understood – please maintain this for the next draft.]*]

Exercise of rights

29. The rights of the regulatory asset owner to collect and enforce its rights and interests in, to and in respect of the regulatory asset shall be exercised in accordance with section [xx].

REGULATORY ASSET ACCOUNTS

Pro rating of payments

30. (1) This section applies if,

(a) 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

(b) the amount paid is less than the total amount payable.

Same

(2) The electricity vendor shall distribute the payment on a pro rata basis in order to allocate a portion of the payment to the transition charges payable under the relevant invoices.

Deposit

(3) The electricity vendor shall deposit the portion of the payment allocated to transition charges into the account established under section 31.

Electricity v~~V~~endor

31. (1) Each electricity vendor shall establish and maintain an account into which the vendor deposits [or receives? *[NTD: May we have both "deposits" and "receives" for now please?]*] only the following:

1. Payments by specified consumers for transition charges.

2. Portions of payments by specified consumers that are attributed to ~~be for~~ transition charges under subsection x (3).

3. Any proceeds arising from the exercise and enforcement of any rights and interests under or in respect of the regulatory asset.

Held in trust

(2) The amounts required to be deposited or received into the account referred to in subsection (1) are deemed to be held in trust for the regulatory asset owner.

IESO

32. (1) The IESO shall establish and maintain an account into which the IESO deposits [or receives?] [NTD: may we have both "deposits" and "receives" for now please?] only amounts remitted from accounts established under section 31.
[OLC Note - *These amounts remitted are meant to be what is referred to as "electricity distributor remittances" in the Blakes document, which I believes means remittance of the amounts mentioned in paras. 1-3 of the vendor's account section above. NTD – thanks, we'll have to consider this further.]*]

(2) The amounts required to be deposited or received into the account are deemed to be held in trust for the [regulatory asset holder].

Accounts held by agents

33. (1) If a person is appointed under section 34 or 35 and accepts the appointment in accordance with the applicable section, the person shall establish and maintain an account into which the person deposits or receives any of the amounts mentioned in sections 31 and 32 in respect of which the person has assumed obligations under section 34 or 35.

Held in trust

(2) The amounts required to be deposited or received into the account are deemed to be held in trust for the regulatory asset owner.

AGENTS

[OLC Note: My idea below is that if we can clearly provide for the circumstances in which "alternative invoicing agents" or "alternative collection agents" may be required to assume statutory obligations, then we don't need to repeat references to these entities throughout the Act whenever they may have to assume statutory obligations that would otherwise be the obligations of the IESO or a vendor. *[NTD: this seems like a sound way of centralizing the approach to agents (and replacement entities)?]* The goal is for this Part to ensure that when we impose obligations on the IESO or a vendor, that will be sufficient to transfer the requirement to an agent when necessary since this Part operates to deem the agent to be the IESO/vendor. *[NTD: understood, we'll have to consider a little further, though to ensure it works.]*]

[OLC Note: Consider whether you need to clarify status of any agents as non-Crown agents. *[NTD: Good point! I think in all cases the agents referred to here would be "not an agent of HMQ for any purpose, despite the Crown Agency Act" – see s. 8 of EA regarding the IESO as one example of this – we provide similar language for OPG and Hydro One, as I recall.]*]

Appointment of agent, invoicing

34. (1) If a prescribed circumstance applies, the regulatory asset owner may appoint a person to carry out some or all of the obligations of a vendor under this Act in the place of a vendor with respect to invoicing.

[OLC Note: I have used the phrase "prescribed circumstances" to capture the concept of a "replacement event". *[NTD: Understood and should work. We'll have to confirm.]* I'm not sure if this is something that you'd want to include in regulations or if it's something you'd like to provide for otherwise (e.g. in the Financing Plan?). Please instruct. *[NTD:We'll have to discuss and provide direction on the next or future draft.]*]

[OLC Note: This section (and the following section dealing with collections) is unusual because the statutory obligations of the parties are determined by a document that exists outside of the legislation and regulations and that is prepared by someone external (a written appointment prepared by the RA owner). So it is a very significant delegation of legislative power. *[NTD: Understood – please maintain these NTD's – thanks!]*

It's basically giving the RA owner the power to exempt an electricity vendor from specific provisions of the Act and to simultaneously impose statutory obligations on a party who would not otherwise be subject to the Act. *[NTD: I think we have to mull this over internally, please maintain this NTD for the next draft.]*

Would the appointment, once "accepted", be published somehow so that consumers would understand who has a legitimate obligation to issue the invoices or to collect? *[NTD: We have to confirm but this does sound like a very good idea.]*

What happens if the appointment needs to be cancelled or amended? *[NTD: I'm not sure what is meant by the question here – the power to appoint someone else to do the work has to revert to the RA owner. Notice of the new appointee should be provided to the public and on a timely basis (our thought –but does have to be confirmed).]*

I think we have to provide some mechanism for all affected parties to understand who has the statutory obligations at any given point in time.] *[NTD:I think the authority to appoint always has to reside with the RA owner (or at least in one place). Hence, the appointee may become bankrupt, may suddenly refuse to act, etc. in those circumstances, the appointment should be "revoked" by the RA owner and the power to appoint someone else should revert back to RA owner to be exercised afresh. This has to be confirmed with Blakes / others.]*

Appointment to be in writing

(2) An appointment under subsection (1) shall be in writing and shall specify the provisions of this Act that set out the obligations that the appointed person would be required to carry out.

Acceptance

(3) If the person appointed accepts the appointment in writing, that person is deemed to be the vendor for the purposes of the provisions specified in the appointment.

Notice to vendor

(4) Upon acceptance under subsection (3), the regulatory asset owner shall provide written notice to the vendor affected by the appointment of the details regarding the appointment.

Duties of vendor

(5) Upon receipt of a notice under subsection (4), the electricity vendor is no longer required to comply with the provisions specified in the appointment.

Same, regulations

(6) The Minister may make regulations specifying steps that an electricity vendor is required to take upon receipt of a notice under subsection (5), which may include the execution of instruments in order to allow the appointed person to carry out the obligations specified in the appointment.

Appointment of agent, collection, etc.

35. (1) If a prescribed circumstance applies, the regulatory asset owner may appoint a person to carry out some or all of the obligations relating to collection, segregation and remittance under this Act in the place of a vendor or the IESO, as the case may be.

Appointment to be in writing

(2) An appointment under subsection (1) shall be in writing and shall specify the provisions of this Act that set out the obligations that the appointed person would be required to carry out.

Acceptance

(3) If the person appointed accepts the appointment in writing, that person is deemed to be the electricity vendor for the purposes of the provisions specified in the appointment.

Notice to electricity vendor, IESO

(4) Upon acceptance under subsection (3), the regulatory asset owner shall provide written notice to the electricity vendor or the IESO, as the case may be, of the details regarding the appointment.

Duties of vendor, IESO

(5) Upon receipt of a notice under subsection (4), the electricity vendor is no longer required to comply with the provisions specified in the appointment.

Same, regulations

(6) The Minister may make regulations specifying steps that an electricity vendor or the IESO is required to take upon receipt of a notice under subsection (5), which may include the execution of instruments in order to allow the appointed person to carry out the obligations specified in the appointment.

PART V
MISCELLANEOUS

Enforcement

36. [OLC note - Article 9 of Blakes doc deals with "compliance matters" but more instructions are required in order to draft. What are the "regulatory sanctions"? [NTD: Fair points but we need to confirm this in a future draft. Thanks!] Perhaps this needs to be linked up with authority of the OEB under existing legislation? [NTD: You're thinking about OEBA ss. 112 and 125.1 et seq, I gather] Please instruct.] *[NTD: We will provide further direction on a future draft. Thanks very much!]*

[OLC Note: Are there to be any offences created under this Act? [NTD: we'll have to confirm one way or the other.] If so, what are they? [NTD: must confirm.] What are the penalties? [same] What is the liability of directors and officers of a corporation? [NTD: we'll have t confirm, great questions all!] Is there a limitation period on proceedings?] [NTD; same – must confirm.]

[OLC Note: I also believe that the following provision from Article 5 (13) of the Blakes document is an enforcement matter, so please consider this provision along with other compliance matters:[NTD: Will do.]\
[Sequestration *– If any Electricity Distributor, IESO, Alternative Collection Agent or any owner of distribution system assets in the Province or any other person or entity authorized to collect Transition Charges, defaults on any required remittance of Transition Charge Collections, Electricity Distribution Remittances or IESO Remittances under Article 5, any court in the Province, upon application by a Regulatory Asset Owner or Pledgee and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the Transition Charge Collections, Electricity Distribution Remittances and IESO Remittances, as applicable, for the benefit of the Regulatory Asset Owner or Pledgee.] [Such order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to any Electricity Distributor, IESO, Alternative Collection Agent or any owner of distribution system assets in the Province or other person or entity authorized to collect Transition Charges, as applicable.]*

Successors

37. [OLC Note: Articles 4 (6) and (7) and Articles 5 (7) and (8) are rules about successors to distributors and the IESO being bound by specific requirements. Still to be drafted.] *[NTD: Understood.]*

[OLC Note: I think that Article 5 (9) also relates to succession to some extent --- I think I need some more information in order to understand it. *[NTD: we'll try to help.]* I understand that this is included in anticipation of restructuring of the distribution system *[NTD: or the sale of a distributor to another party (as we read it).]*. But if we use the defined terms from the Electricity Act (distributor and distribution system) then this doesn't make any sense since a "distributor" is [in accordance with the EA you mean?] just someone who owns or operates a "distribution system".*[Correct as far as the EA goes.]* It also seems unusual to impose a legal requirement that would be triggered by the regulatory asset owner "requesting" that the new entities comply. Normally I think this kind of issue (new parties becoming part of the distribution system) would be handled through an amendment to the Act when the situation actually arose. Perhaps with more information I will better understand.*[NTD: we'll work on our end to get some more clarity as well for a future draft. Thanks, Tara!]*

Owners of Distribution Assets *- If any person other than an Electricity Distributor acquires distribution system assets in the Province or invoices or collects electricity distribution rates in the Province, then such person shall, if requested by the Regulatory Asset Owner, be obligated to act diligently to (a) facilitate the invoicing and collection of any Transition Charges applicable to Ratepayers in its applicable service area, including all consumers connected to the electricity distribution system assets and taking electric delivery service located within such service area; (b) allocate partial payments by*

Ratepayers as provided in this Part; (c) terminate service to non-paying Ratepayers on the same basis as termination of service is permitted for non-payment of electricity transmission and distribution rates;-(d) exercise all enforcement rights of the Regulatory Asset Owner or Pledgee for the benefit of the Regulatory Asset Owner or Pledgee; and (e) remit any Transition Charge Collections to the Regulatory Asset Owner or Pledgee, as applicable.]

[OLC Note re Article 12 (1) of the Blakes doc ("Choice of law") -- usually in legislation we don't have to specify that the laws of Ontario apply. Is this necessary?] [NTD: Agreed, its quite contractual – please maintain this NTD for now, and we'll clarify on the next draft.] Thanks!]

Conflict

38. 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 PLEDGE,

[OLC Note: Please confirm that the underlined list of verbs is correct, taking into consideration the defined terms we are using in the draft Bill.] [NTD: we'll work toward this end for the next draft, thanks..]

No further approvals, etc.

39. 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.

[OLC Note: This is to address Article 12 (3) of the Blakes doc. Could you please explain the intention behind this provision in order to ensure it achieves the intended goal? Is it to ensure that nothing like an Environmental Assessment is required with respect to a funding obligation? [NTD-we'll confirm for future draft.] Because it is so broad, it would also purport to cover things like consultation with Indigenous partners. Do you want to keep some reg-making power to allow for exceptions to this rule or do you want to narrow it somehow to address specific concerns that you have?] [NTD-we'll confirm for future draft.]

[OLC Note: Should the Bill address any issues relating to Immunity of the Crown, liability of various individuals, etc.?] **[NTD-we'll confirm for future draft.]**

Regulations

100x. The Lieutenant Governor in Council may make regulations,

(a) governing the inclusion of transition charges in invoices, which may include requiring notice to be provided by vendors to specified persons regarding the transition charges to be imposed over specified periods of time.

[OLC Note: Both of Articles 4 and 5 in the instructions included extremely broad regulation-making powers. I am deferring the issue of regulation-making authority until we have worked out more of the substance of the bill and have a better sense of what kind of reg-making power would be needed. Understood, seems like a very sensible approach.] Expansion of regulation-making powers may also be something that we deal with in more detail at the motions stage, if we are running short of time. [NTD: May not be very politically saleable but necessary – we always get push back from our Minister's office on attempting to amend a bill in Committee….]

Please advise if there are reg-making powers that you would like to give to the Minister vs. LGIC.] [NTD **[NTD-we'll confirm for future draft.]**

PART VI
CONSEQUENTIAL AMENDMENTS

Electricity Act, 1998

101x. [instructions required]

[NTD-we'll confirm for future draft.]

Ontario Energy Board Act, 1998

102x. [instructions required] **[NTD-we'll confirm for future draft.]**

PART VII
COMMENCEMENT AND SHORT TITLE

Commencement

103x. This Act comes into force on [NTD-we'll confirm for future draft.]~~[insert commencement rule]~~

Short title

104x. The short title of this Act is the *[TBD], 2017*.

New Art 8.

Financing plan → DFG keep near. recorder

Comment Draft: April ~~6,~~10, 2017

CONFIDENTIAL AND PRIVILEGED

Preliminary Draft for Discussion Purposes Only

~~"Fair Hydro Act" – Part V.2~~

Article 1 – Purpose[1]

~~IESO has entered into Power Contracts with Generators. The agreed-upon reference prices and quantities set out therein were determined based on commitments made by IESO to provide Generators with long-term price certainty, so as~~The Province has and continues to encourage the construction and development of facilities for the ~~purpose of~~ 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 ~~and~~, feed in tariff and other similar programs (the "Green Generation Initiative"). ~~[The terms of the Power Contracts were intended to approximate the anticipated useful life of the related generation assets]; however, it has been determined that the useful life of many of these assets will be well in excess of the actual term of the related Power Contracts and will extend over more than one generation of ratepayers.~~ The long-term benefits of the Green Generation Initiative accrue over time and have benefited and will benefit present and future ~~ratepayers of the Province. Currently, market prices for electricity are less than the reference prices set out in the Power Contracts, leaving a gap in funding which is funded by charging consumers a "Global Adjustment" (part of which is available to IESO to pay this shortfall).~~electricity consumers in the Province.

The imputed 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.

~~Each month, the IESO determines the Global Adjustment payable by consumers for the consumption~~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~~. A component of the Global Adjustment is the amount by which the reference prices in the Power Contracts~~ under the Green Generation Initiative, which may be higher than prevailing market price for electricity. These differences arise because IESO has entered into long-term procurement contracts with such generators in order to provide them with long-term price 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 ~~for the quantities of electricity specified under the Power Contracts for the relevant period[2]. The relationship between the past, present and future benefits to Ratepayers from~~, 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 procurement contracts. It has been determined that the useful lives of many of the assets encouraged by the Green Generation Initiative~~, on the one hand, and the costs of~~ will be well in

[1] ~~Consider the scope and breadth of the Purpose section. This text is considered to be useful to establish the legislative basis for the statute, which text will be useful in the event of a challenge.~~

[2] ~~Consider modifying this to also refer to gas contracts and hydroelectric contracts, which provide for mechanics that are not based on contracts for differences.~~

excess of the respective terms of the related 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 ~~borne by past, present and future Ratepayers through their respective allocations of the Global Adjustment, on the other hand, do not necessarily reflect an equitable allocation of such benefits and costs over time, with the result that an adjustment may be appropriate to address inter-generational fairness considerations. Such an adjustment should reflect~~will not necessarily coincide with the costs currently attributed through the Green Costs Adjustment, based on the respective durations of the 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 Consumers (as defined in Article 2) should be more closely aligned with the benefits that such Retail Consumers have derived and are expected to derive from the Green Generation Initiative over time. This realignment will be based on principles and parameters that ~~can be applied from time to time in order to~~ establish a reasonable basis for measuring and allocating the relative costs and benefits of the Green Generation Initiative ~~across present and future Ratepayers. A plan to allocate such costs and benefits~~ equitably across present and future ~~Ratepayers may be developed based on those principles and parameters (a~~Retail Consumers (the "Fair Allocation Plan").

If ~~a~~the Fair Allocation Plan determines that the equitable allocation of the ~~Global Adjustment to the Ratepayers~~costs associated with the Green Generation Initiative to the Retail Consumers of a particular time period ~~in respect of the Power Contracts~~ should be reduced below the amount ~~otherwise determined,~~that currently would be charged based on the Green Costs Adjustment, then the amount payable by such ~~Ratepayers to Electricity Distributors in respect of such period,~~Retail Consumers and in turn ~~by the Electricity Distributors to the~~available to IESO, ~~would~~ will, in the aggregate, be less than the amount payable by the IESO to the ~~Generators under the Power Contracts~~generators in respect of such period. ~~If the difference is greater than any net Power Contract surpluses available to IESO from earlier periods, IESO will have a funding shortfall.[3] In order for IESO to cover such a funding shortfall for a period,~~In this case IESO will need to obtain funding from another source~~, which could include funding from third party sources operating in public and private capital markets~~ to cover such a shortfall. If a funding obligation is incurred ~~in order to enable the~~by IESO to cover such a ~~funding~~ shortfall during one period, the repayment of such funding obligation will be required in a future period, and any related repayments, finance costs, hedging costs and other transaction costs ~~will be~~ incurred ~~and may~~will become payable in one or more ~~other~~future periods. ~~It will be necessary to provide~~In order for IESO to obtain a reliable and committed source of cash flows to enable IESO to repay such funding ~~obligations and to pay related funding costs with certainty when the funding obligations~~amounts when they become due and payable~~. This Part~~, this Act imposes irrevocable and non-bypassable financial obligations ~~of Ratepayers~~on Retail Consumers to pay amounts incurred in respect of such funding obligations when they become due and payable and establishes a right to invoice and collect such amounts . The right and interest in and to collect such financial obligations~~, which~~ will take the form of the Regulatory Asset contemplated in this ~~Part and~~Act, which will constitute property rights and interests. ~~The~~Interests in the Regulatory Asset ~~will~~may be sold and absolutely assigned ~~and will belong~~by IESO to one or more ~~newly created~~ financing entities, which in turn will finance their ~~purchase of such Regulatory Asset~~acquired interests by incurring funding obligations. The incurrence and payment of such funding obligations will be administered on behalf ~~the~~such financing entities by ~~an administrative~~a financial services agent ~~(initially OPG),~~ under the Financing Plan

[3] ~~Confirm whether any RPP forecasting variance is to be included in (i) a funding shortfall; and (ii) related IESO financing costs to be included in Transition Charges.]~~

contemplated in this ~~Part~~Act. The Financing Plan will seek to reasonably match the payment obligations arising under such funding obligations ~~and~~, to be borne by the future ~~Ratepayers~~Retail Consumers of the period in which such payment obligations become due, with the ~~costs and~~ benefits of the Green Generation Initiative ~~charged~~allocated to such future ~~Ratepayers~~Retail Consumers under the Fair Allocation Plan.

The purpose of this ~~Part~~Act is to establish the basis upon which intergenerational fairness can be achieved by charging the costs and benefits of the Green Generation Initiative to present and future ~~Ratepayers~~Retail Consumers on an equitable and cost effective basis.

Article 2 - Definitions

In this ~~Part~~Act:

"Absolute Assignee" means a person to whom a Regulatory Asset Owner effects a Disposition.

"Actual" means, in relation to costs, expenses or payments in respect of Funding Obligations during a Reference Period, the actual amount of such costs, expenses or payments paid or made (net of any Finance Reserve Withdrawals applied to pay such amounts), which amounts shall be recorded by the ~~Administrative~~Financial Services Agent whose records shall be determinative for the purposes of this ~~Part in~~Act except to the ~~absence~~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 ~~the Regulatory Asset Owners~~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 ~~Administrative~~Financial Services Agent on behalf of, ~~a Regulatory Asset Owner~~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 ~~a Regulatory Asset Owner~~the Absolute Assignee or incurred by on behalf of ~~a Regulatory Asset Owner~~the Absolute Assignee under any obligation to pay tax gross-up amounts to counterparties under Funding Obligations; (c) any amounts payable to the ~~Administrative~~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 ~~a Regulatory Asset Owner~~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 ~~of~~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.

~~"Administrative Agent" means [OPG] or, following any Replacement Event, such other person or persons who may be appointed as the administrative agent of the Regulatory Asset Owner under the Financing Plan in compliance with the requirements set out in Schedule 2.~~

"Allocation Factor" means, in respect of a ~~Ratepayer~~Retail Consumer for a Reference Period, the number (expressed as a percentage) determined in respect of the ~~Ratepayer~~Retail Consumer by ~~[IESO]~~the OEB based on the application of the Attribution Methodology in respect of the Reference Period.[4]~~[1]~~

"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.

"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.

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"Assessed Past Green Transition Costs" means, in respect of a Measurement Date, the aggregate of the imputed costs of the Green Generation Initiative (expressed as an equivalent to current dollars), as reflected in the calculation of the Green Costs Adjustment, which have been charged to Retail Customers through the Global Adjustment on or prior to the Measurement Date.

GA attributed to green assets ↓ BY measurement date (e.g. implementing date) ↓ FAP can reset the date

"Attribution Methodology"[5]~~[2]~~ means the methodology specified in the Fair Allocation Plan for allocating the Period Transition Charges for a Reference Period to ~~the~~ individual ~~Ratepayers~~Retail Consumers of the applicable ~~Ratepayer~~Retail Consumer Group based on its Allocation Factor.

~~"Bypass Charge" means [To be developed].~~[6]

"Collected Amount Adjustment" means, in respect of a ~~Reference~~True-Up Period, the amount (which may be a negative amount) calculated by the Servicer or the ~~Administrative~~Financial Services Agent, as applicable, equal to (a) the Estimate of the

[4] ~~Consider basing~~[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 ~~would~~may be identified and ~~rolled into~~caught by the True-Up.

[5] ~~A key question will be how the overall costs will be spread across the rate base. For example, the~~[2] This allocation may be volumetric ~~or not,~~ or some combination of a flat amount and a volumetric charge. ~~This will also impact any discussion regarding any bypass (e.g., grid exit) charge in connection with the bypass discussion~~Further discussion is required. H&W has raised a concern regarding possible adverse changes after the fact and rating agency considerations. Consider whether hard-coding in the legislation makes sense.

[6] ~~Consideration needs to be given to any amount that will be charged to a ratepayer who successfully bypasses (e.g., leaves the grid). In allocating Transition Charges, considerations would include whether to reserve Bypass Charges and spread them over the life of the program, and correspondingly how to factor those into the calculation of Transition Charges.~~

Finance Amount for the True-Up Period, minus (b) the sum of all Transition Charge Collections for the True-Up Period.[73]

"Collective Rights Agreement" means an agreement among all of the Regulatory Asset Owners (including each Absolute Assignee) and each Pledgee that governs the enforcement of their respective rights and interests in, to and under the Regulatory Asset on a coordinated and collective basis.[4]

"Delegate" means the person or persons designated in writing from time to time by the Minister of Energy to undertake the actions and perform the responsibilities ascribed to the "Delegate" under this Act.

"Disposition" means an assignment, transfer, conveyance, sale, contribution, set-over, exchange or other disposition of ~~all or a specified portion (including a specified portion on a divided basis or by way of an undivided interest) of a Regulatory Asset Owner's right, title and interest in, to and under the Regulatory Asset~~an Investment Interest to an Absolute Assignee pursuant to a Disposition Document.

"Disposition Document" means the agreement, deed, conveyance, instrument or other document under which a Regulatory Asset Owner effects a Disposition to an Absolute Assignee.

"Electricity Distributor" means, in respect of a Service Area, the rate regulated distributor licensed ~~by the OEB~~under Part V of the *Ontario Energy Board Act, 1998* in respect of such Service Area, 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 by the Electricity Distributor prior to the Remittance Date and that have not otherwise been remitted to IESO 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.

"Electricity Invoice" means an invoice issued by ~~an~~any of a Electricity Distributor (or in its stead, by an Alternative Servicer) ~~or~~, by the Servicer or by a Retailer, in each case to a Retail 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 Electricity Distributor's designated Service Area and in respect of applicable Transition Charges to be charged to the Retail Consumer under this Act.

"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 ~~Administrative Agent~~Financial Services Agent; and (b) in relation to an assessment of the benefits of the Green Generation Initiative to any Retail Consumer Group, the estimated value (in current

[73] This would pick up adjustments based on actual collection experience, changes in the ~~Consumer Base~~retail consumer base, changes in the actual costs (versus earlier estimates) included in the Transition Charge calculation, etc.

[4] Consider adding the Financial Services Agent and the Servicer as parties.

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 ~~Part in~~Act except to the ~~absence~~extent of a manifest calculation error.

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

"Finance Amount" means, ~~in respect of~~for a Reference Period in respect of an Absolute Assignee, the sum (without duplication) of the following amounts ~~for~~that are or become payable during the Reference Period in respect of the Absolute Assignee: (a) Repayments; (b) Funding Costs; (c) Redemption Amounts; (d) Finance Reserve Deposits; and (e) Additional Funding Charges.~~"Finance Receipts" means, for a Reference Period, all amounts received by or on behalf of the Regulatory Asset Owners 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 Regulatory Asset Owners under derivatives and any 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 a Funding Obligation.~~

"Finance Reserve Deposits" means, for a Reference Period, the amount by which (a) deposits made or to be made 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, exceed (b) any Finance Reserve Withdrawals.

"Finance Reserve Withdrawals" means, for a Reference Period, the amount withdrawn during the Reference Period from deposits previously made to pre-fund, collateralize, over-collateralize or establish reserves for the payment of Funding Obligations or to pay amounts in respect of related contingencies that had been specified in the Financing Plan.

"Financial Services Agent" means OPG or, following any Replacement Event, such other person or persons who may be appointed as the Financial Services Agent of the

OPG

Absolute Assignees under the Financing Plan in compliance with the requirements set out in Schedule 2.[5]

"Financing Entity" means an entity established in accordance with the Financing Plan to acquire all or an interest in the Regulatory Asset as an Absolute Assignee and to enter into Funding Obligations to finance such acquisition.[8] under the Financing Plan.[6]

"Financing Plan" means the written plan [prepared by the Administrative Agent]Financial Services Agent on behalf of each Absolute Assignee in compliance with Article 89 to set forth the basis upon which, among other things: (a) any Disposition may be made to, financed by or effected by an Absolute Assignee; (b) any Funding Obligations may be incurred in order to fund a Funding Shortfallby an Absolute Assignee, including any Refinancing; (c) any Pledge may be given or effected; (d) any Funding Obligations may be redeemed, prepaid, repurchased, amended or otherwise effected; (e) any obligations for Additional Funding Charges may be incurred and paid; (f) any Repayments, Funding Costs and Redemption Amounts may be paid or provided for; (g) any Finance Reserve Deposits may be made; (h) any Finance Reserve Withdrawals may be made; (i) the establishment and operation of any Financing Entity may be effected; and (ij) the cash flows arising from time to time or otherwise derived from the Regulatory Assetan Investment Interest may otherwise be applied, as the same may be amended, amended and restated or terminated by the Financial Services Agent in compliance with Article 9 from time to time.

"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 Regulatory Asset OwnerAbsolute Assignee during the Reference Period in respect of allits 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 aits Funding ObligationObligations, exceeds (b) the aggregate of all Finance Receiptsamounts 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.

[5] Discuss whether to accommodate multiple Financial Services Agents. MOE to consider.

[8] OPG has suggested[6] MOE to confirm that the legislation will provide that any Financing Entity that is a wholly-owned subsidiary of OPG (1) would not be subject to Part VI of the *Electricity Act* (Ontario) and (2) in the case of any Financing Entity that is a trust, any income of such trust (for purposes of the *Income Tax Act* (Canada) or the *Taxation Act, 2007* Ontario)) which is paid or made payable to OPG or a wholly-owned subsidiary of OPG as a beneficiary of such trust will not be taken into account in calculating the amount of a payment required to be made by OPG (or such subsidiary) by section 89 or 90 of the Electricity Act. These raise issues for consideration by the stakeholders.

"Funding Obligation" means, in respect of an Absolute Assignee, each payment obligation (including each obligation to pay: principal, interest, premiums and other financing ~~charges, indebtedness,~~charge payments; pass-through payments; payment obligations arising under or in respect of derivatives~~,~~; payment obligations owing to service providers, ~~administrative agents~~Financial Services Agents, finance entity intermediaries, capital markets intermediaries, advisors, lenders, credit enhancement providers, liquidity providers, disbursement counterparties, regulatory agencies and rating agencies; and all ~~taxes payable in connection with the foregoing)~~Additional Funding Charges incurred by or on behalf of ~~a Regulatory Asset Owner~~the Absolute Assignee under the Financing Plan ~~in order to fund a Funding Shortfall for a Reference Period~~, including any Refinancing of another such payment obligation incurred by or on behalf of such Absolute Assignee.[9]

~~"Funding Shortfall" means, for a Reference Period, (a) the amount, if any, by which (i) the IESO Power Contract Net Payment for the Reference Periods, exceeds (ii) the GA Power Contract Contribution for Reference Period, minus (b) the IESO Applied Surplus for the Reference Period.~~[10]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.

~~"GA Power Contract Contribution" means, for a Reference Period, the aggregate of the payments to be made by the applicable Ratepayer Group in respect of the portion of the Global Adjustment [attributable to the Power Contracts] in accordance with the Fair Allocation Plan.~~[11]

"Generator" means a generator of electricity that is subject to ~~[this~~the *Electricity Act*~~]~~[12]~~.~~ *1998.*

"Global Adjustment" ~~means the amount calculated from time to time under [Section • of the *Electricity Act*], which includes among other things an amount determined in respect of the costs associated with the Green Generation Initiative, including amounts attributable to the Power Contracts.~~[13]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]~~.1.

[9] ~~OPG has asked whether this should include IESO finance arrangements.~~

[10] ~~Consider whether to simplify by referring to the calculations of GA, with vs. without Fair. The issue would be that Fair is then linked into the GA calculation specifically, rather than to the specific assets that are subject to revised amortization under Fair. The constitutional position requires a clear nexus to the assets. Also, confirm whether RPP forecasting variances are to be included.~~

[11] ~~IESO to confirm its ability to allocate a shortfall in a given month between what it receives and what it owes under the GA, in order to calculate (a) existing volume-based variances which are rolled into subsequent month GA and trued-up every 6 months under RPP, (b) existing variances attributable to OREC which are funded by the Province, and (c) new variances attributable to Fair Hydro program.]~~

[12] ~~Revise once determine whether this will be a standalone Act or remain part of the *Electricity Act*. "Generator is a defined term in other legislation (OEB Act, Electricity Act) so this should ultimately be a distinct term such as "FH Generator" to avoid confusion.~~

[13] ~~Note that if adjustments for Fair Hydro program are to be applied after existing GA adjustments, then this may need a new name (such as "FH Adjustment").~~

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

"IESO ~~Applied Surplus~~Available Amount" means, for a Reference Period, the lesser of (a) the amount~~,~~ (if any~~,~~) by which (i) the ~~IESO Power Contract Net Payment~~Maximum Transition Charge Amount for the Reference Period, exceeds (ii) ~~the GA Power Contract Contribution~~Period Finance Amount for the Reference Period, and (b) the IESO ~~Unapplied Surplus on the last day of the immediately preceding Reference Period.~~ Retained Interest Amount as of the [35th] day prior to the first day of a Reference Period plus any IESO Financing Costs that are due and payable and remain unpaid as of the [35th] day prior to the first day of a Reference Period.

"IESO Electricity Distribution Receipts" means, for a month, the sum of all amounts payable by Electricity Distributors to IESO during the month pursuant to section • of the *Electricity Act*.

"IESO Financing Costs" means, for a Reference Period, the financing costs (if any) incurred by IESO pursuant to Section 8(4) in order to finance its ownership of the IESO Retained Interest during the Reference Period.

"IESO Funding Shortfall" means, for a month, the amount, if any, by which (a) the IESO Electricity Distribution Receipts that would be payable to IESO for the month if determined without regard to this Act and without regard to the changes made to section 25.33 of, and O.Reg. 429/4 under, the *Electricity Act* with respect to the Global Adjustment concurrently with this Act, exceeds (b) the IESO Electricity Distribution Receipts payable to IESO for the month[7]; provided that if the amount of any such shortfall is determined to have been based on incomplete information, variances or estimates that were inaccurate, an adjustment shall be made in determining the amount of any subsequent shortfall for the month in which the inaccuracy is identified.

"IESO ~~Power Contract Net Payment" means, for a Reference Period, the amount by which (a) the sum of amounts payable by IESO to the Generators under all Power Contracts for the Reference Period, exceeds (b) the sum of amounts payable by the Generators to IESO under all Power Contracts for the Reference Period.~~Recovery" means each amount remitted to IESO (including by IESO retaining such amount) in respect of the IESO Retained Interest pursuant to Section 5(6)(b), and "IESO Recoveries" means, collectively, all such amounts received by IESO.

~~"IESO Power Contract Net Receipt" means, for a Reference Period, the amount by which (a) the sum of amounts payable by the Generators to IESO under all Power Contracts for the Reference Period, exceeds (b) the sum of amounts payable by IESO to the Generators under all Power Contracts for the Reference Period.~~

"IESO Remittances" means, for a Settlement Date, all Electricity Distributor Remittances received by IESO or if applicable the Alternative Collection Agent prior to the Settlement Date and that have not otherwise been remitted to the Regulatory Asset Owners (each with respect to its Regulatory Asset) in accordance with Section 5(6), including the proceeds of any enforcement action undertaken by IESO or if applicable the Alternative

[7] This has been recast to recognize that the shortfall in the first 4.5 years could exceed the entire GA amount. A more refined approach to describing the concept may be considered.

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

"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 power system].~~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 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.

"OEB" means the Ontario Energy Board, together with its successors.

"OPG" means the corporation incorporated as Ontario Power Generation Inc. under the *Business Corporations Act* on December 1, 1998, together with its successors.

~~"IESO Unapplied Surplus" means, at a particular time, the amount, if any, by which (a) the sum of (i) all IESO Power Contract Net Receipts for Reference Periods occurring prior to the time, and (ii) all GA Power Contract Contributions for Reference Periods occurring prior to the time, exceeds (b) the sum of (i) all IESO Power Contract Net~~

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~~Payments for Reference Periods occurring prior to the time, and (ii) all IESO Applied Surpluses for Reference Periods occurring prior to the time.~~ Over-Assessed Amount" means, in respect of a Measurement Date, the amount (if any) by which (a) the Assessed Past Green Transition Costs, exceeds (b) the Estimated Past Green Transition Benefits, each as determined as of the Measurement Date.

"Period ~~Transition Charge~~Finance Charges" means, for a Reference Period, the sum of (a) the Estimate of the Finance Amount and (b) the True-Up Amount in respect of the immediately preceding Reference Period.

"Period Transition Charges" means, for a Reference Period, the sum of (a) the Period Finance Charges for the Reference Period and (b) the IESO Available Amount for the Reference Period.

"Pledge" means, in respect of an Investment Interest of an Absolute Assignee, a lien, mortgage, charge or security interest granted to or in favour of a Pledgee by ~~a Regulatory Asset Owner~~the Absolute Assignee in, to and over all or a specified portion (including a specified portion on a divided basis or by way of an undivided interest) of the ~~Regulatory Asset~~Investment Interest.

"Pledgee" means a person to whom ~~a Regulatory Asset Owner~~an Absolute Assignee grants a Pledge.

~~"Power Contracts" means long-term power contracts entered into by IESO with certain Generators, under which IESO has agreed to pay such Generators amounts, determined in respect of quantities of electricity over specified periods, to the extent that applicable market prices for such quantities of electricity during a specified period are less than specified reference prices for such quantities of electricity, and, correspondingly, Generators have agreed to pay IESO amounts if the market prices for such quantities exceed the applicable reference prices for such quantities.~~[14]Program End Date" means •, [2047].

transition charges can continue beyond 2047

"Province" ~~means the Province of Ontario~~.

~~"Ratepayer" means present and future [retail] consumers of electricity [in the Province] who are [RPP][or OREC-eligible] consumers, which shall include all such retail consumers who are connected, directly or indirectly and whether a customer of an Electricity Distributor or not, to the transmission and distribution system assets located in the Province and who are taking electric delivery service within the Province, whether or not such retail consumers produce their own electricity or purchase electric generation services from a provider of electric generation services other than the owner of the Province's transmission and distribution 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.~~[15]

commitments cannot go beyond but could be true-ups

[14] ~~Consider expanding to include PPAs that are not contracts for differences. Should this contemplate the possibility of additional or amended power contracts?~~

[15] ~~Need to describe consumers in a fashion that is broad and not weakened by a bypass risk. Consider terminology to align with the description of the eligible customer class provided by the Ministry, e.g., same as OREC-eligible consumers except for consumers served by Independent Power Authorities (who do not pay GA). Also, consider use of the word "retail", to avoid limiting to customers of retailers and confirm removal of reference to transmission-connected customers.~~

New Art 8 - no new funding shortfalls beyond [•]

~~"Ratepayer Group" means, in relation to a Reference Period, the Ratepayers who receive Electricity Invoices[16] during the Reference Period.~~

"Redemption Amount" means the amount payable by or on behalf of ~~a Regulatory Asset Owner~~an Absolute Assignee to redeem, prepay or repurchase a Funding Obligation incurred by or on behalf of the Absolute Assignee, including any premium, make-whole or other additional amount becoming payable under the Funding Obligation to give effect to such redemption, prepayment or repurchase.

"Reference Period" means (a) the period from (and including) the ~~[Legislation Implementation~~Measurement Date~~]~~ to (and including) June 30, 2017, (b) each six month period commencing [May 1st and November 1st] thereafter and (c) any other period specified as such in the Fair Allocation Plan.

"Reference Period Length" means, for a Reference Period, the number of months in the Reference Period.

"Refinancing" means ~~that a~~, in respect of a Funding Obligation incurred by or on behalf of an Absolute Assignee, that the Funding Obligation is repaid or repurchased for cancellation by or on behalf of ~~a Regulatory Asset Owner~~the Absolute Assignee by applying the net proceeds obtained by the ~~Regulatory Asset Owner~~Absolute Assignee incurring one or more other Funding Obligations.

"Regulatory Asset" means the property ~~right~~rights and ~~interest~~interests described in Section 6(1), ~~or if the context requires, a specified portion or undivided interest in such property right and interest that is described in the applicable Disposition Document~~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; (b) for the Servicer, any bank account into which ~~the Servicer~~IESO 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 the Alternative Collection Agent deposits or receives Transition Charge Collections, Electricity Distributor Remittances or IESO Remittances.

"Regulatory Asset Owner" means each of (a) IESO, as owner of (and to the extent ~~that it has retained any ownership interest in, to or under the Regulatory Asset~~of) the IESO Retained Interest and (b) each Absolute Assignee, ~~to the extent that it has acquired and owns any ownership interest (including a specified portion on a divided basis or by way of an undivided interest) in, to or under the Regulatory Asset~~as owner of its Investment Interest or Investment Interests, and "Regulatory Asset Owners" means collectively ~~all of the Regulatory Asset Owners~~IESO and each such Absolute Assignee, who together own the entirety of the Regulatory Asset and are required to exercise their individual rights of ownership in accordance with Section 6(7). ~~For greater certainty, where one Regulatory Asset Owner owns the entirety of the Regulatory Asset, "Regulatory Asset Owners" refers to this Regulatory Asset Owner.~~

[16] ~~Expand to include eligible consumers who are not customers of Electricity Distributors (e.g., suite-metered customers).~~

~~"Related Generation Assets" means the [facilities, plants and equipment] constructed, acquired or developed in connection with the Green Generation Initiative.~~

"Related Rights" means~~, with respect to a Regulatory Asset Owner's Regulatory Asset,~~ 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 such Regulatory Asset.

"Remittance Date" means, in respect of an Electricity Distributor, each day on which it is required to remit Electricity Distribution Remittances to IESO or if applicable the Alternative Collection Agent as specified in accordance with any Funding Obligation or, if no such day is specified in ~~relation to~~accordance with any Funding Obligation, then the Business Day preceding each Settlement Date.

"Repayment Obligation" means an obligation to repay, redeem or repurchase, or to provide for the repayment, redemption or repurchase (including by making a related Finance Reserve Deposit) of, all or a portion of the amount advanced to the ~~Regulatory Asset Owner~~Absolute Assignee under a Funding Obligation.

"Repayment" means a payment by ~~a Regulatory Asset Owner~~an Absolute Assignee made to satisfy a Repayment Obligation, other than to the extent that the payment is made by applying the proceeds of a Refinancing or from Finance Reserve Withdrawals.

"Replacement Event" means any event specified as such in a Funding Obligation.

"Retail Consumer" means:

(a) present and future consumers of electricity in the Province who are (i) consumers designated under section 79.16 of[, and O.Reg 95/05 under,] the *Ontario Energy Board Act, 1998*, or (ii) hold or are deemed to hold an "eligible account" under the *Ontario Rebate for Electricity Consumers Act, 2016*, other than any such consumer who has a contract with a Retailer who uses Retailer Consolidated Billing; and

(b) present and future Retailers who use Retailer Consolidated Billing,

and each case includes all such consumers and Retailers who are connected, directly or indirectly and whether a customer of an Electricity Distributor or not, to the transmission and distribution system assets located in the Province and who are taking electric delivery service within the Province, whether or not such retail consumers produce their own electricity or purchase electric generation services from a provider of electric generation services other than the owner of the Province's transmission and distribution 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 [thisthe *Electricity Act*[17]]. *1998.*

"Servicer" means [To be determined]IESO or IESO Successor, as agent for and on behalf of the Regulatory Asset Owner [To be determined – collective invoicing agent, and consider expanding].Owners, for the purposes set forth in Article 4.

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

"Transition Charge" means, for a RatepayerRetail Consumer in respect of a Reference Period, the sum of (a) [one-sixth] of the Period Transition Charge, (b) multiplied by its Allocation Factor and (b) any Bypass Charge charged to the Ratepayer in respect of the Reference Period, divided by (c) the applicable Reference Period Length.

"Transition Charge Collection" means any amount received or deemed by this PartAct to have been received upon the collection of a Transition Charge paid by or on behalf of a RatepayerRetail 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 AdministrativeFinancial Services Agent equal to (a) 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.

"True-Up Period" means, in relation to a Reference Period, the period from and including the [30th] day immediately preceding the first day of the Reference Period, to but excluding the [30th] day immediately preceding the last day of the Reference Period.

"Undertaking of the Lieutenant Governor in Council" means the undertaking of the Lieutenant Governor in Council given under Section 1011(2).

"Unrecovered Transition Costs" means the [unrecovered][unamortized] costs incurred in connection with the creation, adoption and implementation of the Green Generation Initiative, including any negative value of the Power Contracts and [other].[18]

Article 3 – Transition Charges

(1) **RatepayerRetail Consumer Obligation to Pay a Transition Charge** – Each RatepayerRetail Consumer shall pay each Transition Charge charged to it in any Electricity Invoice issued to such RatepayerRetail Consumer by its Electricity Distributor or by an Alternative Servicer under Section 4(1), in each case on the terms of payment specified in the related Electricity Invoice.

[17] Revise once determine whether this will be a standalone Act or remain part of the *Electricity Act*.
[18] Note that this is the term that describes the "asset" that we are amortizing over a longer period of time.

(2) **Indebtedness of ~~Ratepayers~~Retail Consumers** – Until paid, a Transition Charge charged to a ~~Ratepayer~~Retail Consumer in an Electricity Invoice shall, together with any applicable late payment fees and finance charges arising under the terms of the Electricity Invoice with respect to such Transition Charge, constitute non-bypassable indebtedness of the ~~Ratepayer~~Retail Consumer to the Regulatory Asset Owners, ~~(~~each with respect to its respective interest in the Regulatory Asset~~)~~. Such indebtedness shall constitute a single and separate[8] debt obligation owing by the ~~Ratepayer~~Retail Consumer, which subject to Article 5 may be enforced independently from any other payment obligation or indebtedness owing by the ~~Ratepayer~~Retail Consumer under the Electricity Invoice or otherwise.[~~19~~9]

(3) **No Set-Off or Reduction** – A ~~Ratepayer~~Retail Consumer may not set-off or reduce (by counterclaim, defense or otherwise) the amount payable by it in respect of any Transition Charge, including any set-off against or in respect of any amount owing or becoming payable to such ~~Ratepayer~~Retail Consumer by its Electricity Distributor, any Regulatory Asset Owner or any other person.

(4) **Allocation of ~~Ratepayer~~Retail Consumer Payments** – If an Electricity Distributor receives a payment made by or on behalf of a ~~Ratepayer~~Retail Consumer in respect of amounts due and payable under one or more Electricity Invoices that is less than the total amount payable thereunder, such payment shall be allocated on a *pro rata* basis to the payment of related Transition Charges and other invoiced amounts and the amount so allocated as a payment of related Transition Charges shall be deemed to constitute a Transition Charge Collection.

(5) **Transition Charges are Irrevocable** – The Transition Charges arising under or in respect of Funding Obligations incurred under the Financing Plan (including any 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 ~~8~~9(3)) are deemed to be irrevocable, final and effective without any further action, ~~in~~except to the ~~absence~~extent of manifest calculation error. For greater certainty, a Transition Charge may include Finance Amounts for a Reference Period 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, 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.

[8] Determine if this is critical for rating and markets. Logistics under consideration.

[~~19~~9] ~~Torys suggests that we not create a debtor/creditor relationship between ratepayers and regulatory asset owners. Instead, ratepayers would only have relationships with electricity distributors and the Fair program would rely on consumers paying distributors and distributors to collecting those amounts and remitting them to IESO. The current draft goes further to bridge the investors more directly with ratepayers. There are differences in the approaches, including reliance from a credit perspective on the LDCs (rather than an ability to replace the individual LDCs with the investors choice). This depends on the credit analysis, and comfort that a later requirement will not be accommodated without a change in the legislation.~~ Torys has also suggested that deemed conditions of licenses for distributors, retailers and unit sub-metering providers, could be included as conditions, to require them to collect and remit amounts in accordance with this legislation. ~~Consideration should be given to whether that achieves the same direct relationship and whether the effectiveness of the current regulatory licensing regime should be suggested as the basis~~Consider if it is helpful to integrate the existing regulatory scheme for ~~a market-based credit decision.~~invoicing and collections (regarding RPP) in the legislation.

~~(6) [Anti-avoidance; No-by-pass – Transition Charges charged to a Ratepayer in respect of any Finance Amount incurred under with the Financing Plan applicable at the time the related Funding Obligation was incurred may not be avoided and shall be [non-by-passable].]~~

Article 4 – Invoicing of Transition Charges[20]

(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 ~~Ratepayer~~Retail 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 ~~Ratepayer~~Retail 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 ~~Ratepayer~~Retail Consumer.

(2) **Calculation of the Period Transition Charge** – Not later than [35] days prior to the first day of a Reference Period, each ~~Regulatory Asset Owner~~Absolute Assignee (or the ~~Administrative~~Financial Services Agent on its behalf) shall provide the ~~Servicer~~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 ~~Servicer or if applicable the Alternative Servicer~~[21]OEB shall calculate the Period Transition Charge applicable to the Reference Period based on the calculations and information set forth in such written notices received from the ~~Regulatory Asset Owners, which~~Absolute Assignees and based on such amounts specified by IESO or Successor IESO, which calculations, information and amounts shall be determinative ~~in~~, except to the ~~absence~~extent of manifest calculation error or misstatement.

(3) **Calculation and Attribution of Transition Charges** – Not later than 25 days prior to the first day of a Reference Period, the ~~Servicer or if applicable the Alternative Servicer~~OEB shall apply the Attribution Methodology to determine the Allocation Factor for each ~~Ratepayer~~Retail Consumer of the applicable ~~Ratepayer~~Retail Consumer Group.

(4) **Notice of Transition Charges** – Not later than 20 days prior to the first day of a Reference Period, the ~~Servicer or if applicable the Alternative Servicer~~OEB shall inform each Electricity Distributor and if applicable any Alternative Servicer of the Transition Charges to be specified in the Electricity Invoices to be issued to each ~~Ratepayer~~Retail Consumer of the applicable ~~Ratepayer~~Retail Consumer Group who has a billing address in the Electricity Distributor's Service Area.

(5) **Adjustments** – The amount of any Transition Charge charged to a ~~Ratepayer by the Servicer~~Retail Consumer and specified as such in an Electricity Invoice shall be

[20] ~~Details concerning Invoicing of Transition Charges (Article 4) and Collections and Remittances (Article 5) are complex. Consider how much of this can be addressed through regulations, or if acceptable based on existing OEB license conditions/codes, IESO market rules/manuals, etc.~~

[21] ~~Should this be a designated government official, rather than an agent appointed by investors?~~

determinative of the amount of indebtedness created thereby and owing in respect of such Transition Charge, ~~in~~except to the ~~absence~~extent of any manifest calculation error.

(6) **Successors of Electricity Distributors** – Any successor of an Electricity Distributor shall be bound by the requirements of Article 4 and shall perform and satisfy all duties and obligations of such Electricity Distributor under Article 4 in the same manner and to the same extent as such Electricity Distributor, including the obligation under Article 4 to impose, attribute, charge, bill and invoice the Transition Charges.

(7) **IESO Successor** – Any IESO Successor shall be bound by the requirements of Article 4 and shall perform and satisfy all duties and obligations of IESO under Article 4 in the same manner and to the same extent as IESO, including the obligation to calculate and provide notice of Transition Charges.

(8) **Appointment of an Alternative Servicer** – If a Replacement Event occurs in respect of any Electricity Distributor, the ~~Regulatory Asset Owners~~Absolute Assignees shall, in accordance with the Collective Rights Agreement, be permitted, by an instrument in writing, to appoint an Alternative Servicer to perform some or all of the obligations and duties required to be undertaken by such Electricity Distributor under this Article 4, as and to the extent specified in such appointment. Upon acceptance of such appointment, the Alternative Servicer shall become obligated to perform such assumed obligations in replacement of such Electricity Distributor. Any Electricity Distributor that is replaced under this Section 4(8) shall promptly transfer all rights, powers, privileges and property interests in its possession or within its control in the performance of such obligations and duties to the Alternative Servicer 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 Servicer to perform such obligations and duties on behalf of the Regulatory Asset Owners.

(9) ~~**Regulatory Asset Owners**~~**Absolute Assignees have Standing** – The ~~Regulatory Asset Owners~~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 ~~Ratepayers~~Retail Consumers for a failure to impose, attribute, charge, bill or invoice Transition Charges. Any court of the Province ~~[and the OEB]~~ shall have jurisdiction over any actions brought before it by the ~~Regulatory Asset Owners~~Absolute Assignees in relation to any such failure.[22]

(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 ~~or any [Alternative Collection Agent]~~ to ensure that Transition Charges are properly charged to ~~Ratepayers~~Retail Consumers and specified as such in Electricity Invoices.

[22] ~~Consider having such matters first go through the OEB, particularly if the obligation to bill, collect or remit is deemed to be a condition of license for distributors, IESO, retailers and unit sub-metering providers, which would be enforceable provisions under the OEB Act and within OEB jurisdiction to enforce.~~

Article 5 – Collections and Remittances

(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 collect amounts owing by RatepayersRetail Consumers in respect of Transition Charges charged to such RatepayersRetail Consumers in Electricity Invoices issued by the Electricity Distributor or if applicable such Alternative Collection Agent.

(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 RatepayersRetail Consumers and deposit such Transition Charge Collections into its Regulatory Asset Account.[11] 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 eachthe Regulatory Asset OwnerOwners.

(3) **Electricity Distributor Remittances** – On each [applicable Remittance Date], an Electricity Distributor shall remit all Transition Charge Collections received by it from RatepayersRetail Consumers in respect of the related Reference Period to or to the account of IESO or if applicable the Alternative Collection Agent.

(4) **Duty to Collect Electricity Distributor Remittances** – IESO or if applicable any Alternative Collection Agent shall, as an agent of the Regulatory Asset Owners, undertake [diligent][reasonable] efforts to accept and collect Electricity Distributor Remittances from Electricity Distributors and Transition Charge Collections from RatepayersRetail Consumers that pay their Electricity Invoices directly to the Servicer.[23]IESO.[12]

(5) **Segregation of Electricity Distributor Remittances** – IESO and if applicable the Alternative Collection Agent shall [promptly] segregate Electricity Distributor Remittances from other payments received or held by it and deposit such Electricity Distributor Remittances into its Regulatory Asset Account. Prior to and following a deposit of Electricity Distributor Remittances having been made into its Regulatory Asset Account, IESO or if applicable any Alternative Collection Agent shall hold such amounts in trust for eachthe Regulatory Asset OwnerOwners.

(6) **IESO Remittances** – On each [Settlement Date][2413], IESO and if applicable the Alternative Collection Agent shall remit all amounts on deposit in its Regulatory Asset Account (a) first, to or to the account of the Regulatory Asset OwnerAbsolute Assignees an amount equal to the Investment Remittance for the related month and (b) second, to IESO (including by IESO retaining such amount) an amount equal to the lesser of (i) the Maximum IESO Recovery for the related month and (ii) the IESO Retained Interest Amount as of the Settlement Date.

[10] Mirror collection "standard of care" under applicable legislation.
[11] Consider trying to attach to existing LDC credit enhancements and provide parallel coverage for customer losses.
[2312] Consider building this obligation into a deemed condition of licence for the IESO.
[2413] Consider frequency of remittances in light of rating requirements. US rating agencies favour daily remittances.

(7) **Successors of Electricity Distributors** – Any successor of an Electricity Distributor shall be bound by the requirements of Article 5 and shall perform and satisfy all duties and obligations of such Electricity Distributor under Article 5 in the same manner and to the same extent as such Electricity Distributor, including the obligation under Article 5 to collect Transition Charges and make remittances of Electricity Distributor Remittances.

(8) ~~**Successors of** **IESO** **Successor** – Any successor of~~ IESO Successor shall be bound by the requirements of Article 5 and shall perform and satisfy all duties and obligations of IESO under Article 5 in the same manner and to the same extent as IESO, including the obligation to collect Transition Charge Collections, Electricity Distributor Remittances and to remit IESO Remittances.

(9) **Owners of Distribution Assets** - If any person other than an Electricity Distributor acquires distribution system assets in the Province or invoices or collects electricity distribution rates in the Province[2514], then such person shall, if requested by the ~~Regulatory Asset Owners~~Absolute Assignees, be obligated to act diligently to (a) facilitate the invoicing and collection of any Transition Charges applicable to ~~Ratepayers~~Retail Consumers in its applicable service area, including all consumers connected to the electricity distribution system assets and taking electric delivery service located within such service area; (b) allocate partial payments by ~~Ratepayers~~Retail Consumers as provided in this ~~Part; (c) terminate service to non-paying Ratepayers on the same basis as termination of service is permitted for non-payment of electricity transmission and distribution rates; (d~~Act; (c) exercise all enforcement rights of the ~~Regulatory Asset Owners or Pledgee~~Absolute Assignees for the benefit of ~~a Regulatory Asset Owner or Pledgee~~an Absolute Assignee; and (~~e~~d) remit any Transition Charge Collections to the ~~Regulatory Asset Owner or Pledgee~~Absolute Assignees or Pledgees, as applicable, each in accordance with its ~~Regulatory Asset~~Investment Interest.

(10) ~~**Regulatory Asset Owners**~~**Absolute Assignees** **have Standing** – The ~~Regulatory Asset Owners and any Pledgee~~Absolute Assignees, acting together in accordance with the Collective Action Agreement, may bring actions against any Electricity Distributor, IESO, the Alternative ~~Servicer~~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 ~~Ratepayers~~Retail 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. Any court of the Province ~~[and the OEB]~~ shall have jurisdiction over any actions brought before it by the ~~Regulatory Asset Owners~~Absolute Assignees in relation to any such failure. [26]

(11) **Appointment of an Alternative Collection Agent** – If a Replacement Event occurs in respect of any Electricity Distributor or IESO, the ~~Regulatory Asset Owners~~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

[2514] This is in anticipation of a possible future restructuring of the distribution system. ~~Also, this would cover any OREC-eligible customer (market participant) of IESO.~~

[26] ~~Consider having such matters first go through the OEB, particularly if the obligation to bill, collect or remit is deemed to be a condition of license for distributors, IESO, retailers and unit sub-metering providers, which would be enforceable provisions under the OEB Act and within OEB jurisdiction to enforce.~~

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 ~~Regulatory Asset Owners~~Absolute Assignees.

(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 ~~Ratepayer~~Retail Consumer, any Electricity Distributor, IESO, 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, IESO, Alternative Collection Agent or any owner of distribution system assets in the Province, any affiliate or successor thereof or any other entity or otherwise.[~~27~~15]

(13) **Sequestration** – If any Electricity Distributor, IESO, the Alternative Collection Agent or any owner of distribution system assets in the Province or any other person or entity authorized to collect Transition Charges, defaults on any required remittance of Transition Charge Collections, Electricity Distribution Remittances or IESO Remittances under Article 5, any court in the Province, upon application by ~~the Regulatory Asset Owners or Pledgee~~and of the Absolute Assignees acting collectively under the Collective Action Agreement and without limiting any other remedies otherwise available to the ~~applying party~~Absolute Assignees or Pledgees, shall order the sequestration and payment of the Transition Charge Collections, Electricity Distribution Remittances and IESO Remittances, as applicable, for the benefit of the ~~Regulatory Asset Owners or Pledgee~~Absolute Assignees, each with respect to its ~~Regulatory Asset.~~ Investment Interest, and the Pledgees as applicable.[16]

(14) 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 Collection Agent to ensure that rights, interests, entitlements, benefits and proceeds in, to, under and from the Regulatory Asset are of fully realized by ~~the Regulatory Asset Owner~~some or all of the Absolute Assignees and Pledgees.

Article 6 – The Regulatory Asset

(1) **Composition** – The Regulatory Asset shall constitute ~~an existing, present~~a current and irrevocable property right and interest consisting, collectively, of the following rights and interests ~~of a Regulatory Asset Owner in the following~~ (without duplication):

[~~27~~15] Consider whether it makes sense to create a "deemed collection" payment obligation on Electricity Distributors to the extent a ~~Ratepayer~~Retail Consumer reduces its payment of Transition Charges, despite this language, ~~and same~~. Same for Electricity Distributor Remittances and IESO Remittances.

[16] Consider adding or substituting this provision for a right to appoint a receiver.

a. the right of ~~a Regulatory Asset Owner to record its portion of the Regulatory Asset in its accounts~~IESO (i) 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);

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

c. the right to enforce the obligations and indebtedness of each ~~Ratepayer~~Retail Consumer to pay the Transition Charges charged to the ~~Ratepayer~~Retail Consumer from time to time in accordance with Article ~~2~~3, together with all related late payment fees or interest charges arising in respect thereof under the related Electricity Invoices;

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 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 ~~4~~5;

f. the right to enforce the duties and obligations of IESO 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 ~~4~~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

j. all revenue, collections, claims, payments, money and proceeds of or derived from the rights described in (a) through (i), 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.

A Regulatory Asset and the property rights and interests therein shall exist whether or not Transition Charges have been imposed, charged, invoiced, accrued or collected and notwithstanding that the imposition, attribution, invoicing and collection of Transition Charges will depend on further actions that may not have occurred.

(2) **Validity of Dispositions** – Despite any limitations or restrictions on a Disposition that may arise by contract or by operation of any applicable law of the Province ~~[~~or any consent requirement applicable to a Disposition that may arise by ~~contract or by~~ operation of any applicable law of the Province~~]~~, a Disposition by ~~a Regulatory Asset Owner~~IESO to an Absolute Assignee made under the Financing Plan ~~pursuant to a Disposition Document~~, or by one Absolute Assignee to another Absolute Assignee made under the Financing Plan, shall be permitted and when made shall be valid and enforceable in accordance with ~~its~~the terms of the related Disposition Document and shall be effective to confer upon the Absolute Assignee thereof a valid property right and interest in, to and under the ~~Regulatory Asset~~applicable Investment Interest (or relevant portion thereof) in accordance with the terms of such Disposition, provided that the parties to the applicable Disposition Document have expressly stated therein that such Disposition is a sale or other absolute transfer. Without limiting the foregoing, any Disposition that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as a true sale and absolute transfer of the Regulatory Asset Owner's applicable right, title, and interest in, to and under the Regulatory Asset (or relevant portion thereof), and not merely as a Pledge thereof. ~~[A Disposition shall not be subject to recharacterization or challenge on any other basis and the validity of a Disposition shall not be affected or impaired by: (a) the commingling of Transition Charge Collections or other proceeds from Transition Charges with other amounts; (b) the retention of any interest (including any partial, residual or subordinated interest, whether direct or indirect) in the Regulatory Asset by the transferring Regulatory Asset Owner; (c) any right to repurchase the Regulatory Asset in favour of the transferring Regulatory Asset Owner; (d) any recourse that an Absolute Assignee may have against the transferring Regulatory Asset Owner; (e) any indemnification rights or obligations provided by the transferring Regulatory Asset Owner; (f) any obligation of the transferring Regulatory Asset Owner to collect and remit Transition Charge Collections on behalf of an Absolute Assignee, including but not limited to, any retention by the transferring Regulatory Asset Owner to bare legal title for the purpose of collecting Transition Charges; or (g) the ascribed or intended treatment of the Disposition by the transferring Regulatory Asset Owner or the Absolute Assignee on any different basis including for tax, financial reporting or other purposes.]~~[28], and upon such Disposition the assigner or seller under the applicable Disposition Document shall retain no right, title or interest in the Investment Interest subject to the Disposition, including all rights under the Investment Interest arising after such Disposition.

(3) **Perfection and Priority of Dispositions** – Any Disposition of an interest in a Regulatory Asset shall be vested, valid, binding and perfected from the time when such Disposition is made. Such Disposition shall be perfected, vested, valid and binding as against the transferring Regulatory Asset Owner and all other persons who have claims of any kind (whether in tort, contract or otherwise) against the transferring Regulatory Asset Owner, irrespective of whether such persons have notice of the Disposition and the property rights and interests acquired by the Absolute Assignee under such Disposition shall be free and clear of any liens in favour of such other persons.

[28] ~~Consider if helpful to investors, or delete.~~

(4) **Validity of Pledges** – Despite any limitations or restriction on a Pledge that may arise by contract or by operation of any applicable law of the Province ~~[~~or any consent requirement applicable to a Pledge that may arise by ~~contract or by~~ operation of any applicable law of the Province~~]~~, a Pledge by ~~a Regulatory Asset Owner~~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 ~~Regulatory Asset~~related Investment Interest in accordance with the terms of the Pledge. Other than as required by the Financing Plan, no consent of any person shall be required to give effect to a Pledge made to secure any Funding Obligation.

(5) **Perfection and Priority of Pledges** - ~~Any Pledge made by a~~For purposes of the *Personal Property Security Act* (the "PPSA"), the Regulatory Asset ~~Owner~~shall be intangible personal property and any Pledge made by an Absolute Assignee in respect of a Funding Obligation ~~incurred under the Financing Plan shall be perfected, valid and binding from the time when the Pledge is made and shall be valid and binding as against the Regulatory Asset, the Regulatory Asset Owner making the Pledge and all other persons who have claims of any kind (whether in tort, contract or otherwise) against the Regulatory Asset or the pledging Regulatory Asset Owner, irrespective of whether such persons have notice of the Pledge and the security interests of the Pledgee under such Pledge shall have priority over any liens in favour of such other persons. All proceeds of the Regulatory Asset~~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 ~~Regulatory Asset Owner~~Absolute Assignee shall immediately be subject to the such Pledge, and the security interest in such proceeds shall be perfected~~, without any physical delivery thereof, registration of any financing statement with respect thereto~~ pursuant to the ~~[~~PPSA~~]~~ ~~or any other further act.~~[29] [17] 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 ~~subsequently~~ attach to the property rights and interests in the ~~Regulatory Asset~~Investment Interest subject to the Pledge unless the Pledgee has otherwise agreed in writing. ~~Any~~Subject to the terms of the Collective Action Agreement, 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. ~~[A Pledgee~~All provisions of the PPSA shall ~~cause a financing statement to be filed in respect of a Pledge on the basis that~~apply to the Regulatory Asset on the basis that it is ~~"~~intangible~~"~~ personal property, ~~for informational purposes only under the [PPSA].~~except to the extent otherwise provided in this Section 6(5).

(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.

(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

[2917] 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.

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.

(8) **Collective Action Required** – If a Regulatory Asset Owner's ~~right~~rights and ~~interest~~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 ~~joint]~~coordinated basis with each other Regulatory Asset Owner in accordance with the Collective Rights Agreement.[30]

Article 7 – Establishment of the Fair Allocation Plan[3118]

(1) Adoption of the Fair Allocation Plan – The ~~[Minister of Energy]~~[32]Delegate may , [by written ~~order~~declaration,] designate and adopt a Fair Allocation Plan in compliance with Article 7. The Fair Allocation Plan so designated and adopted shall be the Fair Allocation Plan for all purposes of this ~~Part~~Act, ~~[~~except if amended, amended and restated or terminated by a further written ~~order issued~~declaration made by the ~~Minister of Energy~~Delegate in compliance with Section ~~•]~~7(4).

(2) ~~Principles and Parameters~~[33] ~~– A~~Fair Allocation Plan shall seek to allocate ~~Unrecovered~~Future Fair Share of Green Transition ~~Costs~~Benefits across present and future ~~Ratepayer~~Retail Consumer Groups on a basis that the ~~Minister of Energy~~Delegate, in its sole and absolute discretion, determines to be equitable, having regard to the following principles and parameters[34]:

1. ~~Unrecovered~~Future Fair Share of Green Transition ~~Costs~~Benefits should be allocated over ~~a period not to exceed the later of (a) the estimated remaining useful life of the Related Generating Assets and (b) the remaining term of IESO's commitments under the Power Contracts~~the period ending on the Program End Date.

2. The Fair Allocation Plan should specify the Reference Periods ~~(e.g., 6 month periods),~~ for the purpose of identifying applicable ~~Ratepayer~~Retail Consumer Groups and allocating ~~among them responsibility to bear the Unrecovered~~Future Fair Share of Green Transition ~~Costs~~Benefits among them on a relative basis over time.

[30] ~~This is necessary to ensure that if there are multiple regulatory asset owners and pledgees, they will be coordinated in the application of their rights of enforcement, etc.~~

[3118] The idea is that the Fair Allocation Plan will be set once at the outset based on the principles and parameters described here, all as applied based on information available and the reasonable expectations and discretion of the delegate at such time. If the expectations are not fulfilled (e.g., generators may choose to retire their facilities at the end of their current ~~Power Contracts~~procurement contracts and not invest in extending service lives to secure further ~~power~~procurement contracts), the Fair Allocation Plan will be unaffected, unless it is specifically amended (assuming amendments will be permitted by the legislation).

[32] ~~Input required. If the MOE is given this power, conform to applicable authorities (e.g., plans and directives).~~

[33] ~~Consideration will be given as to whether these details should be included in the Regulation.~~

[34] ~~We have provided a few examples of what could be the basic principles. These will depend on market considerations, the Province's decision on the required amount of detail and the ability to sustain the legal basis for the program. These examples are not meant to suggest the appropriate balance – just illustrative to advance a discussion among the stakeholders.~~

3. The share of ~~Unrecovered~~Future Fair Share of Green Transition ~~Costs~~Benefits allocable to a particular ~~Ratepayer~~Retail Consumer Group in respect of a Reference Period should be proportionate to a reasonable assessment of the benefits of the Green Generation Initiative to the ~~Ratepayer~~Retail Consumer Group over such Reference Period.

4. The ~~estimated Unrecovered~~share of Future Fair Share of Green Transition ~~Costs~~Benefits to be allocated to a ~~Ratepayer~~Retail Consumer Group and any future ~~Ratepayer~~Retail Consumer Group at a particular time should not exceed the ~~estimated value of the Related Generating Assets based on their remaining useful lives or terms~~Estimated Future Green Transition Benefits, measured in respect of the ~~period~~Reference Periods following such particular time and to the Program End Date.

5. No future ~~Ratepayer~~Retail Consumer Group should ~~bear~~be allocated an unreasonably disproportionate share of ~~the Unrecovered~~Estimated Future Green Transition ~~Costs~~Benefits. Except in exceptional circumstances or in the case of any ~~backward-looking adjustment made~~reallocation of an Over-Assessed Amount as contemplated in 7, below, the ~~share of the Unrecovered~~Future Fair Share of Green Transition ~~Costs~~Benefits to be allocated under a Fair Allocation Plan to any future ~~Ratepayer~~Retail Consumer Group should have regard to *[Insert formula if a year-over-year maximum amount is determined to be appropriate]*[35].

6. ~~A reasonable estimate of the rate of inflation~~The time value of money should be ~~applied~~reflected in the Fair Allocation Plan, in order to equate the relative values of the nominal ~~amount of Unrecovered Transition Costs to be allocable to Ratepayer~~allocations of Future Fair Share of Green Transition Benefits, calculated in current dollars, to future Retail Consumer Groups over time.

7. ~~Backward-looking adjustments to a~~To the extent there has been an Over-Assessed Amount, the Fair Allocation Plan may ~~be made to achieve a fair distribution among Ratepayers of the benefits of the Green Generation Initiative.~~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.

claw back + fill piggy bank

take into account pre-2017 ~~period~~ amounts at diff. rate ($5.5B)

(3) Attribution Methodology – The Fair Allocation Plan [shall] specify ~~an objective methodology (~~the "Attribution Methodology"~~)~~ for the purposes of allocating the Period

[35] ~~Consider if a quantitative limit needs to be included in the legislation.~~

amts get remitted to Admin Agent who figures out who gets paid

Transition Charges across ~~all of~~ the ~~Ratepayers~~Retail Consumers of a particular ~~Ratepayer~~Retail Consumer Group. The Attribution Methodology shall result in an attribution of such Transition Charges that ~~are~~is considered by the ~~Minister of Energy~~Delegate to be equitable, and may have regard to such principles and parameters as may be further set forth in a Regulation.

(4) ~~**[Confirmation][Review] of the Fair Allocation Plan** – [OEB?][36]~~**Amendments of the Fair Allocation Plan** – The Fair Allocation Plan may be amended, amended and restated or terminated by the Delegate, provided that such amendment, amendment and restatement or termination shall (a) not be inconsistent with the principles and parameters set forth in (2) or (3), above, or the Regulation and (b) comply with any restrictions or limitations specified with respect thereto in any Funding Obligation.

Article 8 – The ~~Financing Plan~~[37]IESO Retained Interest

(1) **Maintain Books of Account** – IESO may maintain books of account to record the IESO Retained Interest Amount and all adjustments thereto from time to time. Such books of account shall be determinative with respect to the amount of IESO's related regulatory asset.

(2) **Limitation on Additions** – IESO shall not record additions to the IESO Retained Interest Amount in respect of IESO Funding Shortfalls (a) if such additions are restricted by the terms of any Disposition Document or the Collective Action Agreement, or (b) on or after •, 2017.

(3) **Dispositions** – IESO may effect a Disposition to an Absolute Assignee if (a) the Absolute Assignee has or will concurrently become bound by the Collective Rights Agreement; (b) the Disposition is effected pursuant to a Disposition Agreement duly executed by IESO; (c) the Financial Services Agent confirms in writing that the Disposition is permitted under the Financing Plan; and (d) the net proceeds payable to IESO from the sale of the related Investment Interest would not exceed the IESO Retained Interest Amount immediately before the time of such Disposition.

like PPSA saying prior interest is valid

need direction agent to whether agent to note assign

(4) **No Continuing Interest in any Investment Interest** – IESO shall have no continuing right or interest in any Investment Interest subject to a Disposition effected by IESO under a Disposition Document to which IESO is a party and IESO shall not assert any such right or interest or take or omit to take any action to exercise or enforce its rights or interests under the IESO Retained Interest if such action or omission would impede or obstruct the rights of any Absolute Assignee or a Pledgee to enforce its rights and interests in any Investment Interest, except if IESO is expressly permitted to take or omit to take such action, respectively, under the related Disposition Document or the Collective Rights Agreement.

like a quiet claim

(5) **IESO Financing Costs** – IESO shall be entitled in good faith to incur reasonable financing costs (including interest and other reasonable financing charges) reflecting

[36] ~~Any approvals or consents by the OEB will be obtained before any Funding Obligation that is dependent on such approval or consent is incurred. Any such approval or consent will be irrevocable and non-appealable. Any regulatory action occurring after any incurrence will not affect the related Funding Obligation or underlying rights in the Regulatory Asset.~~[1]

[37] ~~Consideration will be given as to whether these details should be included in the Regulation.~~

market terms and conditions and which are payable in arrears, in order to finance its ownership of the IESO Retained Interest from time to time.

(6) **IESO Recoveries** – 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

(1) **Power to Prepare ~~and~~, Implement and Amend the Financing Plan** – ~~In compliance with a [written order][*MOE to confirm process.*] of the Minister of Energy, the Administrative Agent shall~~The Financial Services Agent shall be authorized to prepare, implement and ~~propose~~amend the ~~adoption of a Financing~~ Plan. If the ~~Administrative~~Financial Services Agent is unwilling or unable to prepare and propose the adoption of ~~a~~the Financing Plan, the ~~Minister of Energy~~Delegate may by written ~~order~~declaration designate one or more other persons who shall be authorized to prepare ~~and~~, implement ~~such a~~and amend the Financing Plan.

(2) ~~Required~~ **Terms and Conditions of the Financing Plan** – The Financing Plan shall establish the basis for each Absolute Assignee's funding decisions ~~that have the effect of allocating the Unrecovered Transition Costs across present and future Ratepayer Groups on a basis that is consistent with the Fair Allocation Plan~~. The Financing Plan shall ~~be consistent with~~have regard to the principles~~,~~ and parameters~~, requirements and conditions~~ set forth in Schedule 3 and such other conditions and requirements as may be specified in a written ~~order~~declaration of the ~~Minister of Energy [~~Delegate or in accordance with the Regulation~~]~~.

(3) ~~**Power to Review and Approve the Financing Plan** – The Minister of Energy may, by written order, designate one or more persons to review the Financing Plan and to review and assess the consistency of the Funding Obligations incurred with such Financing Plan, and the Minister of Energy may specify requirements in respect of such review in such written order. The Administrative Agent, or such other person(s) as may be designated by written order of the Minister of Energy made pursuant to Section 8(1), shall make any such amendments to the Financing Plan, and submit a revised Financing Plan to the designated reviewer for approval within [the time period specified in such written order]/[[•] days of such written order].[***Consider periodic amendments to the Financing Plan following an annual review; provided that amendments cannot affect the existing Funding Obligations. Consider the level of oversight the MoE/OEB will have over this process?***]~~**OEB Approval** – Any Additional Funding Charge payable to or for the benefit of the Financial Services Agent shall be subject to review and approval by the OEB.

(4) ~~**Approval of Financing Plan** – The **[OEB]** shall have the power to and shall approve or disapprove of the Financing Plan based solely on whether the Financing Plan is consistent with (i) the principles, parameters, requirements and conditions set forth in Schedule 3, (ii) such other conditions and requirements as may be specified in a written order of the Minister of Energy [or in accordance with the Regulation] [and (iii) the Fair Allocation Plan]. If the **[OEB]** approves the Financing Plan, then such Financing Plan shall be implemented by the Administrative Agent. If the OEB disapproves of the Financing Plan or otherwise fails to approve the Financing Plan, then the Administrative Agent shall re-submit the Financing Plan with such amendments as the Administrative~~

~~Agent shall consider necessary for the Financing Plan to be approved by the OEB.~~[38] **OEB Review** – The OEB [shall] undertake an annual review of the records maintained by the Financial Services Agent 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.

~~(5)~~ ~~**Consistency with the Fair Allocation Plan** – Funding Obligations should only be incurred if Repayments and Funding Costs would be borne by present and future Designated Ratepayers on a basis that is [generally] consistent with their respective allocations of the costs and benefits of the Green Generation Initiative contemplated in the Fair Allocation Plan. In that regard, at the time of setting the Fair Allocation Plan for any particular period, the aggregate amount payable during future Reference Periods on account of Funding Obligations incurred on or before the date on which a new Funding Obligation is incurred should not exceed the allocation of the costs and benefits of the Green Generation Initiative to the applicable Ratepayer Group contemplated in the Fair Allocation Plan. If, despite the foregoing, the Administrative Agent determines that the anticipated amount of any Repayment (together with payments of other Finance Amounts) to be made in respect of a Reference Period would materially exceed the allocation of the costs and benefits of the Green Generation Initiative to the applicable Ratepayer Group under the then current Fair Allocation Plan, the Financing Plan shall require the Administrative Agent to make diligent efforts to determine whether a Refinancing or deferral of such Repayment may be reasonably and cost-effectively effected based on then prevailing market terms, conditions an circumstances, if such a Refinancing or deferral is determined to be available the Financing Plan shall require the Administrative Agent to make diligent efforts to implement such Refinancing or deferral on a basis that is consistent with the Fair Allocation Plan.~~

~~(5)~~ ~~**(6) Establishment of Special Purpose Entities** – If the implementation of the Financing Plan contemplates the establishment of one or more special purpose finance entities to incur Funding Obligations as a Financing Entity under the Financing Plan, as an Absolute Assignee and on a basis that limits the recourse for the payment of such Funding Obligations to such Absolute Assignee's interest in, to and under the Regulatory Asset, the Administrative Agent shall have regard to the characteristics specified in Schedule 4 in establishing such special purpose entity.]~~**Replacement of the Administrative Agent** – If the OEB identifies deficiencies or makes recommendations in its review under Section 9(4), the Administrative Agent 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 under the Financing Plan. If the Financial Services Agent 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.

(6) ~~**(7)**~~ **Obligation to Apply IESO Remittances** – The ~~Administrative~~Financial Services Agent shall ensure that amounts transferred to it under Article 5, as agent for and on behalf of the ~~Regulatory Asset Owners~~Absolute Assignees, or otherwise in respect of or

[38] ~~Once the Financing Plan is reviewed and approved there would be no further OEB review. If there is opportunity for further review, such review will have no impact on prior issued debt. Any further financings would be put on hold until such review is completed (during which time the IESO would again need to fund the shortfall on an interim basis and obtain necessary funding).~~[1]

as proceeds from ~~the Regulatory Asset~~an applicable Investment Interest shall only be applied or used to pay related Finance Amounts when they are due and payable and for no other purpose.[39]

(7) ~~(8)~~ **Non-Recourse** – The Financing Plan shall be implemented so that Funding Obligations incurred shall be without recourse to or to any assets of the Electricity Distributors, IESO, any Alternative Servicer, ~~and~~any Alternative Collection Agent, the ~~Administrative~~Financial Services Agent, the OEB, the Province or the Lieutenant Governor in Council, other than if and to the extent that such persons or entities are liable for the performance of obligations or duties arising under this ~~Part~~Act or expressly agree to become liable pursuant to any Funding Obligation or obligation in relation to a Finance Amount. [All Funding Obligations shall contain a statement to the following effect: "Neither the full faith and credit nor the taxing power of the Province of Ontario is pledged to the payment of the principal of, or interest on, this [obligation].]

(8) ~~(9)~~ **Incurrences are Binding** – ~~Despite any failure to adhere to the Financing Plan or to comply with any requirement of this Part,~~Notwithstanding anything to the contrary in this Act, each Disposition made to or by an Absolute Assignee and all amounts payable or becoming due and payable by or on behalf of ~~a Regulatory Asset Owner~~an Absolute Assignee under or in connection with any obligation purporting to be a Funding Obligation, shall be binding for the purposes of this ~~Part~~Act, including in determining the amount of related Transition Charges, despite any impairment or defect resulting from such failure.

[Article ~~9~~10 – Compliance Matters[4019]

(1) Right of the [OEB] to Inspect Books and Records - For the purpose of investigating compliance with the provisions of this ~~Part~~Act, the [OEB] shall have the right, jurisdiction, power and authority to examine the books and records of ~~any person who is or may become obligated or have duties that arise under this Part or any Funding Obligation~~*[Insert names if any]*.

~~(2) **Power to Investigate Compliance and Impose Regulatory Sanctions** - Subject to the limitations set forth regarding the irrevocability of Transition Charges and the Undertaking of the Lieutenant Governor in Council, nothing in this Part shall (a) prevent or preclude the [OEB] from investigating the compliance of any person who is or may become obligated or have duties that arise under this Part [or any Funding Obligation] with the terms and conditions of this Part and requiring compliance by such person therewith; or (b) prevent or preclude the [OEB] or any successor regulator from imposing regulatory sanctions against any person who is or may become obligated or have duties that arise under this Part for its failure to comply with the terms and conditions of this Part[41].~~

(2) ~~(3)~~ **[~~Other Rating~~OPG's Rate Settings** – When setting other rates for or in respect of ~~any person who is or may become obligated or have duties that arise under this Part,~~

[39] ~~We need to work in the idea that there may be Finance Reserve Deposits or other amounts that remain after paying Finance Amounts. Those surplus amounts should be credited back to Ratepayers.~~

[4019] As noted above, the outcome of any regulatory action undertaken by the OEB will not affect Funding Obligations that have been incurred under the Financing Plan. This Article ~~is~~and any potential role for the Auditor General is still under consideration.

[41] ~~Consider scope of OEB regulation and whether a Financing Entity should be subject to this sort of provision in any event.~~

admin or servicing fee

~~including any Electricity Distributor, IESO, Generator or the Administrative Agent, nothing in this Part shall prevent the [OEB] or any successor regulator from taking~~OPG, the OEB shall not take into account (a) the ~~collection by or attribution to such person of~~ administrative or servicing fees charged by OPG as Financial Services Agent ~~[~~in excess of the actual incremental costs incurred by such person of providing administrative or servicing services.~~]~~[42]; (b) the cost consequences to OPG of being the Financial Services Agent; or (c) the consequence of OPG consolidating the assets and liabilities of any Financing Entity for OPG's accounting purposes, in each case in setting any regulated payment amounts for OPG.][20]

Article ~~10~~11 – Undertaking of the Lieutenant Governor in Council[43][21]

(1) No Action to limit, alter, or impair or terminate Transition Charges, the Regulatory Asset or Collections – The [Lieutenant Governor in Council] shall not in any way take or permit any action to reduce, impair, postpone or terminate the obligation of ~~Ratepayers~~Retail 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 ~~hereunder~~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~~[~~, 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] shall not:

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

(b) ~~**(2) Undertaking and Agreement** – The Lieutenant Governor in Council shall not in any way take or permit any action that limits, alters or impairs the value of the Regulatory Asset or,~~ 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 ~~Regulatory Asset Owners, including any~~ Absolute ~~Assignee from time to time, and~~Assignees or any Pledgee from time to time~~[,including through the introduction of any bill or the passing of any legislation or regulation].~~;

(c) permit the amendment, amendment and restatement or termination of the Fair Allocation Plan if such amendment , amendment and restatement or termination

[42] ~~OPG has indicated that the risks and cost consequences to OPG of being an~~[20] As an alternative to this provision, consider clarifying under s. 78.1(4) of the OEB Act (which currently gives the OEB discretion in setting payment amounts subject to O. Reg. 53/05) that the OEB in setting OPG payment amounts for prescribed generation shall not consider OPG's role as Administrative Agent ~~or of consolidating a Financing Entity for accounting purposes should not be considered by the OEB in setting the regulated payment amounts for~~of any Financing Entities associated with the Fair Hydro initiative, perhaps with the exception of any operating fees that may be received by OPG for performing that role. ~~To be discussed.]~~

[43] ~~Under consideration~~[21] 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.

would adversely affect the validity or enforceability of any Funding Obligation or the rights of an Absolute Assignee or Pledgee thereunder,

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, Successor IESO shall be established to perform such obligations.

(4) ~~[If IESO becomes insolvent or otherwise incapable of performing its obligations under this Part, an IESO Successor will be established that is capable of performing such obligations in order that the Regulatory Asset Owners may appoint the IESO Successor as an Alternative Servicer or Alternative Collection Agent. Regulatory Asset Owners shall be fully~~**Compensation for Failure** – Absolute Assignees shall be compensated for any losses suffered by them as a result of any failure by the Lieutenant Governor in Council to comply with its undertakings and agreements in this Article ~~10(2) for any loss suffered by the Regulatory Asset Owner as a result of such failure.~~[44]11.[22]~~]~~

(5) **No Wind-up of Financing Entity**. No Financing Entity may be voluntarily wound up, liquidated or dissolved until one year after all of its Funding Obligations are repaid.

(6) ~~(3)~~ **References to the Undertaking and Agreement** – Any non-confidential reference to the Undertaking of the Lieutenant Governor in Council, including in marketing materials and other documentation authorized for use by the Administrative in connection with any Funding Obligation, may be made provided that [*Add conditions to protect the Province*].

Article ~~11~~12 – Regulations

Regulations may be made under this ~~Part~~Act for the purposes described in Sections •,•,• and • and may be promulgated for any of the following purposes:

(a) to set standards and measures regarding the commercially reasonable requirements of the Province associated with ~~a Regulatory Asset Owner~~an Absolute Assignee incurring Funding Obligations or becoming obligated to pay any Finance Amount, including to establish guidelines regarding all-in funding costs; permitted Additional Funding ~~Costs~~Charges; required maturities and redemption and termination rights of Funding Obligations; liquidity requirements, in each case to a Financing Plan that is consistent in its effect with the Fair Allocation Plan;

(b) to establish and empower one or more regulated entities to undertake decision-making activities with respect to this ~~Part~~Act;

(c) to set out reasonable requirements regarding the appointment or retention of advisors, agents, service providers, contract counterparties, including in relation to 'market terms and conditions' parameters;

[4422] Requested by Torys. For discussion.

(d) to provide for audit and compliance standards applicable to those persons who are or may become obligated or have duties that arise under this ~~Part~~Act [or under any Funding Obligation];

(e) to provide for any pre-vetting and approval requirements in relation to any incurrence by ~~a Regulatory Asset Owner~~an Absolute Assignee of any Funding Obligation or obligation to pay any Finance Amount; and

(f) to provide for appeal and due process considerations in connection with the establishment, adoption, implementation and review of the Fair Allocation Plan or the Financing Plan.

Article ~~12~~13- Miscellaneous[4523]

(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 ~~Part~~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 ~~Part~~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 ~~Part~~Act shall be required with respect to the actions to be taken in compliance with this ~~Part~~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 ~~Part~~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 ~~Part~~Act, if any provision of this ~~Part~~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 ~~Part~~Act that is taken by any person who is or may become obligated or have duties that arise under this ~~Part~~Act and any such action shall remain in full force and effect.

(5) **Severability** - If any Article, Section, paragraph or subparagraph of this ~~Part~~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 ~~Part~~Act are intended to be

[4523] OPG would like the specific amendments related to OPG to be included in the Bill.]

severable and that the Legislature would have enacted this ~~Part~~Act even if any Article, Section, paragraph or subparagraph of this ~~Part~~Act held to be unconstitutional or invalid had not been included in this ~~Part~~Act.

Schedule 1

Guidelines for Estimates

[To be considered.]

Schedule 2

Requirements Applicable to Alternative Invoicing Agent/ Alternative Collection Agent

[To be considered.]

Schedule 3[24]

Principles, and Parameters, ~~Requirements and Conditions~~ for Establishing the Financing Plan

The ~~Financing Plan shall have regard to the~~ following principles, and parameters, ~~requirements and conditions:[*Consider others.*]~~ provide a guideline as to what a Financing Plan should address:

(1) ~~the Financing Plan shall,~~ in respect of each Reference Period, ~~describe~~make reference to the allocations of ~~Unrecovered~~Future Fair Share of Green Transition ~~Costs~~Benefits to each Reference Group ~~as~~ contemplated by the Fair Allocation Plan;

(2) ~~the Administrative Agent shall make a good faith~~ estimate ~~of the~~IESO Funding Shortfalls for each Reference Period, ~~based on the terms of the Power Contracts and assumptions considered to be reasonable respecting forward market prices for electricity~~;

(3) ~~the Administrative Agent shall describe~~consider alternative funding arrangements ~~considered to be~~ suitable ~~for the purpose of funding~~to fund the estimated IESO Funding Shortfalls, including ~~by reference to~~ short term and/or long term Funding Obligations ~~that could reasonably be incurred by the Regulatory Asset Owners for such purpose~~;

(9) ~~(4) such Funding Obligations shall reflect~~consider quantities, maturities, payment obligations, prepayment or redemption rights and such other features of Funding Obligations so that ~~the effect of incurring such Funding Obligations would be that the~~ payments made ~~thereunder in respect of each~~for a Reference Period ~~(including the anticipated Finance Amounts becoming payable in relation to such Funding Obligations) would~~ reasonably correspond to the allocations of ~~Unrecovered~~Future Fair Share of Green Transition ~~Costs~~Benefits to the applicable Reference Group under the Fair Allocation Plan;

(4) if the anticipated amount of any Repayment (together with payments of other Finance Amounts) to be made in respect of a Reference Period would materially exceed the allocation of the costs and benefits of the Green Generation Initiative to the applicable Retail Consumer Group under the then current Fair Allocation Plan, diligent efforts should be made to determine whether a Refinancing or deferral of such Repayment may be reasonably and cost-effectively effected based on then prevailing market terms, conditions an circumstances;

(5) ~~the Financing Plan shall reflect the outcome of a financial model that incorporates~~reflect the assumptions and requirements specified in any contemplated Funding Obligation (e.g., any limit on the maximum amount of Transition Charges charged to a hypothetical ~~Ratepayer~~Retail Consumer relative to his or her monthly electricity bill, as prescribed by any rating agency that ascribes its credit rating to or in respect of the Funding Obligation having regard to the application of the Allocation Methodology); ~~[*Consider what outputs from OPG will be tested by the OEB and when. The modelling in the Financing Plan may permit the OEB to check progress against the model from*~~

[24] Awaiting input from Torys based on OPG mark-up of Financing Plan sections.

~~*time to time, which may provide a basis for the MoE/OEB to require a review/amendment to the Financing Plan if the ongoing operation of the program results in significant deviation from the model. Consider whether this flexibility is desirable.*~~]

(6) ~~the Administrative Agent, for and on behalf of each Regulatory Asset Owner, shall seek to~~ incur Funding Obligations from time to time on the best terms available at such time for a financing transaction of the size and type contemplated, and having regarding to the following parameters:

a. whether the ~~Regulatory Asset Owners~~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 ~~a Regulatory Asset Owner~~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 ~~Unrecovered~~Future Fair Share of Green Transition ~~Costs~~Benefits to the applicable Reference Group under the Fair Allocation Plan;

b. the basis upon which the ~~Administrative~~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 ~~shall~~should not obligate ~~a Regulatory Asset Owner~~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 ~~Unrecovered~~Future Fair Share of Green Transition ~~Costs~~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 ~~Administrative~~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 ~~Administrative~~Financial Services Agent shall cause the applicable ~~Regulatory Asset Owner~~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 ~~Administrative~~Financial Services Agent will select counterparties under any transaction to be entered into by ~~a Regulatory Asset Owner~~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 ~~Administrative~~Financial Services Agent will manage counterparty risk, including by providing for maximum counterparty exposure limits having regard to concentration, credit and other identified risks with respect to individual counterparties or countries;

h. the basis upon which the ~~Administrative~~Financial Services Agent will negotiate and settle Finance Amounts, including the amount of any Redemption Amounts, Finance Reserve Deposits and Additional Funding Charges;

(7) the basis upon which Funding Obligations may be redeemed, prepaid, repurchased or otherwise affected, having regard for the need to minimize debt service charges and other Funding Costs, and the need to maintain a stable funding platform to finance the IESO Funding ~~Shortfall~~Shortfalls from time to time on a basis that is consistent with the allocations of ~~Unrecovered~~Future Fair Share of Green Transition ~~Costs~~Benefits to applicable Reference Groups under the Fair Allocation Plan;

(8) the basis upon which any Repayments, Funding Costs and Redemption Amounts will be paid, including any defeasance, sinking fund or through other reserves or liquidity facilities;

(9) the basis upon which fees, charges, expenses, costs, indemnities, reimbursements and other amounts payable to or for the benefit of the ~~Administrative~~Financial Services Agent and other agents and service providers to the ~~Regulatory Asset Owners~~Absolute Assignees may be determined, allocated and paid;

(10) the timing and basis upon which Finance Reserve Deposits and Finance Reserve Withdrawals may be made;

(11) the basis upon which any obligations for any other Additional Funding Charges may be incurred and paid;

(12) the basis upon which the cash flows arising from time to time or otherwise derived from the Regulatory Asset may otherwise be applied, including in relation to any counterparty enforcement and realization scenario;

(13) the transmittal to [the IESO] of information related to the amounts to be included in the determination of the Period Transition Charge for a Reference Period;

(14) the basis upon which any Disposition may be made or effected by ~~a Regulatory Asset Owner~~an Absolute Assignee, including parameters for determining the purchase price for the interest in the Regulatory Asset that is the subject matter of such Disposition, and any consents and releases that may be usefully obtained in connection with such Disposition;

(15) ~~a description of each~~describe the requirements applicable to any special purchase entity that will purchase ~~the Regulatory Asset from the IESO~~an Investment Interest, including proposed capitalization, governance, and restrictions on their powers and activities ~~having regard to the parameters in Schedule 4~~; and

(16) the basis on which any Pledge may be given or effected.

~~**Schedule 4**~~

~~**Creation of any Special Purpose Entity to become a Regulatory Asset Owner]**~~

~~**(1) Powers and Abilities:**~~

~~a. No part of the revenue or assets of a Regulatory Asset Owner shall enure to the benefit or be distributable to its trustees, officers or directors, as the case may be, or any other private persons, except as may be provided for actual services rendered;~~

~~b. Each Regulatory Asset Owner shall be authorized to:~~

~~i. incur the Funding Obligations contemplated by a Financing Plan and use the proceeds thereof to purchase or acquire, and to own, hold and use the Regulatory Asset;~~

~~ii. contract for servicing of the Restructuring Asset and any bonds contemplated by a Financing Plan and for administrative services; and~~

~~iii. pledge the Regulatory Asset to secure the Funding Obligations incurred by the Regulatory Asset Owner;~~

~~c. So long as any Funding Obligations contemplated under a Financing Plan are outstanding, a Regulatory Asset Owner shall not be authorized to merge or consolidate, directly or indirectly, with any person or entity;~~

~~d. a Regulatory Asset Owner shall not have the power or authority to incur or guarantee or otherwise become obligated to pay any debt or obligations other than what is contemplated under a Financing Plan;~~

~~e. a Regulatory Asset Owner shall cause the proceeds obtained by incurring any Funding Obligation to be placed in one or more separate accounts and used only to purchase the Regulatory Asset and pay any costs as provided for in a Financing Plan; and~~

~~f. so long as the Regulatory Asset is pledged to secure Funding Obligations, the Regulatory Asset Owner must apply revenues from the collection of Transition Charges only to repay such Funding Obligations and other costs as provided for in a Financing Plan.~~

~~**(2) Governance of Regulatory Asset Owner** – A Regulatory Asset Owner shall be created having regard to the following principles:[***OPG to confirm if SPE will be a trust or another type of entity.***]~~

a. ~~[Number of trustees]~~

b. ~~[Replacement of trustees; vacancies; appointment of successors]~~

c. ~~[Removal of trustees for neglect of duty or misconduct]~~

d. ~~[Quorum and meetings]~~

e. ~~[Fiduciary duty]~~

f. ~~[Isolation, separateness and other "non-consolidation" and "bankruptcy remoteness" criteria]~~

g. ~~[Delegation of powers and duties to administrative agents]~~

h. ~~[Delegation of powers and duties to administrative agents]~~

(17)

Document comparison by Workshare Compare on Monday, April 10, 2017 11:00:11 PM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23107566/8
Description	TOR_2528-#23107566-v8-"Fair_Hydro_Act"
Document 2 ID	PowerDocs://TOR_2528/23107566/9
Description	TOR_2528-#23107566-v9-"Fair_Hydro_Act"
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	596
Deletions	610
Moved from	25
Moved to	25
Style change	0
Format changed	0
Total changes	1256

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Ontario Fair Hydro Plan Act, 2017

EXPLANATORY NOTE

Explanatory note TBD once contents of the Bill are settled.

- withdrawals from IESO grid
  - embedded = metered consumption
  - dx-connected
  - line losses
  - 429/04 diff rules re consumers' consumption → Retail Settlement Code for dx connected + diff rules for tx-connected

Bill **2017**

An Act to provide for the fair allocation of costs of electricity over time

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 and payable by specified consumers; ("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 amounts to be paid or reflected by the IESO in adjustments made under section 25.33 of the *Electricity Act, 1998* or any provision that is the successor to that provision, which relate to contracts or amounts for,

(i) renewable energy generation or capacity,

(ii) conservation and demand management,

(iii) energy storage,

(iv) energy efficiency,

(v) natural gas generation and capacity, excluding contracts relating to amounts payable by the IESO under section 78.2 of the *Ontario*

Energy Board Act, 1998 and excluding such other contracts as may be prescribed,

(b) payments made or expected to be made under section 78.5 of the *Ontario Energy Board Act, 1998*, and

(c) such other estimated costs as may be prescribed; ("French")

"clean energy initiative" means the policies of the Government of Ontario related to,

(a) eliminating coal generation and fostering the growth of and investment in clean, modern and reliable energy sources and technologies,

(b) removing barriers to and promoting opportunities for clean and renewable energy sources and technologies,

(c) promoting conservation, demand management and energy efficiency, and

(d) investing in energy infrastructure to ensure a clean, modern and reliable system; ("French")

"electricity vendor"[1] means,

(a) a licensed distributor,

(b) a licensed retailer,

(c) the IESO in circumstances where the IESO directly invoices a specified consumer for electricity used in Ontario, or

(d) such other person as may be prescribed; ("French")

"fair allocation amount" means, in respect of a reference period, an amount determined under section 15xx; ("French")

"finance amount" means the finance amount determined in accordance with the regulations; ("French")

"financing entity" means an entity established or caused to be established under subsection 17xx (3); ("French")

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[1] FLS - this is similar to the definition of "electricity vendor" in the Ontario Rebate for Electricity Consumers Act, 2016

"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 payment obligation incurred by or on behalf of an investment interest owner to fund its ownership of an investment interest or a payment obligation that meets such other criteria as may be prescribed; ("French")

"funding rebate" means a payment obligation incurred by IESO as part of the transfer of the regulatory asset; ("French")

"IESO deferral" means the amount determined under section 20xx; ("French")

"IESO" means the Independent Electricity System Operator continued under Part II of the *Electricity Act, 1998*; ("SIERE")

"IESO deferral" means the amount determined under section 20xx; ("French")

"investment asset" means the rights and interests described in section 24xx; ("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")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system within the meaning of the *Electricity Act, 1998*; ("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")

~~"monthly global adjustment rate" means the rate determined by the IESO in respect of a month under section 25.33 of the *Electricity Act, 1998* and the regulations made under that section; ("French")~~

"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,

(a) the period beginning on July 1, 2017 and ending on October 31, 2017, and

(b) during the period beginning on November 1, 2017 and ending on April 30, 2047 or ending on such later day as may be prescribed,

(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, the incurrence of debt in connection with 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")

"transfer" includes, when used in relation to an investment interest, the assignment, conveyance, disposition or sale of the investment interest; ("French")

"true up amount" means a true up amount determined in accordance with the regulations; ("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")

"variance account" means the variance account established by the IESO under subsection 20.1xx (1). ("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 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.

PART II
FAIR ADJUSTMENT

Definitions

6xx. In this Part,

"comparator invoice amount" means the invoice amount determined under subsection 6.01xx(1);

"effective date" means the date determined under section 6.5xx; ("French")

"global adjustment modifier" means the reduction mentioned in section 6.2xx;

"regulated rate consumer" means a fictional 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 would, if the consumer were not subject to this Act, be invoiced the rate determined by the Board under clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998*.

3. Such other criteria as may be prescribed. ("French")

"new invoice amount" means the invoice amount determined under subsection 6.01xx(2);

Determination of comparator invoice amount
~~**Electricity provided by licensed distributor, retailer**~~

6.01xx. (1) For the purposes of this Part, ~~in circumstances where electricity would be provided to a regulated rate consumer by a licensed distributor or a licensed retailer,~~ the comparator invoice amount in respect of ~~that~~ a regulated rate consumer who meets the prescribed criteria shall be determined as follows:

[NTD (for Ministry purposes only): We can prescribe in the regs that the criteria include the consumer receiving an invoice for an invoice period that is a month (but not necessarily a calendar month).]

1. Subject to subsection (1.1), ~~Calculate~~ calculate the sum of the following, without regard to the financial assistance under the *Ontario Rebate for Electricity Consumers Act, 2016*:

i. The commodity price of the electricity.

ii. Unless excluded by the regulations and subject to subsection (3), the rates and charges as of May 1, 2017 as 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) in respect of the amounts mentioned in subparagraphs i, ii and iii.

v. Any other amounts as may be prescribed.

2. ~~Subtract~~Adjust~~, from~~ the amount determined under paragraph 1~~,~~ by such amounts as may be prescribed.

[NTD (for Ministry purposes only): This is intended to be a "catch-all" in case we have forgotten something.]

~~i. the amount of the financial assistance provided to the consumer under the *Ontario Rebate for Electricity Consumers Act, 2016* in respect of the amounts mentioned in subparagraphs 1 i, ii and iii, and~~

~~ii. such other amounts as may be prescribed, which may include amounts of the financial assistance referred to in subparagraph i in respect of the amounts mentioned in subparagraphs 1 iv and v.~~

Same, rate order

(~~2~~1.1) For the purposes of subparagraph 1 ii of subsection (~~2~~1), in respect of charges that relate to any rural or remote rate protection compensation required under subsection 79 (4) of the *Ontario Energy Board Act, 1998* or any compensation required under subsection 79.2 (10) of ~~the *Ontario Energy Board Act, 1998*~~that Act, the applicable rate order is the rate order in effect on April 30, 2017.

[NTD (for Ministry purposes only): These are the OESP and RRRP charges still in effect on April 30, 2017.]

Determination of new invoice amount

(2) For the purposes of this Part, the new invoice amount in respect of a regulated rate consumer who meets the prescribed criteria shall be determined as follows:

1. Subject to subsection (2.1), calculate the sum of the following, with regard to the financial assistance under the *Ontario Rebate for Electricity Consumers Act, 2016*:

[NTD for leg counsel: "With regard to" is intended to mean that the amounts listed in i, ii, iii and v should be net of any applicable financial assistance under the ORECA (we could include or not include iv – it doesn't matter either way because the ORECA financial assistance is not applied to the HST).]

   i. The commodity price of the electricity.

   ii. Unless excluded by the regulations and subject to subsection (3), the rates and charges as of May 1, 2017 as 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) in respect of the amounts mentioned in subparagraphs i, ii and iii.

   v. Any other amounts as may be prescribed.

2. Adjust the amount determined under paragraph 1 by such amounts as may be prescribed.

[NTD (for Ministry purposes only): This is intended to be a "catch-all" in case we have forgotten something.]

Same, rate order

(2.1) For the purposes of subparagraph 1 ii of subsection (2), in respect of charges that relate to any rural or remote rate protection compensation required under subsection 79 (4) of the Ontario Energy Board Act, 1998, the applicable rate order is the rate order in effect on July 1, 2017.

once reg'tory asset created it is crystallized + any true-ups become part of subseq. reg'tory assets

~~**Same, rate order**~~

~~(2) For the purposes of subparagraph 1 ii of subsection (2), in respect of charges that relate to any compensation required under subsection 79.2 (10) of the *Ontario Energy Board Act, 1998*, the applicable rate order is the rate order in effect on April 30, 2017.~~

Invoice amount, exclusions

(3) Subject to the regulations, neither ~~an~~ comparator invoice amount nor a new invoice amount ~~does not~~ includes 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, other than a rate rider that has been prescribed.

5. Any other prescribed amounts.

OEB mthly over/under collecting
↳ shd these variances be tracked?

↳ both rate reduction + GA modifier adjust
↳ see what OREGA requires

IESO requests

Regulated rate consumer, first fair adjustments

6.1xx (1) Despite any order under subsection 78 (3.1) of the *Ontario Energy Board Act, 1998* and despite section 79.16 of that Act, the electricity rates payable by regulated rate consumers for the period beginning on the effective date and ending on April 30, 2018 are the rates necessary to achieve the following outcome: the regulated rate consumer who meets the prescribed criteria would be charged a new invoice amount that is 25 per cent less than the comparator invoice amount that would be charged to that consumer under the comparison rates described in subsection (2).

[NTD (for Ministry purposes): The "rates" would be TOU rates. For the "regulated rate consumer who meets the prescribed criteria" in s. 6.01xx(1), the prescribed criteria will include not only a total monthly consumption of 750 kWh

- OK same timeline (as LDCs) OPG submit all their carrying costs (not for recovery in initial phase) → all of their costs

but also the amount of that consumption that occurs in each of the three TOU periods.]

Comparison rates

(2) The comparison rates ~~is~~ are the rates that would have been effective May 1, 2017, if they had been 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*, without ~~regard to~~ taking into account any forecasted impact of any other provisions of this Act.

Other specified consumers, first fair adjustment

6.2xx ~~(1)~~ For the period beginning on the effective date and ending on April 30, 2018, a reduction to be applied by an electricity vendor against the monthly global adjustment rate (as determined by the IESO in accordance with the regulations pursuant to section 25.33 of the *Electricity Act, 1998*) ~~for~~ payable by a specified consumer who is not a regulated rate consumer ~~is the rate~~shall be determined by the Board ~~by applying the following steps~~as the difference between:

~~1. Determine the monthly global adjustment rate that would be payable effective May 1, 2017 by the specified consumer, determined without regard to any other provisions of this Act.~~

~~2. Subtract the following from the rate determined under paragraph 1:~~

i. The average rate used by the Board in determining the comparison rates referred to in subsection 6.1xx (2~~).~~); and

ii. The average rate used by the Board in determining the rates ~~determined under~~ in subsection 6.1xx (1).

[NTD: For context, what is being determined by the Board in s. 6.2xx is not the monthly global adjustment rate. It is a reduction in the monthly global adjustment rate – the monthly GA rate is determined by the IESO.]

Determination by Board

6.3xx The Board shall determine rates mentioned in section 6.1xx and the global adjustment modifier determined in section 6.2xx no later than fifteen business days after the day this section receives Royal Assent.

Implementation of rates

6.4xx ~~Each~~ Subject to section 6.6xx, each electricity vendor shall~~, no later than seven business days after the day on which the Board determines rates under section 6.3xx, adapt its invoices accordingly~~ issue invoices reflecting the rates mentioned in section

-if not tracking RPP variances then people leaving RPP won't have exit adjustment

6.1xx and the global adjustment modifier determined in section 6.2xx for electricity consumed on or after July 1, 2017.

Effective date

6.5xx The Board's determination under section 6.3xx is effective on July 1, 2017. **[NTD for leg counsel: If Royal Assent is not given until closer to July 1, such that the Board's determination does not occur until after July 1, then does this wording allow for a retroactive payment under s. 6.6xx? Do we have to tweak clause 1 of 6.1(1) in order for it to also cover a situation where the Board's determination occurs after July 1?]**

Transition

6.6xx (1) This section applies if an electricity vendor is unable to comply with section 6.4xx for one of the following reasons:

1. There are fewer than seven business days between the day of the Board's determination under section 6.3xx and July 1, 2017.
   [NTD: What if the Board's determination does not occur until after July 1, 2017? Do we need to tweak the above to accommodate that possibility?]

2. Technical or operational reasons.

Same

(2) In the circumstances described in subsection (1), the electricity vendor shall adapt its invoices as soon as possible and, in any event, no later than August 1, 2017.

Same

(3) The electricity vendor shall ensure that, if any of its specified consumers have been invoiced in a manner that does not reflect the rates determined under section 6.1xx or the global adjustment modifier determined under section 6.~~3xx~~ 2xx as a result of the failure to comply with section 6.4xx, the specified consumer receives the difference between the amounts shown on the invoice and the amounts payable under the rates and the global adjustment modifier.

Same

(4) Any amount that a specified consumer is eligible to receive under subsection (3) shall be provided as a lump sum credit on the first invoice received after the electricity vendor has adapted its invoices or by such other means as may be prescribed.

Subsequent fair adjustments

7xx. (1) Subject to subsection (2), the Lieutenant Governor in Council may prescribe the methodology to be applied by the Board to determine,

variance balance as at April 30
- last actual is Feb; projected bal for Mar + April

(a) electricity rates payable by prescribed classes of specified consumers, and

(b) any adjustments to be applied against the monthly global adjustment rate (as determined by the IESO in accordance with the regulations pursuant to section 25.33 of the *Electricity Act, 1998*) that is payable by prescribed classes of specified consumers,

after April 30, 2018.

Limitation, ~~fair~~ adjustments after ~~April~~ June 30, 2021

(2) Any prescribed methodology to be applied in respect of a ~~reference~~ period after ~~April~~ June 30, 2021 shall have regard to the following:

1. The fair allocation amount in respect of the ~~reference~~ period.

2. Any clean energy adjustments payable in respect of the ~~reference~~ period.

3. Such other matters as may be prescribed.

Sub-metering

7.1xx (1) This section applies if a specified consumer provides to another person electricity in respect of which,

(a) ~~a~~ rates for electricity;

(b) a global adjustment modifier; or

(c) an adjustment mentioned in subsection 7xx (1),

are determined under this Part.

Same

(2) If an invoice for the electricity is issued to the person by the specified consumer or a unit sub-meter provider providing unit sub-metering for the specified consumer, the amount for the electricity that is payable by the person who is liable to pay the invoice shall be determined in accordance with the regulations.

~~the rate for the electricity~~

[NTD: We will need reg-making authority for this.]

GA modifier → for May 1/18 - Apr 30/19
will re-do the RPP delta calculation
(baseline is May 1/18 - Apr 30/19)
forecast
vs. actual suppressed invoice amt w CPI↑

IESO sets Fair allocn plan

mtg WApr 5/17

Internal Draft: April 4, 2017

CONFIDENTIAL AND PRIVILEGED

Arts 4 + 5

Preliminary Draft for Discussion Purposes Only

Transition chge cannot exceed 10% of total bill

"Fair Hydro" – Part V.2

Article 1 – Purpose ↳ remove 30 yr parameter

Check on ESP availty ↓ earlier better + defa + FAP princip + black-line of TPlan

IESO has entered into Power Contracts with Generators. The agreed-upon reference prices and future quantities set out therein were determined based on commitments made by IESO to provide Generators with long-term price certainty, so as to encourage the long-term construction and development of facilities for the purpose of generating electricity 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 and feed in tariff programs (the "Green Generation Initiative"). The terms of the Power Contracts were intended to approximate the anticipated useful life of the related generation assets; however, it has been determined that the useful life of many of these assets will be well in excess of the actual term of the related Power Contracts and will extend over more than one generation of ratepayers. The long-term benefits of the Green Generation Initiative accrue over time and have benefited and will benefit present and future ratepayers of the Province. Currently, market prices for electricity are less than the reference prices set out in the Power Contracts, leaving a gap in funding which is funded by charging ratepayers a "Global Adjustment" (part of which is available to IESO to pay this shortfall).

Each month, the IESO determines the Global Adjustment payable by consumers for the consumption of electricity in the Province. A component of the Global Adjustment is the amount by which the reference prices in the Power Contracts exceed the market price for electricity for the quantities of electricity specified under the Power Contracts for the relevant period. The relationship between the past, present and future benefits to Ratepayers from the Green Generation Initiative, on the one hand, and the costs of the Green Generation Initiative borne by past, present and future Ratepayers through their respective allocations of the Global Adjustment, on the other hand, do not necessarily reflect an equitable allocation of such benefits and costs over time, with the result that an adjustment may be appropriate to address inter-generational fairness considerations. Such an adjustment should reflect principles and parameters that can be applied from time to time in order to establish a reasonable basis for measuring and allocating the relative costs and benefits of the Green Generation Initiative across present and future Ratepayers. A plan to allocate such costs and benefits equitably across present and future Ratepayers may be developed based on those principles and parameters (a "Fair Allocation Plan").

If a Fair Allocation Plan determines that the equitable allocation of the Global Adjustment to the Ratepayers of a particular time period in respect of the Power Contracts should be reduced below the amount otherwise determined, the amount payable by such Ratepayers to Electricity Distributors in respect of such period, and in turn by the Electricity Distributors to the IESO, would, in the aggregate, be less than the amount payable by the IESO to the Generators under the Power Contracts in respect of such period. If the difference is greater than any net Power Contract surpluses available to IESO from earlier periods, IESO will have a funding shortfall. In order for IESO to cover such a funding shortfall for a period, IESO will need to obtain funding from another source, which could include funding from third party sources operating in public and private capital markets. If a funding obligation is incurred in order to enable the IESO to cover a funding shortfall during one period, the repayment of such funding obligation will be

required in a future period, and any related repayments, finance costs, hedging costs and other transaction costs will be incurred and may become payable in one or more other periods.

It will be necessary to provide a reliable and committed source of cash flows to enable IESO to repay such funding obligations and to pay related funding costs with certainty when the funding obligations become due and payable. This Part imposes irrevocable and non-bypassable financial obligations of Ratepayers to pay amounts incurred in respect of such funding obligations when they become due and payable. Such financial obligations will constitute property rights and interests, which will take the form of the Regulatory Asset contemplated in this Part. The Regulatory Asset will be sold and absolutely assigned and will belong to one or more newly created financing entities, which in turn will finance their purchase of such Regulatory Asset by incurring funding obligations. The incurrence and payment of such funding obligations will be administered on behalf the financing entities by an administrative agent (initially OPG), under the Treasury Plan contemplated in this Part. The Treasury Plan will seek to reasonably match the payment obligations arising under funding obligations and borne by the future Ratepayers of the period in which such payment obligations become due, with the costs and benefits of the Green Generation Initiative attributed to such future Ratepayers under the Fair Allocation Plan.

The purpose of this Part is to establish the basis upon which intergenerational fairness can be achieved by attributing the costs and benefits of the Green Generation Initiative to present and future Ratepayers on an equitable and cost effective basis.

Article 2 - Definitions

In this Part:

> "Absolute Assignee" means a person to whom a Regulatory Asset Owner assigns, transfers, conveys, sells, contributes, sets over, exchanges or disposes all or a specified portion (including a specified portion on a divided basis or by way of an undivided interest) of the transferring Regulatory Asset Owner's right, title and interest in, to and in respect of the Regulatory Asset.
>
> "Actual" means, in relation to costs, expenses or payments in respect of Funding Obligations during a Reference Period, the actual amount of such costs, expenses or payments paid or made (net of any Finance Reserve Withdrawals applied to pay such amounts), which amounts shall be recorded by the Administrative Agent whose records shall be determinative for the purposes of this Part in the absence of a manifest calculation error.
>
> "Additional Funding Charges" means, for a Reference Period, the fees, charges, expenses, costs, indemnities, reimbursements and other amounts (including any applicable tax amounts) that are or become payable by the Regulated Asset Owner during the Reference Period and that were incurred or committed to directly or indirectly in connection with the incurrence of Funding Obligations under the Treasury 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 Administrative Agent on behalf of, the Regulatory Asset Owner under the Treasury Plan; (b) any federal, provincial or local taxes, payments in lieu of taxes, franchise fees or license fees imposed on the Regulatory Asset Owner or incurred by on behalf of the

Regulatory Asset Owner under any obligation to pay tax gross-up amounts to counterparties under Funding Obligations; (c) any amounts payable to the Administrative Agent, including amounts payable to its advisors and outside counsel; (d) any amounts incurred to prepare, confirm, amend and implement the Treasury Plan; (e) any amounts payable to any Alternative Collection Agent or Alternative Invoicing Agent, 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 Regulatory Asset Owner; (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 placement fees, underwriting fees, fees and related issuing expenses; (m) any rating agency fees; and (n) any other related fees, charges, expenses, costs, indemnities, reimbursements and other amounts that are approved in good faith for recovery and payment under the Treasury Plan.

"Administrative Agent" means [OPG] or, following any Replacement Event, such other person or persons who may be appointed as the administrative agent of the Regulatory Asset Owner under the Treasury Plan in compliance with the requirements set out in Schedule 2.

"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 Owner.

"Alternative Invoicing Agent" means a person appointed under Section 4(8) to assume the invoicing and other activities of any Electricity Distributor under Article 4, as agent for and on behalf of the Regulatory Asset Owner.

"Attribution Methodology"[1] means the methodology specified in the Fair Allocation Plan for allocating the Period Transition Charges for a Reference Period to the individual Ratepayers of the applicable Ratepayer Group.

"Collected Amount Adjustment" means, in respect of a Reference Period, the amount (which may be a negative amount) calculated by the Administrative Agent equal to (a) the Estimate of the Finance Amount for the True-Up Period, minus (b) the sum of all Transition Charge Collections for the True-Up Period.[2]

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[1] A key question will be how the overall costs will be spread across the rate base. For simplicity, overall costs could be spread across the rate base based on a *per capita* (ratepayer) concept. This would generally mean that all consumers who are invoiced in a month would pay the same Transition Charge, and to the extent that the invoiced amounts (i.e., the Transition Charges billed for a month) are higher or lower than the actual costs, due to a change in the Consumer Base, that difference should (among other things) be reflected in the True-Up calculation for the relevant reference period (see "Collected Amount Adjustment"). To the extent that a different allocation method is adopted (such as based on actual electricity use by individual consumers), the divisor for the Transition Charge will need to be modified.

[2] This would pick up adjustments based on actual collection experience, changes in the Consumer Base, changes in the actual costs (versus earlier estimates) included in the Transition Charge calculation, etc.

["Consumer Base" means, for a Reference Period, the total number of Ratepayers in the Ratepayer Group determined by the Administrative Agent as of the [30th] day immediately preceding the first day of the Reference Period.]

"Disposition" means an assignment, transfer, conveyance, sale, contribution, set-over, exchange or other disposition of all or a specified portion (including a specified portion on a divided basis or by way of an undivided interest) of a Regulatory Asset Owner's right, title and interest in, to and under the Regulatory Asset to an Absolute Assignee.

"Electricity Distributor" means, in respect of a Service Area, the distributor of electricity to residences located in such Service Area.

"Electricity Distributor Remittances" means, for an Electricity Distributor on a Remittance Date, all Transition Charge Collections received by the Electricity Distributor prior to the Remittance Date and that have not otherwise been remitted to IESO 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.

"Electricity Invoice" means an invoice issued by an Electricity Distributor (or in its stead, an Alternative Invoicing Agent) in respect of electricity charges and related services and amounts incurred, assessed or attributed in respect of a residence located in the Electricity Distributor's designated Service Area.

"Estimate" means, 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 Administrative Agent 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 Part in the absence of a manifest calculation error.

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

"Finance Amount" means, in respect of a Reference Period, the sum (without duplication) of the following amounts for the Reference Period: (a) Repayments; (b) Funding Costs; (c) Redemption Amounts; (d) Finance Reserve Deposits; and (e) Additional Funding Charges.

"Finance Receipts" means, for a Reference Period, all amounts received by or on behalf of the Regulatory Asset Owner 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 Regulatory Asset Owner under derivatives and any 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 a Funding Obligation.

"Finance Reserve Deposits" means, for a Reference Period, the amount by which (a) deposits made or to be made 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 Treasury Plan, exceed (b) any Finance Reserve Withdrawals.

"Finance Reserve Withdrawals" means, for a Reference Period, the amount withdrawn during the Reference Period from deposits previously made to pre-fund, collateralize, over-collateralize or establish reserves for the payment of Funding Obligations or to pay amounts in respect of related contingencies that had been specified in the Treasury Plan.

"Funding Costs" means, for a Reference Period, 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 Regulatory Asset Owner during the Reference Period in respect of all 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 a Funding Obligation, exceeds (b) the aggregate of all Finance Receipts for the Reference Period.

"Funding Obligation" means each payment obligation (including indebtedness, payment obligations arising under or in respect of derivatives, payment obligations owing to service providers, administrative agents, finance entity intermediaries, capital markets intermediaries, advisors, lenders, credit enhancement providers, liquidity providers, disbursement counterparties, regulatory agencies and rating agencies) incurred by or on behalf of the Regulatory Asset Owner under the Treasury Plan in order to fund a Funding Shortfall for a Reference Period, including any Refinancing of another such payment obligation.

"Funding Shortfall" means, for a Reference Period, (a) the amount, if any, by which (i) the IESO Power Contract Net Payment for the Reference Periods, exceeds (ii) the GA Power Contract Contribution for Reference Period, minus (b) the IESO Applied Surplus for the Reference Period.

"GA Power Contract Contribution" means, for a Reference Period, the aggregate of the payments to be made by the applicable Ratepayer Group in respect of the portion of the Global Adjustment attributable to the Power Contracts in accordance with the Fair Allocation Plan.

"Generator" means a generator of electricity that is subject to this Act.

"Global Adjustment" means the amount calculated from time to time under [Section • of the *Electricity Act*], which includes among other things an amount determined in respect of the costs associated with the Green Generation Initiative, including amounts attributable to the Power Contracts.

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

"IESO Applied Surplus" means, for a Reference Period, the lesser of (a) the amount, if any, by which (i) the IESO Power Contract Net Payment for the Reference Periods,

exceeds (ii) the GA Power Contract Contribution for Reference Period and (b) the IESO Unapplied Surplus on the last day of the immediately preceding Reference Period.

"IESO Power Contract Net Payment" means, for a Reference Period, the amount by which (a) the sum of amounts payable by IESO to the Generators to IESO under all Power Contracts for the Reference Period, exceeds (b) the sum of amounts payable by the Generators to IESO under all Power Contracts for the Reference Period.

"IESO Power Contract Net Receipt" means, for a Reference Period, the amount by which (a) the sum of amounts payable by the Generators to IESO under all Power Contracts for the Reference Period, exceeds (b) the sum of amounts payable by IESO to the Generators to IESO under all Power Contracts for the Reference Period.

"IESO Remittances" means, for a Settlement Date, all Electricity Distributor Remittances received by IESO or if applicable the Alternative Collection Agent prior to the Settlement Date and that have not otherwise been remitted to the Regulatory Asset Owner in accordance with Section 5(6), including the proceeds of any enforcement action undertaken by IESO or if applicable the Alternative Collection Agent to recover payment of amounts payable by Electricity Distributors to IESO in accordance with Article 5.

"IESO Unapplied Surplus" means, at a particular time, the amount, if any, by which (a) the sum of (i) all IESO Power Contract Net Receipts for Reference Periods occurring prior to the time, and (ii) all GA Power Contract Contributions for Reference Periods occurring prior to the time, exceeds (b) the sum of (i) all IESO Power Contract Net Payments for Reference Periods occurring prior to the time, and (ii) all IESO Applied Surpluses for Reference Periods occurring prior to the time.

"Period Transition Charge" means, for a Reference Period, the sum of (a) the Estimate of the Finance Amount and (b) the True-Up Amount in respect of the immediately preceding Reference Period.

"Pledge" means a lien, mortgage, charge, right of set-off or security interest granted to or in favour of a Pledgee by a Regulatory Asset Owner in, to and over all or a specified portion (including a specified portion on a divided basis or by way of an undivided interest) of the Regulatory Asset.

"Pledgee" means a person to whom [or for whose benefit] a Regulatory Asset Owner grants a Pledge.

"Power Contracts" means long-term power contracts entered into by IESO with certain Generators, under which IESO has agreed to pay such Generators amounts, determined in respect of quantities of electricity over specified periods, to the extent that applicable market prices for such quantities of electricity during a specified period are less than specified reference prices for such quantities of electricity, and, correspondingly, Generators have agreed to pay IESO amounts if the market prices for such quantities exceed the applicable reference prices for such quantities.[3]

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[3] Should this contemplate the possibility of additional or amended power contracts?

"Province" means the Province of Ontario.

"Ratepayer" means present and future [retail] consumers of electricity [in the Province] who are [RPP][or OREC-eligible] consumers, which shall include all such retail consumers who are connected to the transmission and distribution system assets located in the Province and who are taking electric delivery service within the Province, whether or not such retail consumers produce their own electricity or purchase electric generation services from a provider of electric generation services other than the owner of the Province's transmission and distribution system assets and whether or not the transmission and distribution system assets continue to be owned or operated by Electricity Distributors or IESO.[4]

"Ratepayer Group" means, in relation to a Reference Period, the Ratepayers who receive Electricity Invoices during the Reference Period.

"Redemption Amount" means the amount payable by or on behalf of a Regulatory Asset Owner to redeem, prepay or repurchase a Funding Obligation, including any premium, make-whole or other additional amount becoming payable under the Funding Obligation to give effect to such redemption, prepayment or repurchase.

"Reference Period" means (a) the period from (and including) the [Legislation Implementation Date] to (and including) June 30, 2017, (b) each six month period commencing [July 1st and January 1st] thereafter and (c) any other period specified as such in the Fair Allocation Plan.

"Refinancing" means that a Funding Obligation is repaid or repurchased for cancellation by or on behalf of the Regulated Asset Owner by applying the net proceeds obtained by the Regulated Asset Owner incurring one or more other Funding Obligations.

"Regulatory Asset" means the property right and interest described in Section 6(1).

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

"Regulatory Asset Owner" means, collectively, (a) IESO, to the extent that it has retained any ownership interest in, to or under the Regulatory Asset and (b) each Absolute Assignee, to the extent that it has acquired and owns any ownership interest (including a specified portion on a divided basis or by way of an undivided interest) in, to or under the Regulatory Asset, which together own the entirety of the Regulatory Asset and are required to exercise their individual rights of ownership in accordance with Section 6(7).

"Related Generation Assets" means the [facilities, plants and equipment] constructed, acquired or developed in connection with the Green Generation Initiative.

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[4] Need to describe consumers in a fashion that is broad and not weakened by a bypass risk.

"Related Rights" means all rights of any kind (whether in tort, contract or otherwise) of the Regulatory Asset Owner that attach or are attendant or incidental to any of the other property rights or interests that comprise the Regulatory Asset.

"Remittance Date" means, in respect of an Electricity Distributor, each day on which it is required to remit Electricity Distribution Remittances to IESO or if applicable the Alternative Collection Agent in accordance with any Funding Obligation or, if no such day is specified in relation to any Funding Obligation, then the Business Day preceding each Settlement Date.

"Repayment Obligation" means an obligation to repay, redeem or repurchase, or to provide for the repayment, redemption or repurchase (including by making a Finance Reserve Deposit) of, all or a portion of the amount advanced to the Regulatory Asset Owner under a Funding Obligation.

"Repayment" means a payment by a Regulatory Asset Owner made to satisfy a Repayment Obligation, other than to the extent that the payment is made by applying the proceeds of a Refinancing.

"Replacement Event" means any event specified as such in a Funding Obligation.

"Service Area" means, in respect of an Electricity Distributor, the geographic area or region in which it is [permitted] to distribute electricity to residences in accordance with this Act.

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

"Treasury Plan" means the written plan prepared by the Administrative Agent in compliance with Article 8 to set forth the basis upon which, among other things: (a) any Disposition may be made or effected; (b) any Funding Obligations may be incurred in order to fund a Funding Shortfall, including any Refinancing; (c) any Pledge may be given or effected; (d) any Funding Obligations may be redeemed, prepaid, repurchased, amended or otherwise effected; (e) any obligations for Additional Funding Charges may be incurred and paid; (f) any Repayments, Funding Costs and Redemption Amounts may be paid or provided for; (g) any Finance Reserve Deposits may be made; and (h) the cash flows arising from time to time or otherwise derived from the Regulatory Asset may otherwise be applied.

"Transition Charge" means, in respect of a Reference Period, [one-sixth] of the Period Transition Charge, [divided by the Consumer Base[5]].

"Transition Charge Collection" means any amount received or deemed by this Part to have been received upon the collection of a Transition Charge paid by or on behalf of a Ratepayer, including any proceeds arising from the exercise and enforcement of any related rights and interests under or in respect of the Regulatory Asset.

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[5] See footnote 1, above.

"True-Up Amount" means, in respect of a Reference Period, the amount (which may be a negative amount) calculated by the Administrative Agent equal to (a) 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.

"True-Up Period" means, in relation to a Reference Period, the period from and including the [30th] day immediately preceding the first day of the Reference Period, to but excluding the [30th] day immediately preceding the last day of the Reference Period.

"Undertaking of the Lieutenant Governor in Council" means the undertaking of the Lieutenant Governor in Council given under Section 10(2).

"Unrecovered Transition Costs" means the [unrecovered][unamortized] costs incurred in connection with the creation, adoption and implementation of the Green Generation Initiative, including any negative value of the Power Contracts and [other].

Article 3 – Transition Charges

(1) **Ratepayer Obligation to Pay a Transition Charge** – Each Ratepayer shall pay each Transition Charge attributed to it and specified as such in any Electricity Invoice issued to such Ratepayer by its Electricity Distributor or by an Alternative Invoicing Agent under Section 4(1), in each case on the terms of payment specified in the related Electricity Invoice.

(2) **Indebtedness of Ratepayers** – Until paid, a Transition Charge attributed to a Ratepayer and recorded in an Electricity Invoice shall, together with any applicable late payment fees and finance charges arising under the terms of the Electricity Invoice with respect to such Transition Charge, constitute indebtedness of the Ratepayer to the Regulatory Asset Owner. Such indebtedness shall constitute a single and separate debt obligation owing by the Ratepayer, which subject to Article 5 may be enforced independently from any other payment obligation or indebtedness owing by the Ratepayer under the Electricity Invoice or otherwise.

(3) **No Set-Off or Reduction** – A Ratepayer may not set-off or reduce (by counterclaim, defense or otherwise) the amount payable by it in respect of any Transition Charge, including any set-off against or in respect of any amount owing or becoming payable to such Ratepayer by its Electricity Distributor, the Regulatory Asset Owner or any other person.

(4) **Allocation of Ratepayer Payments** – If an Electricity Distributor receives a payment made by or on behalf of a Ratepayer in respect of amounts due and payable under one or more Electricity Invoices that is less than the total amount payable thereunder, such payment shall be allocated on a *pro rata* basis to the payment of related Transition Charges and other invoiced amounts and the amount so allocated as a payment of related Transition Charges shall be deemed to constitute a Transition Charge Collection.

(5) **Transition Charges are Irrevocable** – The Transition Charges arising under or in respect of Funding Obligations incurred under the Treasury Plan (including any adjustments based on modifications to such Funding Obligations made in compliance with the Treasury Plan or as a result of amendments to the Treasury Plan made in accordance with Section 8(3)) are deemed to be irrevocable, final and effective without

any further action. For greater certainty, a Transition Charge may include Finance Amounts for a Reference Period 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 whether or not the related Funding Obligation was properly incurred under the Treasury Plan. In no case shall a Funding Obligation incurred under the Treasury Plan be affected by a subsequent amendment to the Fair Allocation Plan.

(6) **[Anti-avoidance; No-by-pass** – Transition Charges attributed to a Ratepayer in respect of any Finance Amount incurred under with the Treasury Plan applicable at the time the related Funding Obligation was incurred may not be avoided and shall be [non-by-passable].]

Article 4 – Invoicing of Transition Charges

(1) **Inclusion of Transition Charges in Electricity Invoices** – Each Electricity Distributor and if applicable any Alternative Invoicing Agent shall, as an agent of the Regulatory Asset Owner, specify the Transition Charge to be attributed to a Ratepayer 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 Invoicing Agent to the Ratepayer 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 deemed to have been imposed on and billed to the applicable Ratepayer.

(2) **Calculation of the Period Transition Charge** – Not later than one month prior to the first day of a Reference Period, [IESO][6] or if applicable the [Alternative Collection Agent][7] shall calculate the Period Transition Charge applicable to the Reference Period.

(3) **Calculation and Attribution of Transition Charges** – Not later than 25 days prior to the first day of a Reference Period, [IESO] or if applicable the [Alternative Collection Agent] shall apply the Attribution Methodology to determine the Transition Charges to be attributed to the Ratepayers of the applicable Ratepayer Group.

(4) **Notice of Transition Charges** – Not later than 20 days prior to the first day of a Reference Period, [IESO] or if applicable the [Alternative Collection Agent] shall inform each Electricity Distributor and if applicable any Alternative Invoicing Agent of the Transition Charges to be specified in the Electricity Invoices to be issued to each Ratepayer of the applicable Ratepayer Group who has a billing address in the Electricity Distributor's Service Area.

(5) **Adjustments** – The amount of any Transition Charge attributed to a Ratepayer by [IESO] and specified as such in an Electricity Invoice shall be determinative of the

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[6] IESO's role will need to be discussed. Not sure if this mechanism is an IESO role or perhaps it's an OEB role. That will need to be discussed with the stakeholders. Currently, the rates for this class of customer are established by the OEB every six months having regard to the projections etc., of GA, and any variances from the prior period. This might end up fitting into that regime (although presumably we wouldn't want it to be built into the rate like GA is today- ie., it would be a separate line item). This section will also need to catch "bypass" customers.

[7] Should this be a designated government official, rather than an agent appointed by investors?

amount of indebtedness created thereby and owing in respect of such Transition Charge, in the absence of any manifest calculation error.

(6) **Successors of Electricity Distributors** – Any successor of an Electricity Distributor shall be bound by the requirements of Article 4 and shall perform and satisfy all duties and obligations of such Electricity Distributor under Article 4 in the same manner and to the same extent as such Electricity Distributor, including the obligation under Article 4 to impose, attribute, bill and invoice the Transition Charges.

(7) **Successors of IESO** – Any successor of IESO shall be bound by the requirements of Article 4 and shall perform and satisfy all duties and obligations of IESO under Article 4 in the same manner and to the same extent as IESO, including the obligation to calculate and provide notice of Transition Charges.

(8) **Appointment of an Alternative Invoicing Agent** – If a Replacement Event occurs in respect of any Electricity Distributor, the Regulatory Asset Owner shall be permitted, by an instrument in writing, to appoint an Alternative Invoicing Agent to perform some or all of the obligations and duties required to be undertaken by such Electricity Distributor under this Article 4, as and to the extent specified in such appointment. Upon acceptance of such appointment, the Alternative Invoicing Agent shall become obligated to perform such assumed obligations in replacement of such Electricity Distributor. Any Electricity Distributor that is replaced under this Section 4(8) shall promptly transfer all rights, powers, privileges and property interests in its possession or within its control in the performance of such obligations and duties to the Alternative Invoicing 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 Invoicing Agent to perform such obligations and duties on behalf of the Regulatory Asset Owner.

(9) **Regulatory Asset Owner has Standing** – The Regulatory Asset Owner may bring actions against any Electricity Distributor, IESO, Alternative Invoicing Agent or any other person who may be authorized to issue Electricity Invoices to Ratepayers for a failure to impose, attribute, bill or invoice Transition Charges. Any court of the Province [and the OEB] shall have jurisdiction over any actions brought before it by a Regulatory Asset Owner in relation to any such failure.

(10) **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, any Alternative Invoicing Agent or any [Alternative Collection Agent] to ensure that Transition Charges are properly attributed to Ratepayers and specified as such in Electricity Invoices.

Article 5 – Collections and Remittances

(1) **Duty to Collect as Agent** – Electricity Distributors or if applicable any Alternative Collection Agent shall, as an agent of the Regulatory Asset Owner, undertake [diligent efforts] to collect amounts owing by Ratepayers in respect of Transition Charges attributed to such Ratepayers in Electricity Invoices issued by the Electricity Distributor or if applicable such Alternative Collection Agent.

(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 Ratepayers and deposit such Transition Charge Collections into its Regulatory Asset Account. 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 be deemed to hold such amounts in trust for the Regulatory Asset Owner.

(3) **Electricity Distributor Remittances** – On each [applicable Remittance Date], an Electricity Distributor shall remit all Transition Charge Collections received by it from Ratepayers in respect of the related Reference Period to or to the account of IESO or if applicable the Alternative Collection Agent.

(4) **Duty to Collect Electricity Distributor Remittances** – IESO or if applicable any Alternative Collection Agent shall, as an agent of the Regulatory Asset Owner, undertake [diligent efforts] to accept and collect Electricity Distributor Remittances.

(5) **Segregation of Electricity Distributor Remittances** – IESO and if applicable the Alternative Collection Agent shall [promptly] segregate Electricity Distributor Remittances from other payments received or held by it and deposit such Electricity Distributor Remittances into its Regulatory Asset Account. Prior to and following a deposit of Electricity Distributor Remittances having been made into its Regulatory Asset Account, IESO or if applicable any Alternative Collection Agent shall be deemed to hold such amounts in trust for the Regulatory Asset Owner.

(6) **IESO Remittances** – On each [Settlement Date], IESO and if applicable the Alternative Collection Agent shall remit all amounts on deposit in its Regulatory Asset Account to or to the account of the Regulatory Asset Owner.

(7) **Successors of Electricity Distributors** – Any successor of an Electricity Distributor shall be bound by the requirements of Article 5 and shall perform and satisfy all duties and obligations of such Electricity Distributor under Article 5 in the same manner and to the same extent as such Electricity Distributor, including the obligation under Article 5 to collect Transition Charges and make remittances of Electricity Distributor Remittances.

(8) **Successors of IESO** – Any successor of IESO shall be bound by the requirements of Article 5 and shall perform and satisfy all duties and obligations of IESO under Article 5 in the same manner and to the same extent as IESO, including the obligation to collect Electricity Distributor Remittances and to remit IESO Remittances.

(9) **Owners of Distribution Assets** - If any person other than an Electricity Distributor acquires distribution system assets in the Province or invoices or collects electricity distribution rates in the Province[8], then such person shall, if requested by the Regulatory Asset Owner, be obligated to act diligently to (a) facilitate the invoicing and collect of any Transition Charges applicable to Ratepayers in its applicable service area, including all consumers connected to the electricity distribution system assets and taking electric delivery service located within such service area; (b) allocate partial payments by Ratepayers as provided in this Part; (c) terminate service to non-paying Ratepayers on

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[8] This is in anticipation of a possible future restructuring of the distribution system. Also, this would cover any OREC-eligible customer (market participant) of IESO.

the same basis as termination of service is permitted for non-payment of electricity transmission and distribution rates; (d) exercise all enforcement rights of the Regulatory Asset Owner or Pledgee for the benefit of the Regulatory Asset Owner or Pledgee; and (e) remit any Transition Charge Collections to the Regulatory Asset Owner or Pledgee, as applicable.

(10) **Regulatory Asset Owner has Standing** – The Regulatory Asset Owner and any Pledgee may bring actions against any Electricity Distributor, IESO, Alternative Invoicing 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 Ratepayers for a failure to collect Transition Charges, remit or collect Electricity Distributor Remittances or remit IESO Remittances under Article 5. Any court of the Province [and the OEB] shall have jurisdiction over any actions brought before it by a Regulatory Asset Owner in relation to any such failure.

(11) **Appointment of an Alternative Collection Agent** – If a Replacement Event occurs in respect of any Electricity Distributor or IESO, the Regulatory Asset Owner shall 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 Regulatory Asset Owner.

(12) **No Set-off, etc.** - The Regulatory Asset, including rights in Transition Charges, Transition Charge Collections, and the interests of the Regulatory Asset Owner, any Absolute Assignee and any Pledgee therein, may not be setoff or reduced (including by counterclaim, surcharge or defense by any Ratepayer, any Electricity Distributor, IESO, 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, IESO, Alternative Collection Agent or any owner of distribution system assets in the Province, any affiliate or successor thereof or any other entity or otherwise.]

(13) **[Sequestration** – If any Electricity Distributor, IESO, Alternative Collection Agent or any owner of distribution system assets in the Province or any other person or entity authorized to collect Transition Charges, defaults on any required remittance of Transition Charge Collections, Electricity Distribution Remittances or IESO Remittances under Article 5, any court in the Province, upon application by a Regulatory Asset Owner or Pledgee and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the Transition Charge Collections, Electricity Distribution Remittances and IESO Remittances, as applicable, for the benefit of the Regulatory Asset Owner or Pledgee.] [Such order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with

respect to any Electricity Distributor, IESO, Alternative Collection Agent or any owner of distribution system assets in the Province or other person or entity authorized to collect Transition Charges, as applicable.]

(14) **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 Collection Agent to ensure that rights, interests, entitlements, benefits and proceeds in, to, under and from the Regulatory Asset are of fully realized by the Regulatory Asset Owner.

Article 6 – The Regulatory Asset

(1) **Composition** – The Regulatory Asset shall constitute a property right and interest of the Regulatory Asset Owner in the following:

a. the present and future obligations and indebtedness of each Ratepayer to pay Transition Charges attributed to the Ratepayer from time to time in accordance with Article 2, together with all related late payment fees or interest charges arising in respect thereof under the related Electricity Invoices;

b. the present and future obligations of each Electricity Distributor and if applicable the Alternative Invoicing Agent to impose, attribute, bill and invoice the Transition Charges in accordance with Article 4;

c. the present and future obligations of each Electricity Distributor and if applicable the Alternative Collection Agent to remit amounts received by it in respect of Transition Charges as Electricity Distributor Remittances to or to the account of IESO 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 4;

d. the present and future obligations of IESO and if applicable the Alternative Collection Agent to accept Electricity Distributor Remittances and to remit IESO Remittances to or to the account of the Regulatory Asset Owner, 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 4;

e. all Transition Charge Collections;

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

g. all Related Rights; and

h. all proceeds of or derived from the foregoing.

The Regulatory Asset and the property rights and interests therein shall exist whether or not Transition Charges have been imposed, attributed, invoiced, accrued or collected

and notwithstanding that the imposition, attribution, invoicing and collection of Transition Charges will depend on further actions that may not have occurred.

(2) **Validity of Dispositions** – Despite any limitations or restrictions on a Disposition that may arise by contract or by operation of any applicable law of the Province [or any consent requirement applicable to a Disposition that may arise by contract or by operation of any applicable law of the Province], a Disposition by a Regulatory Asset Owner made under the Treasury Plan shall be permitted and when made shall be valid and enforceable in accordance with its terms and shall be effective to confer upon the Absolute Assignee a valid property right and interest in, to and under the Regulatory Asset (or relevant portion thereof) in accordance with the terms of such Disposition [, provided that the description of Regulatory Asset in the agreement giving effect to the Disposition expressly refers to this Part]. [Other than as required by the Treasury Plan, no consent of any person shall be required to give effect to a Disposition.] Without limiting the foregoing, any Disposition that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as a true sale and absolute transfer of the Regulatory Asset Owner's applicable right, title, and interest in, to and under the Regulatory Asset (or relevant portion thereof), and not merely as a Pledge thereof. A Disposition shall not be subject to recharacterization or challenge on any other basis and the validity of a Disposition shall not be affected or impaired by: (a) the commingling of Transition Charge Collections or other proceeds from Transition Charges with other amounts; (b) the retention of any interest (including any partial, residual or subordinated interest, whether direct or indirect) in the Regulatory Asset by the transferring Regulatory Asset Owner; (c) any right to repurchase the Regulatory Asset in favour of the transferring Regulatory Asset Owner; (d) any recourse that an Absolute Assignee may have against the transferring Regulatory Asset Owner; (e) any indemnification rights or obligations provided by the transferring Regulatory Asset Owner; (f) any obligation of the transferring Regulatory Asset Owner to collect and remit Transition Charge Collections on behalf of an Absolute Assignee, including but not limited to, any retention by the transferring Regulatory Asset Owner to bare legal title for the purpose of collecting Transition Charges; or (g) the ascribed or intended treatment of the Disposition by the transferring Regulatory Asset Owner or the Absolute Assignee on any different basis including for tax, financial reporting or other purposes.

(3) **Deemed Perfection and Priority of Dispositions** – At the time a Disposition is made, the absolute assignment of the property rights and interest in the Regulatory Asset subject to the Disposition shall be deemed to have been and shall be perfected, vested, valid and binding as against the transferring Regulatory Asset Owner and all other persons who have claims of any kind (whether in tort, contract or otherwise) against the transferring Regulatory Asset Owner, irrespective of whether such persons have notice of the Disposition and the property rights and interests acquired by the Absolute Assignee under such Disposition shall have priority over any liens in favour of such other persons.

(4) **Validity of Pledges** – Despite any limitations or restriction on a Pledge that may arise by contract or by operation of any applicable law of the Province [or any consent requirement applicable to a Pledge that may arise by contract or by operation of any applicable law of the Province], a Pledge by a Regulatory Asset Owner may be made to secure any 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 Regulatory Asset in accordance with the

terms of the Pledge[, provided that the description of Regulatory Asset in the agreement giving effect to the Pledge expressly refers to this Part]. Other than as required by the Treasury Plan, no consent of any person shall be required to give effect to a Pledge made to secure any Funding Obligation.

(5) **Deemed Perfection and Priority of Pledges** - Any Pledge made by a Regulatory Asset Owner in respect of a Funding Obligation incurred under the Treasury Plan shall be deemed to have been and shall be perfected, valid and binding from the time when the Pledge is made and shall be valid and binding as against the Regulatory Asset Owner making the Pledge and all other persons who have claims of any kind (whether in tort, contract or otherwise) against the pledging Regulatory Asset Owner, irrespective of whether such persons have notice of the Pledge and the security interests of the Pledgee under such Pledge shall have priority over any liens in favour of such other persons. All proceeds of the Regulatory Asset that are subject to such a Pledge that are received by the Regulatory Asset Owner shall immediately be subject to the such Pledge, and such proceeds shall be perfected, without any physical delivery thereof, registration of any financing statement with respect thereto pursuant to the [PPSA] or any other further act. A Pledge 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 Regulatory Asset subject to the Pledge unless the Pledgee has otherwise agreed in writing. Any Pledgee shall have a perfected security interest in Transition Charge Collections or other related proceeds 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. [A Pledgee shall cause a financing statement to be filed in respect of a Pledge for informational purposes only under the [PPSA].

(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.

(7) **Collective Action Required** – If a Regulatory Asset Owner's right and interest 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 joint] basis with each other Regulatory Asset Owner, and any agreement among all of the Regulatory Asset Owners in furtherance of such collective action shall be valid and binding on each Regulatory Asset Owner and each Absolute Assignee, Pledgee and successor of a Regulatory Asset Owner in accordance with its terms.

Article 7 – Establishment of the Fair Allocation Plan

(1) **Adoption of the Fair Allocation Plan** – The Minister of Energy may by written order designate and adopt a Fair Allocation Plan in compliance with Article 7. The Fair Allocation Plan so designated and adopted shall be the Fair Allocation Plan for all purposes of this Part, except if amended, amended and restated or terminated by a further written order issued by the Minister of Energy [in compliance with Section •].

(2) **Principles and Parameters** – A Fair Allocation Plan shall seek to allocate Unrecovered Transition Costs across present and future Ratepayer Groups on a basis that the

Minister of Energy, in its sole and absolute discretion, determines to be equitable, having regard to the following principles and parameters[9]:

1. Unrecovered Transition Costs should be allocated over a period not to exceed the later of (a) the estimated remaining useful life of the Related Generating Assets and (b) the remaining term of IESO's commitments under the Power Contracts.

2. The Fair Allocation Plan should specify the Reference Periods (e.g., 6 month periods), for the purpose of identifying applicable Ratepayer Groups and allocating among them responsibility to bear the Unrecovered Transition Costs on a relative basis over time.

3. The share of Unrecovered Transition Costs allocable to a particular Ratepayer Group in respect of a Reference Period should be proportionate to a reasonable assessment of the benefits of the Green Generation Initiative to the Ratepayer Group over such Reference Period.

4. The estimated Unrecovered Transition Costs to be allocated to a Ratepayer Group and any future Ratepayer Group at a particular time should not exceed the estimated value of the Related Generating Assets based on their remaining useful lives or terms, measured in respect of the period following such particular time.

5. No future Ratepayer Group should bear an unreasonably disproportionate share of the Unrecovered Transition Costs. Except in exceptional circumstances or in the case of any backward-looking adjustment made as contemplated in 7, below, the share of the Unrecovered Transition Costs to be allocated under a Fair Allocation Plan to any future Ratepayer Group should have regard to [Insert formula if a year-over-year maximum amount is determined to be appropriate][10].

6. A reasonable estimate of the rate of inflation should be applied to equate the relative values of the nominal amount of Unrecovered Transition Costs to be allocable to Ratepayer Groups over time.

7. Backward-looking adjustments to a Fair Allocation Plan may be made to achieve a fair distribution among Ratepayers of the benefits of the Green Generation Initiative to that Ratepayer Group over an applicable Reference Period, including to provide an abatement to one or more Ratepayer Groups to the extent that one or more earlier Ratepayer Groups are considered by the Minister of Energy to have borne an unfair share of the Unrecovered Transition Costs.

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[9] We have provided a few examples of what could be the basic principles. These will depend on market considerations, the Province's decision on the required amount of detail and the ability to sustain the legal basis for the program. These examples are not meant to suggest the appropriate balance – just illustrative to advance a discussion among the stakeholders.

[10] Consider if a quantitative limit needs to be included in the legislation.

(3) **Attribution Methodology** – The Fair Allocation Plan shall specify an objective methodology (the "Attribution Methodology") for the purposes of allocating the Period Transition Charges across all of the Ratepayers of a particular Ratepayer Group. The Attribution Methodology shall result in an attribution of such Transition Charges that are considered by the Minister of Energy to be equitable, and may have regard to such principles and parameters as may be further set forth in a Regulation. [may have regard to considerations such as their relative electricity usage rates and usage patterns; the relative geographic density of individual Ratepayer's residence *[See basis for GA allocation method for other principles]]*

(4) **[Confirmation][Review] of the Fair Allocation Plan** – [OEB?]

Article 8 – The Treasury Plan

(1) **Power to Prepare and Implement the Treasury Plan** – In compliance with a [written order][***MOE to confirm process.***] of the Minister of Energy, the Administrative Agent shall prepare and propose the adoption of a Treasury Plan. If the Administrative Agent is unwilling or unable to prepare and propose the adoption of a Treasury Plan, the Minister of Energy may by written order designate one or more other persons to prepare and implement such a Treasury Plan.

(2) **Required Terms and Conditions of the Treasury Plan** – The Treasury Plan shall establish the basis for funding decisions that have the effect of allocating the Unrecovered Transition Costs across present and future Ratepayer Groups on a basis that is consistent with the Fair Allocation Plan. The Treasury Plan shall be consistent with the principles, parameters, requirements and conditions set forth in Schedule 3 and such other conditions and requirements as may be specified in a written order of the Minister of Energy [or in accordance with the Regulation].

(3) **Power to Review and Approve the Treasury Plan** – The Minister of Energy may, by written order, designate one or more persons to review the Treasury Plan and to review and assess the consistency of the Funding Obligations incurred with such Treasury Plan, and the Minister of Energy may specify requirements in respect of such review in such written order. The Administrative Agent, or such other person(s) as may be designated by written order of the Minister of Energy made pursuant to Section 8(1), shall make any such amendments to the Treasury Plan, and submit a revised Treasury Plan to the **[OEB]** for approval within [the time period specified in such written order]/[[•] days of such written order].[***Consider periodic amendments to the Treasury Plan following an annual review; provided that amendments cannot affect the existing Funding Obligations. Consider the level of oversight the MoE/OEB will have over this process?***]

(4) **Approval of Treasury Plan –** The **[OEB]** shall have the power to and shall approve or disapprove of the Treasury Plan based solely on whether the Treasury Plan is consistent with (i) the principles, parameters, requirements and conditions set forth in Schedule 3, (ii) such other conditions and requirements as may be specified in a written order of the Minister of Energy [or in accordance with the Regulation] [and (iii) the Fair Allocation Plan]. If the **[OEB]** approves the Treasury Plan, then such Treasury Plan shall be implemented by the Administrative Agent. If the OEB disapproves of the Treasury Plan or otherwise fails to approve the Treasury Plan, then the Administrative Agent shall re-

submit the Treasury Plan with such amendments as the Administrative Agent shall consider necessary for the Treasury Plan to be approved by the OEB.

(5) **Consistency with the Fair Allocation Plan** - Funding Obligations should only be incurred if Repayments and Funding Costs would be borne by present and future Designated Ratepayers on a basis that is [generally] consistent with their respective allocations of the costs and benefits of the Green Generation Initiative contemplated in the Fair Allocation Plan. In that regard, at the time of setting the Fair Allocation Plan for any particular period, the aggregate amount payable during future Reference Periods on account of Funding Obligations incurred on or before the date on which a new Funding Obligation is incurred should not exceed the allocation of the costs and benefits of the Green Generation Initiative to the applicable Ratepayer Group contemplated in the Fair Allocation Plan. If, despite the foregoing, the Administrative Agent determines that the anticipated amount of any Repayment (together with payments of other Finance Amounts) to be made in respect of a Reference Period would materially exceed the allocation of the costs and benefits of the Green Generation Initiative to the applicable Ratepayer Group under the then current Fair Allocation Plan, the Treasury Plan shall require the Administrative Agent to make diligent efforts to determine whether a Refinancing or deferral of such Repayment may be reasonably and cost-effectively effected based on then prevailing market terms, conditions an circumstances, if such a Refinancing or deferral is determined to be available the Treasury Plan shall require the Administrative Agent to make diligent efforts to implement such Refinancing or deferral on a basis that is consistent with the Fair Allocation Plan.

(6) **Establishment of Special Purpose Entities** – If the implementation of the Treasury Plan contemplates the establishment of one or more special purpose finance entities to incur Funding Obligations under the Treasury Plan, as an Absolute Assignee and on a basis that limits the recourse for the payment of such Funding Obligations to such Absolute Assignee's interest in, to and under the Regulatory Asset, the Administrative Agent shall have regard to the characteristics specified in Schedule 4 in establishing such special purpose entity.]

(7) **Obligation to Apply IESO Remittances** – The Administrative Agent shall ensure that amounts transferred to it under Article 5, as agent for and on behalf of the Regulatory Asset Owner, or otherwise in respect of or as proceeds from the Regulatory Asset shall only be applied or used to pay Finance Amounts when they are due and payable and for no other purpose.[11]

(8) **Non-Recourse** – The Treasury Plan shall be implemented so that Funding Obligations incurred shall be without recourse to or to any assets of the Electricity Distributors, IESO, any Alternative Invoicing Agent, and Alternative Collection Agent, the Administrative Agent, the OEB, the Province or the Lieutenant Governor in Council, other than if and to the extent that such persons or entities are liable for the performance of obligations or duties arising under this Part or expressly pursuant to any Funding Obligation or obligation in relation to a Finance Amount. [All Funding Obligations shall contain a statement to the following effect: "Neither the full faith and credit nor the taxing

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[11] We need to work in the idea that there may be Finance Reserve Deposits or other amounts that remain after paying Finance Amounts. Those surplus amounts should be credited back to Ratepayers.

power of the Province of Ontario is pledged to the payment of the principal of, or interest on, this [obligation].]

(9) **Incurrences are Binding** – Despite any failure to adhere to the Treasury Plan or to comply with any requirement of this Part, all amounts payable or becoming due and payable by or on behalf of the Regulatory Asset Owner under or in connection with any obligation purporting to be a Funding Obligation, shall be deemed to be binding for the purposes of this Part, including in determining the amount of Transition Charges, despite any impairment or defect resulting from such failure.

Article 9 – Compliance Matters

(1) **Right of the [OEB] to Inspect Books and Records** - For the purpose of investigating compliance with the provisions of this Part, the [OEB] shall have the right, jurisdiction, power and authority to examine the books and records of any person who is or may become obligated or have duties that arise under this Part or any Funding Obligation.

(2) **Power to Investigate Compliance and Impose Regulatory Sanctions** - Subject to the limitations set forth regarding the irrevocability of Transition Charges and the Undertaking of the Lieutenant Governor in Council, nothing in this Part shall (a) prevent or preclude the [OEB] from investigating the compliance of any person who is or may become obligated or have duties that arise under this Part [or any Funding Obligation] with the terms and conditions of this Part and requiring compliance by such person therewith; or (b) prevent or preclude the authority or any successor regulator from imposing regulatory sanctions against any person who is or may become obligated or have duties that arise under this Part for its failure to comply with the terms and conditions of this Part.

(3) **[Other Rating Settings** – When setting other rates for or in respect of any person who is or may become obligated or have duties that arise under this Part, including any Electricity Distributor, IESO, Generator or the Administrative Agent, nothing in this Part shall prevent the [OEB] or any successor regulator from taking into account the collection by or attribution to such person of administrative or servicing fees in excess of the actual incremental costs incurred by such person of providing administrative or servicing services.]

Article 10 – Undertaking of the Lieutenant Governor in Council

(1) **No Action to limit, alter, or impair or terminate Transition Charges, the Regulatory Asset or Collections** – The Lieutenant Governor in Council may not in any way take or permit any action to reduce, impair, postpone or terminate the obligation of Ratepayers to pay Transition Charges or impair the Regulatory Asset or the collection or recovery of Transition Charge Collections, either directly or indirectly. The Lieutenant Governor in Council undertakes that the amount of Transition Charges determined hereunder 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.

(2) **Undertaking and Agreement** – The Lieutenant Governor in Council undertakes to and agrees with the Regulatory Asset Owner, including any Absolute Assignee from time to time, and any Pledgee from time to time, that the Lieutenant Governor in Council will not in any way take or permit any action that limits, alters or impairs the value of the

Regulatory Asset or, except as required by the estimates and adjustments made in determining the True-up Amount, reduce, alter or impair Transition Charges that are imposed, collected and remitted for the benefit of the Regulatory Asset Owner, including any Absolute Assignee from time to time, and any Pledgee from time to time.

(3) **References to the Undertaking and Agreement** – Any non-confidential reference to the Undertaking of the Lieutenant Governor in Council, including in marketing materials and other documentation authorized for use by the Administrative in connection with any Funding Obligation, may be made provided that [*Add conditions to protect the Province*].

Article 11 – Regulations

Regulations may be made under this Part for the purposes described in Sections •,•,• and • and may be promulgated for any of the following purposes:

(a) to set standards and measures regarding the commercially reasonable expectations of the Province associated with any Regulated Asset Owner incurring Funding Obligations or becoming obligated to pay any Finance Amount, including to establish guidelines regarding all-in funding costs; permitted Additional Funding Costs; required maturities and redemption and termination rights of Funding Obligations; liquidity requirements, in each case to a Treasury Plan that is consistent in its effect with the Fair Allocation Plan;

(b) to establish and empower one or more regulated entities to undertake decision-making activities with respect to this Part;

(c) to set out reasonable expectations regarding the appointment or retention of advisors, agents, service providers, contract counterparties, including in relation to 'market terms and conditions' parameters;

(d) to provide for audit and compliance standards applicable to those persons who are or may become obligated or have duties that arise under this Part [or under any Funding Obligation];

(e) to provide for any pre-vetting and approval requirements in relation to any incurrence by the Regulatory Asset Owner of any Funding Obligation or obligation to pay any Finance Amount; and

(f) to provide for appeal and due process considerations in connection with the establishment, adoption, implementation and review of the Fair Allocation Plan or the Treasury Plan.

Article 12- Miscellaneous

(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 Part 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 Part 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 Part shall be required with respect to the actions to be taken in compliance with this Part, including under the Treasury Plan or in relation to the establishment of the Fair Allocation Plan, and the transactions and contracts authorized in or contemplated by this Part or the Treasury 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 Treasury Plan.

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

(5) **Severability** - If any Article, Section, paragraph or subparagraph of this Part 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 Part are intended to be severable and that the Legislature would have enacted this Part even if any Article, Section, paragraph or subparagraph of this Part held to be unconstitutional or invalid had not been included in this Part.

Schedule 1

Guidelines for Estimates

[To be considered.]

Schedule 2

Requirements Applicable to Alternative Invoicing Agent/ Alternative Collection Agent

[To be considered.]

Schedule 3

Principles, Parameters, Requirements and Conditions for Establishing the Treasury Plan

The Treasury Plan shall have regard to the following principles, parameters, requirements and conditions:[***Consider others.***]

(1) the Treasury Plan shall, in respect of each Reference Period, describe the allocations of Unrecovered Transition Costs to each Reference Group as contemplated by the Fair Allocation Plan;

(2) the Administrative Agent shall make a good faith estimate of the Funding Shortfalls for each Reference Period, based on the terms of the Power Contracts and assumptions considered to be reasonable respecting forward market prices for electricity;

(3) the Administrative Agent shall describe alternative funding arrangements considered to be suitable for the purpose of funding the estimated Funding Shortfalls, including by reference to short term and/or long term Funding Obligations that could reasonably be incurred by Regulatory Asset Owner for such purpose;

(4) such Funding Obligations shall reflect quantities, maturities, payment obligations, prepayment or redemption rights and such other features so that the effect of incurring such Funding Obligations would be that the payments made thereunder in respect of each Reference Period (including the anticipated Finance Amounts becoming payable in relation to such Funding Obligations) would reasonably correspond to the allocations of Unrecovered Transition Costs to the applicable Reference Group under the Fair Allocation Plan;

(5) the Treasury Plan shall reflect the outcome of a financial model that incorporates the assumptions and requirements specified in any contemplated Funding Obligation (e.g., any limit on the maximum amount of Transition Charges attributed to a hypothetical Ratepayer relative to his or her monthly electricity bill, as prescribed by any rating agency that ascribes its credit rating to or in respect of the Funding Obligation having regard to the application of the Allocation Methodology); [***Consider what outputs from OPG will be tested by the OEB and when. The modelling in the Treasury Plan may permit the OEB to check progress against the model from time to time, which may provide a basis for the MoE/OEB to require a review/amendment to the Treasury Plan if the ongoing operation of the program results in significant deviation from the model. Consider whether this flexibility is desirable.***]

(6) the Administrative Agent, for and on behalf of each Regulatory Asset Owner, shall seek to incur Funding Obligations from time to time on the best terms available at such time for a financing transaction of the size and type contemplated, and having regarding to the following parameters:

a. whether the Regulatory Asset Owner[s] will require committed access to short term liquidity to cover estimated 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 a Regulatory Asset Owner to repay an amount in relation to a Reference Period that would have the effect of the

Treasury Plan permitting incurrences of Funding Obligations payable in such Reference Period that would exceed the allocations of Unrecovered Transition Costs to the applicable Reference Group under the Fair Allocation Plan;

b. the basis upon which the Administrative 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 shall not obligate a Regulatory Asset Owner to repay an amount in relation to a Reference Period that would have the effect of the Treasury Plan permitting incurrences of Funding Obligations payable in such Reference Period that would exceed the allocations of Unrecovered Transition Costs 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 Administrative 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 Administrative Agent shall cause the [applicable] Regulatory Asset Owner 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 Administrative Agent will select counterparties under any transaction to be entered into by a Regulatory Asset Owner, 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 Administrative Agent will manage counterparty risk, including by providing for maximum counterparty exposure limits having regard to concentration, credit and other identified risks with respect to individual counterparties or countries;

h. the basis upon which the Administrative Agent will negotiate and settle Finance Amounts, including the amount of any Redemption Amounts, Finance Reserve Deposits and Additional Funding Charges;

(7) the basis upon which Funding Obligations may be redeemed, prepaid, repurchased or otherwise affected, having regard for the need to minimize debt service charges and other Funding Costs, and the need to maintain a stable funding platform to finance the Funding Shortfall from time to time on a basis that is consistent with the allocations of Unrecovered Transition Costs to applicable Reference Groups under the Fair Allocation Plan;

(8) the basis upon which any Repayments, Funding Costs and Redemption Amounts will be paid, including any defeasance, sinking fund or through other reserves or liquidity facilities;

(9) the basis upon which fees, charges, expenses, costs, indemnities, reimbursements and other amounts payable to or for the benefit of the Administrative Agent and other agents and service providers to the Regulatory Asset Owner[s] may be determined, allocated and paid;

(10) the timing and basis upon which Finance Reserve Deposits and Finance Reserve Withdrawals may be made;

(11) the basis upon which any obligations for any other Additional Funding Charges may be incurred and paid;

(12) the basis upon which the cash flows arising from time to time or otherwise derived from the Regulatory Asset may otherwise be applied, including in relation to any counterparty enforcement and realization scenario;

(13) the transmittal to [the IESO] of information related to the amounts to be included in the determination of the Period Transition Charge for a Reference Period;

(14) the basis upon which any Disposition may be made or effected by a Regulatory Asset Owner, including parameters for determining the purchase price for the interest in the Regulatory Asset that is the subject matter of such Disposition, and any consents and releases that may be usefully obtained in connection with such Disposition;

(15) a description of each special purchase entity that will purchase the Regulatory Asset from the IESO, including proposed capitalization, governance, and restrictions on their powers and activities having regard to the parameters in Schedule 4; and

(16) the basis on which any Pledge may be given or effected.

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Preliminary Draft for Discussion Purposes Only

Schedule 4

Creation of any Special Purpose Entity to become a Regulatory Asset Owner]

(1) Powers and Abilities:

a. No part of the revenue or assets of a Regulatory Asset Owner shall enure to the benefit or be distributable to its trustees, officers or directors, as the case may be, or any other private persons, except as may be provided for actual services rendered;

b. Each Regulatory Asset Owner shall be authorized to:

i. incur the Funding Obligations contemplated by a Treasury Plan and use the proceeds thereof to purchase or acquire, and to own, hold and use the Regulatory Asset;

ii. contract for servicing of the Restructuring Asset and any bonds contemplated by a Treasury Plan and for administrative services; and

iii. pledge the Regulatory Asset to secure the Funding Obligations incurred by the Regulatory Asset Owner;

c. So long as any Funding Obligations contemplated under a Treasury Plan are outstanding, the Regulatory Asset Owner shall not be authorized to merge or consolidate, directly or indirectly, with any person or entity;

d. the Regulatory Asset Owner shall not have the power or authority to incur or guarantee or otherwise become obligated to pay any debt or obligations other than what is contemplated under a Treasury Plan;

e. the Regulatory Asset Owner shall cause the proceeds obtained by incurring any Funding Obligation to be placed in one or more separate accounts and used only to purchase the Regulatory Asset and pay any costs as provided for in a Treasury Plan; and

f. so long as the Regulatory Asset is pledged to secure Funding Obligations, the Regulatory Asset Owner must apply revenues from the collection of Transition Charges only to repay such Funding Obligations and other costs as provided for in a Treasury Plan.

(2) Governance of Regulatory Asset Owner – The Regulatory Asset Owner shall shall be created having regard to the following principles:[***OPG to confirm if SPE will be a trust or another type of entity.***]

a. **[Number of trustees]**

b. **[Replacement of trustees; vacancies; appointment of successors]**

c. **[Removal of trustees for neglect of duty or misconduct]**

d. **[Quorum and meetings]**

e. **[Fiduciary duty]**

f. **[Isolation, separateness and other "non-consolidation" and "bankruptcy remoteness" criteria]**

g. **[Delegation of powers and duties to administrative agents]**

h. **[Delegation of powers and duties to administrative agents]**

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"Fair Hydro" – Part V.2

Article 1 – Purpose

[The proposed new legislation will likely include a large number of provisions intended to support the "financeability" of the structure. As a result, it may make sense for the Bill to create a new energy statute, much like the *Green Energy and Green Investment Act, 2009* created the *Green Energy Act, 2009*.]

The new legislation will have a purpose clause that explains the objective of intergenerational fairness. This will be useful for the markets to see, and may help support the validity of the legislation from a constitutional law perspective (charge vs. tax).

IESO has entered into Power Contracts with Generators. The agreed-upon reference prices and future quantities set out therein were determined based on commitments made by IESO to provide Generators with long-term price certainty, so as to encourage the long-term construction and development of facilities for the purpose of generating electricity 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 and feed in tariff programs (the "Green Generation Initiative"). The terms of the Power Contracts were intended to approximate the anticipated useful life of the related generation assets; however, it has been determined that the useful life of many of these assets will be well in excess of the actual term of the related Power Contracts and will extend over more than one generation of ratepayers. The long-term benefits of the Green Generation Initiative accrue over time and have benefited and will benefit present and future ratepayers of the Province. Currently, market prices for electricity are less than the reference prices set out in the Power Contracts, leaving a gap in funding which is funded by charging ratepayers a "Global Adjustment" (part of which is available to IESO to pay this shortfall).

Each month, the IESO determines the Global Adjustment payable by consumers for the consumption of electricity in the Province. A component of the Global Adjustment is the amount by which the reference prices in the Power Contracts exceed the market price for electricity for the quantities of electricity specified under the Power Contracts for the relevant period. The relationship between the past, present and future benefits to Ratepayers from the Green Generation Initiative, on the one hand, and the costs of the Green Generation Initiative borne by past, present and future Ratepayers through their respective allocations of the Global Adjustment, on the other hand, do not necessarily reflect an equitable allocation of such benefits and costs over time, with the result that an adjustment may be appropriate to address inter-generational fairness considerations. Such an adjustment should reflect principles and parameters that can be applied from time to time in order to establish a reasonable basis for measuring and allocating the relative costs and benefits of the Green Generation Initiative across present and future Ratepayers. A plan to allocate such costs and benefits equitably across present and future Ratepayers may be developed based on those principles and parameters (a "Fair Allocation Plan").

If a Fair Allocation Plan determines that the equitable allocation of the Global Adjustment to the Ratepayers of a particular time period in respect of the Power Contracts should be reduced

below the amount otherwise determined, the amount payable by such Ratepayers to Electricity Distributors in respect of such period, and in turn by the Electricity Distributors to the IESO, would, in the aggregate, be less than the amount payable by the IESO to the Generators under the Power Contracts in respect of such period. If the difference is greater than any net Power Contract surpluses available to IESO from earlier periods, IESO will have a funding shortfall. In order for IESO to cover such a funding shortfall for a period, IESO will need to obtain funding from another source, which could include funding from third party sources operating in public and private capital markets. If a funding obligation is incurred in order to enable the IESO to cover a funding shortfall during one period, the repayment of such funding obligation will be required in a future period, and any related repayments, finance costs, hedging costs and other transaction costs will be incurred and may become payable in one or more other periods.

It will be necessary to provide a reliable and committed source of cash flows to enable IESO to repay such funding obligations and to pay related funding costs with certainty when the funding obligations become due and payable. This Part imposes irrevocable and non-bypassable financial obligations of Ratepayers to pay amounts incurred in respect of such funding obligations when they become due and payable. Such financial obligations will constitute property rights and interests, which will take the form of the Regulatory Asset contemplated in this Part. The Regulatory Asset will be sold and absolutely assigned and will belong to one or more newly created financing entities, which in turn will finance their purchase of such Regulatory Asset by incurring funding obligations. The incurrence and payment of such funding obligations will be administered on behalf the financing entities by an administrative agent (initially OPG), under the Treasury Plan contemplated in this Part. The Treasury Plan will seek to reasonably match the payment obligations arising under funding obligations and borne by the future Ratepayers of the period in which such payment obligations become due, with the costs and benefits of the Green Generation Initiative attributed to such future Ratepayers under the Fair Allocation Plan.

The purpose of this Part is to establish the basis upon which intergenerational fairness can be achieved by attributing the costs and benefits of the Green Generation Initiative to present and future Ratepayers on an equitable and cost effective basis.

Article 2 - Definitions

In this Part:

> "Absolute Assignee" means a person to whom a Regulatory Asset Owner assigns, transfers, conveys, sells, contributes, sets over, exchanges or disposes all or a specified portion (including a specified portion on a divided basis or by way of an undivided interest) of the transferring Regulatory Asset Owner's right, title and interest in, to and in respect of the Regulatory Asset.
>
> "Actual" means, in relation to costs, expenses or payments in respect of Funding Obligations during a Reference Period, the actual amount of such costs, expenses or payments paid or made (net of any Finance Reserve Withdrawals applied to pay such amounts), which amounts shall be recorded by the Administrative Agent whose records shall be determinative for the purposes of this Part in the absence of a manifest calculation error.
>
> "Additional Funding Charges" means, for a Reference Period, the fees, charges, expenses, costs, indemnities, reimbursements and other amounts (including any

applicable tax amounts) that are or become payable by the Regulated Asset Owner during the Reference Period and that were incurred or committed to directly or indirectly in connection with the incurrence of Funding Obligations under the Treasury 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 Administrative Agent on behalf of, the Regulatory Asset Owner under the Treasury Plan; (b) any federal, provincial or local taxes, payments in lieu of taxes, franchise fees or license fees imposed on the Regulatory Asset Owner or incurred by the Regulatory Asset Owner under any obligation to pay tax gross-up amounts to counterparties under Funding Obligations; (c) any amounts payable to the Administrative Agent, including amounts payable to its advisors and outside counsel; (d) any amounts incurred to prepare, confirm, amend and implement the Treasury Plan; (e) any amounts payable to any Alternative Collection Agent or Alternative Invoicing Agent, 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 Regulatory Asset Owner; (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 placement fees, underwriting fees, fees and related issuing expenses; (m) any rating agency fees; and (n) any other related fees, charges, expenses, costs, indemnities, reimbursements and other amounts that are approved in good faith for recovery and payment under the Treasury Plan.

"Administrative Agent" means [OPG] or, following any Replacement Event, such other person or persons who may be appointed as the administrative agent of the Regulatory Asset Owner under the Treasury Plan in compliance with the requirements set out in Schedule 2.

"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 Owner.

"Alternative Invoicing Agent" means a person appointed under Section 4(8) to assume the invoicing and other activities of any Electricity Distributor under Article 4, as agent for and on behalf of the Regulatory Asset Owner.

"Attribution Methodology"[1] means the methodology [specified in the Fair Allocation Plan? [DRS question not Blakes]] for allocating the Period Transition Charges for a Reference Period to the individual Ratepayers of the applicable Ratepayer Group.

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[1] A key question will be how the overall costs will be spread across the rate base. For simplicity, overall costs could be spread across the rate base based on a *per capita* (ratepayer) concept. This would mean that all consumers who are invoiced in a month would pay the same Transition Charge, and to the extent that the invoiced amounts (i.e., the Transition Charges billed for a month) are higher or lower than the actual costs, due to a change in the Consumer Base, that difference should (among other things) be reflected in the True-Up calculation for the relevant reference period (see "Collected Amount Adjustment"). To the extent that a different allocation method is adopted (such as

"Collected Amount Adjustment" means, in respect of a Reference Period, the amount (which may be a negative amount) calculated by the Administrative Agent equal to (a) the Estimate of the Finance Amount for the Reference Period, minus (b) the sum of all Transition Charge Collections for the Reference Period.[2]

["Consumer Base" means, for a Reference Period, the total number of Ratepayers in the Ratepayer Group determined by the Administrative Agent as of the [third] Business Day immediately preceding the first day of the Reference Period.] [Probably not available - DRS]

"Disposition" means an assignment, transfer, conveyance, sale, contribution, set-over, exchange or other disposition of all or a specified portion (including a specified portion on a divided basis or by way of an undivided interest) of a Regulatory Asset Owner's right, title and interest in, to and under the Regulatory Asset to an Absolute Assignee.

"Electricity Distributor" means, in respect of a Service Area, the distributor of electricity to residences located in such Service Area.

"Electricity Distributor Remittances" means, for an Electricity Distributor on a Remittance Date, all Transition Charge Collections received by the Electricity Distributor prior to the Remittance Date and that have not otherwise been remitted to IESO 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.

"Electricity Invoice" means an invoice issued by an Electricity Distributor (or in its stead, an Alternative Invoicing Agent) in respect of electricity charges and related services and amounts incurred, assessed or attributed in respect of a residence located in the Electricity Distributor's designated Service Area.

"Estimate" means, in relation to costs, expenses or payments in respect of Funding Obligations for a Reference Period, the estimated amount of such costs, expenses or payments determined by the Administrative Agent 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 Part in the absence of a manifest calculation error.

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

"Finance Amount" means, in respect of a Reference Period, the sum (without duplication) of the following amounts for the Reference Period: (a) Repayments; (b) Funding Costs; (c) Redemption Amounts; (d) Finance Reserve Deposits; and (e) Additional Funding Charges.

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based on actual electricity use by individual consumers), the divisor for the Transition Charge will need to be modified.

[2] This would pick up adjustments based on actual collection experience, changes in the Consumer Base, changes in the actual costs (versus earlier estimates) included in the Transition Charge calculation, etc.

"Finance Receipts" means, for a Reference Period, all amounts received by or on behalf of the Regulatory Asset Owner 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 Regulatory Asset Owner under derivatives and any 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 a Funding Obligation.

"Finance Reserve Deposits" means, for a Reference Period, the amount by which (a) deposits made or to be made 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 Treasury Plan, exceed (b) any Finance Reserve Withdrawals.

"Finance Reserve Withdrawals" means, for a Reference Period, the amount withdrawn during the Reference Period from deposits previously made to pre-fund, collateralize, over-collateralize or establish reserves for the payment of Funding Obligations or to pay amounts in respect of related contingencies that had been specified in the Treasury Plan.

"Funding Costs" means, for a Reference Period, 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 Regulatory Asset Owner during the Reference Period in respect of all 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 a Funding Obligation, exceeds (b) the aggregate of all Finance Receipts for the Reference Period.

"Funding Obligation" means each payment obligation (including indebtedness, payment obligations arising under or in respect of derivatives, payment obligations owing to service providers, administrative agents, finance entity intermediaries, capital markets intermediaries, advisors, lenders, credit enhancement providers, liquidity providers, disbursement counterparties, regulatory agencies and rating agencies) incurred by the Regulatory Asset Owner under the Treasury Plan in order to fund a Funding Shortfall for a Reference Period, including any Refinancing of another such payment obligation.

"Funding Shortfall" means, for a Reference Period, (a) the amount, if any, by which (i) the IESO Power Contract Net Payment for the Reference Periods, exceeds (ii) the GA Power Contract Contribution for Reference Period, minus (b) the IESO Applied Surplus for the Reference Period.

The new legislation will include many new defined terms. One important term will be "Funding Shortfall" (or equivalent wording). This will be the net reduction in cash flows to IESO as a result of the reallocation of a portion of the Global Adjustment to later periods of time. Currently, the "Funding Shortfall" would be

limited to the Global Adjustment attributable to the procurement contracts, but this is a question that still has to be settled.

"GA Power Contract Contribution" means, for a Reference Period, the aggregate of the payments to be made by the applicable Ratepayer Group in respect of the portion of the Global Adjustment attributable to the Power Contracts in accordance with the Fair Allocation Plan.

"Generator" means a generator of electricity that is subject to this Act.

"Global Adjustment" means the amount calculated from time to time under [Section • of the *Electricity Act*], which includes among other things an amount determined in respect of the costs associated with the Green Generation Initiative, including amounts attributable to the Power Contracts.

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

"IESO Applied Surplus" means, for a Reference Period, the lesser of (a) the amount, if any, by which (i) the IESO Power Contract Net Payment for the Reference Periods, exceeds (ii) the GA Power Contract Contribution for Reference Period and (b) the IESO Unapplied Surplus on the last day of the immediately preceding Reference Period.

"IESO Power Contract Net Payment" means, for a Reference Period, the amount by which (a) the sum of amounts payable by IESO to the Generators to IESO under all Power Contracts for the Reference Period, exceeds (b) the sum of amounts payable by the Generators to IESO under all Power Contracts for the Reference Period.

"IESO Power Contract Net Receipt" means, for a Reference Period, the amount by which (a) the sum of amounts payable by the Generators to IESO under all Power Contracts for the Reference Period, exceeds (b) the sum of amounts payable by IESO to the Generators to IESO under all Power Contracts for the Reference Period.

"IESO Remittances" means, for a Settlement Date, all Electricity Distributor Remittances received by IESO or if applicable the Alternative Collection Agent prior to the Settlement Date and that have not otherwise been remitted to the Regulatory Asset Owner in accordance with Section 5(6), including the proceeds of any enforcement action undertaken by IESO or if applicable the Alternative Collection Agent to recover payment of amounts payable by Electricity Distributors to IESO in accordance with Article 5.

"IESO Unapplied Surplus" means, at a particular time, the amount, if any, by which (a) the sum of (i) all IESO Power Contract Net Receipts for Reference Periods occurring prior to the time, and (ii) all GA Power Contract Contributions for Reference Periods occurring prior to the time, exceeds (b) the sum of (i) all IESO Power Contract Net Payments for Reference Periods occurring prior to the time, and (ii) all IESO Applied Surpluses for Reference Periods occurring prior to the time.

"Period Transition Charge" means, for a Reference Period, the sum of (a) the Estimate of the Finance Amount and (b) the True-Up Amount in respect of the immediately preceding Reference Period.

"Pledge" means a lien, mortgage, charge, right of set-off or security interest granted to or in favour of a Pledgee by a Regulatory Asset Owner in, to and over all or a specified portion (including a specified portion on a divided basis or by way of an undivided interest) of the Regulatory Asset.

"Pledgee" means a person to whom [or for whose benefit] a Regulatory Asset Owner grants a Pledge.

"Power Contracts" means long-term power contracts entered into by IESO with certain Generators, under which IESO has agreed to pay such Generators amounts, determined in respect of quantities of electricity over specified periods, to the extent that applicable market prices for such quantities of electricity during a specified period are less than specified reference prices for such quantities of electricity, and, correspondingly, Generators have agreed to pay IESO amounts if the market prices for such quantities exceed the applicable reference prices for such quantities.[3]

"Province" means Her Majesty the Queen in right of Ontario.

"Ratepayer" means present and future [retail] consumers of electricity [in Ontario] who are [RPP][or OREC-eligible] consumers, which shall include all such retail consumers who are connected to the transmission and distribution system assets located in Ontario and who are taking electric delivery service within Ontario, whether or not such retail consumers produce their own electricity or purchase electric generation services from a provider of electric generation services other than the owner of the Province's transmission and distribution system assets and whether or not the transmission and distribution system assets continue to be owned or operated by Electricity Distributors or IESO.[4]

"Ratepayer Group" means, in relation to a Reference Period, the Ratepayers who receive Electricity Invoices during the Reference Period.

"Redemption Amount" means the amount payable by or on behalf of a Regulatory Asset Owner to redeem, prepay or repurchase a Funding Obligation, including any premium, make-whole or other additional amount becoming payable under the Funding Obligation to give effect to such redemption, prepayment or repurchase.

"Reference Period" means (a) the period from (and including) the [Legislation Implementation Date] to (and including) June 30, 2017, (b) each six month period commencing [July 1st and January 1st] thereafter and (c) any other period specified as such in the Fair Allocation Plan.

"Refinancing" means that a Funding Obligation is repaid or repurchased for cancellation by or on behalf of the Regulated Asset Owner by applying the net proceeds obtained by the Regulated Asset Owner incurring one or more other Funding Obligations.

"Regulatory Asset" means the property right and interest described in Section 6(1).

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[3] Should this contemplate the possibility of additional or amended power contracts?

[4] Need to describe consumers in a fashion that is broad and not weakened by a bypass risk.

separate account for ~~[illegible]~~ Transition charge reports

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

"Regulatory Asset Owner" means, collectively, (a) IESO, to the extent that it has retained any ownership interest in, to or under the Regulatory Asset and (b) each Absolute Assignee, to the extent that it has acquired and owns any ownership interest (including a specified portion on a divided basis or by way of an undivided interest) in, to or under the Regulatory Asset, which together own the entirety of the Regulatory Asset and are required to exercise their individual rights of ownership in accordance with Section 6(7).

"Related Generation Assets" means the [facilities, plants and equipment] constructed, acquired or developed in connection with the Green Generation Initiative.

"Related Rights" means all rights of any kind (whether in tort, contract or otherwise) of the Regulatory Asset Owner that attach or are attendant or incidental to any of the other property rights or interests that comprise the Regulatory Asset.

"Remittance Date" means, in respect of an Electricity Distributor, each day on which it is required to remit Electricity Distribution Remittances to IESO or if applicable the Alternative Collection Agent in accordance with any Funding Obligation or, if no such day is specified in relation to any Funding Obligation, then the Business Day preceding each Settlement Date.

"Repayment Obligation" means an obligation to repay, redeem or repurchase, or to provide for the repayment, redemption or repurchase (including by making a Finance Reserve Deposit) of, all or a portion of the amount advanced to the Regulatory Asset Owner under a Funding Obligation.

"Repayment" means a payment by a Regulatory Asset Owner made to satisfy a Repayment Obligation, other than to the extent that the payment is made by applying the proceeds of a Refinancing.

"Replacement Event" means any event specified as such in a Funding Obligation.

Another important defined term that is worth noting is "Replacement Event". This is an event under which the market would want to replace a person who has responsibility to take essential actions under the program (including LDCs, IESO and OPG), like invoicing and collecting amounts. The triggering events are likely to include insolvency and breach of duty/obligation.

"Service Area" means, in respect of an Electricity Distributor, the geographic area or region in which it is [permitted] to distribute electricity to residences in accordance with this Act.

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

"Treasury Plan" means the written plan prepared by the Administrative Agent **[OPG]** in compliance with Article 8 to set forth the basis upon which, among other things: (a) any Disposition **[securitization sale to the OPG Financing Entity]** may be made or effected; (b) any Funding Obligations may be incurred in order to fund a Funding Shortfall, including any Refinancing; **[securitization debt issued by the OPG Financing Entity]** any Pledge may be given or effected; (d) any Funding Obligations may be redeemed, prepaid, repurchased, amended or otherwise effected; (e) any obligations for Additional Funding Charges may be incurred and paid; (f) any Repayments, Funding Costs and Redemption Amounts may be paid or provided for; (g) any Finance Reserve Deposits may be made; and (h) the cash flows arising from time to time or otherwise derived from the Regulatory Asset may otherwise be applied.

Another important defined term will be "Treasury Plan". This will be the written plan prepared by OPG relating to the sale of the "regulatory asset(s)" to the OPG Financing Entity (sometimes previously referred to as the "Financing Trust") and the debt issued by the OPG Financing Entity to the markets.

"Transition Charge" means, in respect of a Reference Period, [one-sixth] of the Period Transition Charge, [divided by the Consumer Base[5]].

Another key defined term is "Transition Charge". This is the amount that will be calculated and applied to the "deferral consumers", based on the amounts of payments due under funding obligations incurred to cover the funding shortfall (i.e., what we have until now been calling "deferral repayments").

"Transition Charge Collection" means any amount received or deemed by this Part to have been received upon the collection of a Transition Charge paid by or on behalf of a Ratepayer, 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 Administrative Agent equal to (a) the Estimate of the Finance Amount for the Reference Period, minus (b) the Actual Finance Amount for the Reference Period, plus (c) the Collected Amount Adjustment.

Another defined term will be "True-up Amount". This is a key provision for the market. It allows for a catch-up for estimate/actual adjustments and to address consumer non-payment credit losses.

"Undertaking of the Province" means the undertaking of the Province given under Section 10(2).

A further defined term will be "Undertaking of the Province". This will be a promise by the Government not to impair the program. This will be expected by the market, even though it will be understood that there may be issues for investors to enforce the promise, or get damages if there is a breach.

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[5] See footnote 1, above.

"Unrecovered Transition Costs" means the [unrecovered][unamortized] costs incurred in connection with the creation, adoption and implementation of the Green Generation Initiative, including any negative value of the Power Contracts and [other].

Article 3 – Transition Charges

(1) **Ratepayer Obligation to Pay a Transition Charge** – Each Ratepayer shall pay each Transition Charge attributed to it and specified as such in any Electricity Invoice issued to such Ratepayer by its Electricity Distributor or by an Alternative Invoicing Agent under Section 4(1), in each case on the terms of payment specified in the related Electricity Invoice.

Each consumer in the class of ratepayers to which this program applies (previously referred to as the "deferral consumers") will have a direct statutory obligation to the OPG Financing Entity to pay its share of the deferral repayments (principal, interest, financing costs).

(2) **Indebtedness of Ratepayers** – Until paid, a Transition Charge attributed to a Ratepayer and recorded in an Electricity Invoice shall [, together with any applicable late payment fees and finance charges arising under the terms of the Electricity Invoice with respect to such Transition Charge,] constitute indebtedness of the Ratepayer to the Regulatory Asset Owner. Such indebtedness shall constitute a single and separate debt obligation owing by the Ratepayer, which subject to Article 5 may be enforced independently from any other payment obligation or indebtedness owing by the Ratepayer under the Electricity Invoice or otherwise.

This will be a debt owed by the consumer directly to the OPG Financing Entity. If it is not paid, the OPG Financing Entity can sue the consumer directly through the agreed procedures. This is identifying an explicit and identifiable revenue stream for the comfort of investors.

This debt is separate from the debt owed by the consumer to its LDC, although the LDC will be the collection agent.

(3) **No Set-Off or Reduction** – A Ratepayer may not set-off or reduce (by counterclaim, defense or otherwise) the amount payable by it in respect of any Transition Charge, including any set-off against or in respect of any amount owing or becoming payable to such Ratepayer by its Electricity Distributor, the Regulatory Asset Owner or any other person.

This debt cannot be netted out against any amount owed by the LDC to the consumer (e.g. year-end credit to consumer on equal monthly billing).

(4) **Allocation of Ratepayer Payments** – If an Electricity Distributor receives a payment made by or on behalf of a Ratepayer in respect of amounts due and payable under one or more Electricity Invoices that is less than the total amount payable thereunder, such payment shall be allocated on a *pro rata* basis to the payment of related Transition Charges and other invoiced amounts and the amount so allocated as a payment of related Transition Charges shall be deeded to constitute a Transition Charge Collection.

If a consumer pays less than its total invoiced amount, the payment will be allocated pro rata between the deferral repayment and the amounts owing to the LDC.

(5) **Transition Charges are Irrevocable** – The Transition Charges arising under or in respect of Funding Obligations incurred in compliance with the Treasury Plan (including any adjustments based on modifications to such Funding Obligations made in compliance with the Treasury Plan or as a result of amendments to the Treasury Plan made in accordance with Section 8(3)) are deemed to be irrevocable, final and effective without any further action. For greater certainty, a Transition Charge may include Finance Amounts for a Reference Period 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 whether or not the related Funding Obligation was properly incurred in accordance with the Treasury Plan. In no case shall a Funding Obligation incurred under the Treasury Plan be affected by a subsequent amendment to the Fair Allocation Plan.

This is intended to prohibit any reversal of amounts that must be paid to meet the terms and conditions of the funding obligations to be incurred under the program. The deferral repayments are due regardless of whether a financing obligation incurred under the treasury plan is consistent with government policy at the time a related payment obligation arises. If the Fair Allocation Plan is amended after a funding obligation is properly incurred, any inconsistency in the payment profile will not impair the existing funding obligation or the pass-through of related payment amounts as Transition Charges.

(6) **Anti-avoidance; No-by-pass** – Transition Charges attributed to a Ratepayer in respect of any Finance Amount incurred under with the Treasury Plan applicable at the time the related Funding Obligation was incurred may not be avoided and shall be [non-by-passable].]

The idea here tracks the U.S. transactions, which say that the obligation of a consumer to pay Transition Charges cannot be "by-passed". If a consumer leaves the grid, he or she will still be obligated. See the highlighted text in the definition of "Ratepayer" for a sense of how this may be accomplished.

This concept is a key to a rated market financing and will need to be developed further. For example, self-generating customers could be charged a flat fee (for example, equal to the amount that would be payable by the "representative" Toronto Hydro customer that underpins the current government policy on the 25% or some other basis.)

Article 4 – Invoicing of Transition Charges [Invoicing of what we had been calling Deferral Repayments]

(1) **Inclusion of Transition Charges in Electricity Invoices** – Each Electricity Distributor and if applicable any Alternative Invoicing Agent shall, as an agent of the Regulatory Asset Owner, specify the Transition Charge to be attributed to a Ratepayer 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 Invoicing Agent to the Ratepayer in respect of such Reference Period.

LDC is agent for the OPG Financing Entity. LDC must invoice the deferral consumer the deferral repayment amount - referable to the items described in "Finance Amount" (i.e., an amount already borrowed).

(2) **Calculation of the Period Transition Charge** – Not later than one month prior to the first day of a Reference Period, [IESO][6] or if applicable the [Alternative Collection Agent][7] shall calculate the Period Transition Charge applicable to the Reference Period.

IESO will calculate the total amount of deferral financing that will be repayable in an applicable [e.g. 6 month] period.

(3) **Calculation of Transition Charges** – Not later than 25 days prior to the first day of a Reference Period, [IESO] or if applicable the [Alternative Collection Agent] shall apply the Attribution Methodology to determine the Transition Charges to be attributed to the Ratepayers of the applicable Ratepayer Group.

IESO will then determine the deferral repayments due from deferral consumers based on a prescribed methodology for allocating payments to individual deferral consumers.

(4) **Notice of Transition Charges** – Not later than 20 days prior to the first day of a Reference Period, [IESO] or if applicable the [Alternative Collection Agent] shall inform each Electricity Distributor and if applicable any Alternative Invoicing Agent of the Transition Charges to be specified in the Electricity Invoices to be issued to each Ratepayer of the applicable Ratepayer Group who has a billing address in the Electricity Distributor's Service Area.

IESO will then inform each LDC of the amount of the deferral repayments to be included in the invoices issued to each deferral consumer in the LDC's service territory.

(5) **Adjustments** – The amount of any Transition Charge attributed to a Ratepayer by [IESO] and specified as such in an Electricity Invoice shall be determinative of the amount of indebtedness created thereby and owing in respect of such Transition Charge, in the absence of any manifest calculation error.

Deferral consumers cannot challenge the amount of the deferral repayment showing on their invoice unless there is a substantial calculation error.

(6) **Successors of Electricity Distributors** – Any successor of an Electricity Distributor shall be bound by the requirements of Article 4 and shall perform and satisfy all duties and obligations of such Electricity Distributor under Article 4 in the same manner and to

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[6] IESO's role will need to be discussed. Not sure if this mechanism is an IESO role or perhaps it's an OEB role. That will need to be discussed with the stakeholders. Currently, the rates for this class of customer are established by the OEB every six months having regard to the projections etc., of GA, and any variances from the prior period. This might end up fitting into that regime (although presumably we wouldn't want it to be built into the rate like GA is today- ie., it would be a separate line item). This section will also need to catch "bypass" customers.

[7] Should this be a designated government official, rather than an agent appointed by investors?

the same extent as such Electricity Distributor, including the obligation under Article 4 to impose, attribute, bill and invoice the Transition Charges.

Any successor of an LDC will be bound by the same obligations as the original LDC re: billing and collecting deferral repayments.

(7) **Successors of IESO** – Any successor of IESO shall be bound by the requirements of Article 4 and shall perform and satisfy all duties and obligations of IESO under Article 4 in the same manner and to the same extent as IESO, including the obligation to calculate and provide notice of Transition Charges.

Same for any successor of IESO.

(8) **Appointment of an Alternative Invoicing Agent** – If a Replacement Event occurs in respect of any Electricity Distributor, the Regulatory Asset Owner shall be permitted, by an instrument in writing, to appoint an Alternative Invoicing Agent to perform some or all of the obligations and duties required to be undertaken by such Electricity Distributor under this Article 4, as and to the extent specified in such appointment. Upon acceptance of such appointment, the Alternative Invoicing Agent shall become obligated to perform such assumed obligations in replacement of such Electricity Distributor. Any Electricity Distributor that is replaced under this Section 4(8) shall promptly transfer all rights, powers, privileges and property interests in its possession or within its control in the performance of such obligations and duties to the Alternative Invoicing 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 Invoicing Agent to perform such obligations and duties on behalf of the Regulatory Asset Owner.

If a "replacement event" (as defined in any payment obligation incurred to fund a deferral) occurs in respect of an LDC, the OPG Financing Entity can appoint someone else as the OPG Financing Entity's agent to collect deferral repayments. The LDC must sign whatever agreements and assignments are needed to enable the replacement agent to collect the deferral repayments from the LDC's deferral consumers.

(9) Regulatory Asset Owner has Standing – The Regulatory Asset Owner may bring actions against any Electricity Distributor, IESO, Alternative Invoicing Agent or any other person who may be authorized to issue Electricity Invoices to Ratepayers for a failure to impose, attribute, bill or invoice Transition Charges. Any court of the Province [and the OEB] shall have jurisdiction over any actions brought before it by a Regulatory Asset Owner in relation to any such failure.

The OPG Financing Entity (or investors through their security) will be able to sue LDCs for failing to properly calculate or invoice the financing repayments.

(10) 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, any Alternative Invoicing Agent or any [Alternative Collection Agent] to ensure that Transition Charges are properly attributed to Ratepayers and specified as such in Electricity Invoices.

Article 5 – Collections and Remittances [Collecting and Remitting Deferral Repayments]

(1) **Duty to Collect as Agent** – Electricity Distributors or if applicable any Alternative Collection Agent shall, as an agent of the Regulatory Asset Owner, undertake [diligent efforts] to collect amounts owing by Ratepayers in respect of Transition Charges attributed to such Ratepayers in Electricity Invoices issued by the Electricity Distributor or if applicable such Alternative Collection Agent.

LDCs are agents for the OPG Financing Entity and must use diligent efforts to collect the deferral repayments from deferral consumers.

(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 Ratepayers and deposit such Transition Charge Collections into its Regulatory Asset Account. 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 be deemed to hold such amounts in trust for the Regulatory Asset Owner.

LDCs must segregate the deferral repayments from all other payments received from deferral consumers, and deposit the deferral repayments into a separate bank account dedicated to the deferral repayments. The frequency of deposit requirements may be daily, or less frequently subject to satisfying the market regarding an LDCs creditworthiness to 'commingle' funds during a month.

(3) **Electricity Distributor Remittances** – On each [applicable Remittance Date], an Electricity Distributor shall remit all Transition Charge Collections received by it from Ratepayers in respect of the related Reference Period to or to the account of IESO or if applicable the Alternative Collection Agent.

LDCs must remit all deferral repayments received from deferral consumers to the IESO.

(4) **Duty to Collect Electricity Distributor Remittances** – IESO or if applicable any Alternative Collection Agent shall, as an agent of the Regulatory Asset Owner, undertake [diligent efforts] to accept and collect Electricity Distributor Remittances.

The IESO is an agent of the OPG Financing Entity for purposes of collecting the deferral repayment remittances from LDCs. The IESO must use diligent efforts to collect such amounts.

(5) **Segregation of Electricity Distributor Remittances** – IESO and if applicable the Alternative Collection Agent shall [promptly] segregate Electricity Distributor Remittances from other payments received or held by it and deposit such Electricity Distributor Remittances into its Regulatory Asset Account. Prior to and following a deposit of Electricity Distributor Remittances having been made into its Regulatory Asset Account, IESO or if applicable any Alternative Collection Agent shall be deemed to hold such amounts in trust for the Regulatory Asset Owner.

The IESO must segregate the deferral repayment remittances from any other payments it receives, and must deposit such remittances into a bank account dedicated to the deferral repayment remittances.

(6) **IESO Remittances** – On each [Settlement Date], IESO and if applicable the Alternative Collection Agent shall remit all amounts on deposit in its Regulatory Asset Account to or to the account of the Regulatory Asset Owner.

On each settlement date (e.g., monthly) the IESO must remit all deferral repayments amounts it has received to date to the OPG Financing Entity.

(7) **Successors of Electricity Distributors** – Any successor of an Electricity Distributor shall be bound by the requirements of Article 5 and shall perform and satisfy all duties and obligations of such Electricity Distributor under Article 5 in the same manner and to the same extent as such Electricity Distributor, including the obligation under Article 5 to collect Transition Charges and make remittances of Electricity Distributor Remittances.

Any successor of an LDC will be bound by the same obligations as the original LDC re: collecting and remitting deferral repayments.

(8) **Successors of IESO** – Any successor of IESO shall be bound by the requirements of Article 5 and shall perform and satisfy all duties and obligations of IESO under Article 5 in the same manner and to the same extent as IESO, including the obligation to collect Electricity Distributor Remittances and to remit IESO Remittances.

Same for any successor of IESO.

(9) **Owners of Distribution Assets** - If any person other than an Electricity Distributor acquires distribution system assets in Ontario or invoices or collects electricity distribution rates in Ontario[8], then such person shall, if requested by the Regulatory Asset Owner, be obligated to act diligently to (a) facilitate the invoicing and collect of any Transition Charges applicable to Ratepayers in its applicable service area, including all consumers connected to the electricity distribution system assets and taking electric delivery service located within such service area; (b) allocate partial payments by Ratepayers as provided in this Part; (c) terminate service to non-paying Ratepayers on the same basis as termination of service is permitted for non-payment of electricity transmission and distribution rates; (d) exercise all enforcement rights of the Regulatory Asset Owner or Pledgee for the benefit of the Regulatory Asset Owner or Pledgee; and (e) remit any Transition Charge Collections to the Regulatory Asset Owner or Pledgee, as applicable.

(10) **Regulatory Asset Owner has Standing** – The Regulatory Asset Owner and any Pledgee may bring actions against any Electricity Distributor, IESO, Alternative Invoicing Agent, any owner of electricity distribution system assets in Ontario or any other person who may be authorized to collect electricity distribution and use charges from Ratepayers for a failure to collect Transition Charges, remit or collect Electricity Distributor Remittances or remit IESO Remittances under Article 5. Any court of the Province [and the OEB] shall have jurisdiction over any actions brought before it by a Regulatory Asset Owner in relation to any such failure.

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[8] This is in anticipation of a possible future restructuring of the distribution system. Also, this would cover any OREC-eligible customer (market participant) of IESO.

The OPG Financing Entity (and any person granted a security interest in the "regulatory asset") can sue LDCs or IESO for failing to collect and remit deferral repayments.

(11) **Appointment of an Alternative Collection Agent** – If a Replacement Event occurs in respect of any Electricity Distributor or IESO, the Regulatory Asset Owner shall 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 an 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 Regulatory Asset Owner.

If a "replacement event" (as defined in any payment obligation incurred to fund a deferral) occurs in respect of an LDC or the IESO, the OPG Financing Entity can appoint someone else as the OPG Financing Entity's agent to collect and remit deferral repayments. The LDC (or IESO, as applicable) must sign whatever agreements and assignments are needed to enable the replacement agent to collect and remit the deferral repayments. "Replacement Events" are necessary to investors to safeguard against a person holding money in a distressed circumstance.

(12) **No Set-off, etc.** - The Regulatory Asset, including rights in Transition Charges, Transition Charge Collections, and the interests of the Regulatory Asset Owner, any Absolute Assignee and any Pledgee therein, may not be setoff or reduced (including by counterclaim, surcharge or defense0 by any Ratepayer, any Electricity Distributor, IESO, 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, IESO, Alternative Collection Agent or any owner of distribution system assets in the Province, any affiliate or successor thereof or any other entity or otherwise.]

The deferral repayments cannot be netted out against any amounts owed by the party responsible for collecting those repayments.

(13) **Sequestration** – If any Electricity Distributor, IESO, Alternative Collection Agent or any owner of distribution system assets in Ontario or any other person or entity authorized to collect Transition Charges, defaults on any required remittance of Transition Charge Collections, Electricity Distribution Remittances or IESO Remittances under Article 5, any court in the Province, upon application by a Regulatory Asset Owner or Pledgee and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the Transition Charge Collections, Electricity Distribution Remittances and IESO Remittances, as applicable, for the benefit of the Regulatory Asset Owner or Pledgee.] [Such order shall remain in full force and effect

notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to any Electricity Distributor, IESO, Alternative Collection Agent or any owner of distribution system assets in the Province or other person or entity authorized to collect Transition Charges, as applicable.

If any LDC or the IESO fails to remit deferral repayments, the OPG Financing Entity can get a court to order the LDC (or IESO, as applicable) to do so.

(14) 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 Collection Agent to ensure that rights, interests, entitlements, benefits and proceeds in, to, under and from the Regulatory Asset are of fully realized by the Regulatory Asset Owner.

Article 6 – The Regulatory Asset

(1) Composition – The Regulatory Asset shall constitute a property right and interest of the Regulatory Asset Owner in the following:

a. the present and future obligations and indebtedness of each Ratepayer to pay Transition Charges attributed to the Ratepayer from time to time in accordance with Article 2, together with all related late payment fees or interest charges arising in respect thereof under the related Electricity Invoices;

b. the present and future obligations of each Electricity Distributor and if applicable the Alternative Invoicing Agent to impose, attribute, bill and invoice the Transition Charges in accordance with Article 4;

c. the present and future obligations of each Electricity Distributor and if applicable the Alternative Collection Agent to remit amounts received by it in respect of Transition Charges as Electricity Distributor Remittances to or to the account of IESO 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 4;

the present and future obligations of IESO and if applicable the Alternative Collection Agent to accept Electricity Distributor Remittances and to remit IESO Remittances to or to the account of the Regulatory Asset Owner, 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 4;

e. all Transition Charge Collections;

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

g. all Related Rights; and

h. all proceeds of or derived from the foregoing.

The Regulatory Asset and the property rights and interests therein shall exist whether or not Transition Charges have been imposed, attributed, invoiced, accrued or collected and notwithstanding that the imposition, attribution, invoicing and collection of Transition Charges will depend on further actions that may not have occurred.

The "regulatory asset" consists of the following:

- **present and future statutory obligation of:**
  - **deferral consumers - to make all deferral repayments (including interest and late payment fees)**
  - **LDCs - to invoice the deferral consumers for the deferral repayments and to remit the amounts collected to the IESO**
  - **IESO - to receive and remit the deferral repayments from LDCs to the OPG Financing Entity**
- **All deferral repayment amounts collected**
- **All amounts in LDC or IESO deferral payment bank accounts**

(2) **Validity of Dispositions** – Despite any limitations or restrictions on a Disposition that may arise by contract or by operation of any applicable law of the Province [or any consent requirement applicable to a Disposition that may arise by contract or by operation of any applicable law of the Province], a Disposition by a Regulatory Asset Owner made under the Treasury Plan shall be permitted and when made shall be valid and enforceable in accordance with its terms and shall be effective to confer upon the Absolute Assignee a valid property right and interest in, to and under the Regulatory Asset (or relevant portion thereof) in accordance with the terms of such Disposition [, provided that the description of Regulatory Asset in the agreement giving effect to the Disposition expressly refers to this Part]. [Other than as required by the Treasury Plan, no consent of any person shall be required to give effect to a Disposition.] Without limiting the foregoing, any Disposition that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as a true sale and absolute transfer of the Regulatory Asset Owner's applicable right, title, and interest in, to and under the Regulatory Asset (or relevant portion thereof), and not merely as a Pledge thereof. A Disposition shall not be subject to recharacterization or challenge on any other basis and the validity of a Disposition shall not be affected or impaired by: (a) the commingling of revenues or other proceeds from Transition Charges with other amounts; (b) the retention of any interest (including any partial, residual or subordinated interest, whether direct or indirect) in the Regulatory Asset by the transferring Regulatory Asset Owner; (c) any right to repurchase the Regulatory Asset in favour of the transferring Regulatory Asset Owner; (d) any recourse that an Absolute Assignee may have against the transferring Regulatory Asset Owner; (e) any indemnification rights or obligations provided by the transferring Regulatory Asset Owner; (f) any obligation of the transferring Regulatory Asset Owner to collect and remit Transition Charge Collections on behalf of an Absolute Assignee, including but not limited to, any retention by the transferring Regulatory Asset Owner to bare legal title for the purpose of collecting

Transition Charges; or (g) the ascribed or intended treatment of the Disposition by the transferring Regulatory Asset Owner or the Absolute Assignee on any different basis including for tax, financial reporting or other purposes.

This section is reinforcing by statute the "sale" of the asset to the Financing Entity. This has been an important feature of the legislation in other jurisdictions in similar circumstances. Specifically, it says that "Dispositions" of the Regulatory Asset are "true sales", and not subject to challenge. This is an essential requirement for a securitization transaction. This provision identifies possible grounds for a challenge that a sale took place and indicates that those events do not affect the validity of the sale.

(3) **Deemed Perfection and Priority of Dispositions** – At the time a Disposition is made, the absolute assignment of the property rights and interest in the Regulatory Asset subject to the Disposition shall be deemed to have been and shall be perfected, vested, valid and binding as against the transferring Regulatory Asset Owner and all other persons who have claims of any kind (whether in tort, contract or otherwise) against the transferring Regulatory Asset Owner, irrespective of whether such persons have notice of the Disposition and the property rights and interests acquired by the Absolute Assignee under such Disposition shall have priority over any liens in favour of such other persons.

This is reinforcing the automatic nature of the "sale" of the asset. It Provides for a clean sale to the OPG Financing Entity, free and clear of encumbrances (i.e., no specific need to "perfect" the sale.

(4) **Validity of Pledges** – Despite any limitations or restriction on a Pledge that may arise by contract or by operation of any applicable law of the Province [or any consent requirement applicable to a Pledge that may arise by contract or by operation of any applicable law of the Province], a Pledge by a Regulatory Asset Owner may be made to secure any 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 Regulatory Asset in accordance with the terms of the Pledge[, provided that the description of Regulatory Asset in the agreement giving effect to the Pledge expressly refers to this Part]. Other than as required by the Treasury Plan, no consent of any person shall be required to give effect to a Pledge made to secure any Funding Obligation.

Statutory override permitting the OPG Financing Entity to give a security interest in the "regulatory asset" to investors. This would give the investors (through an indenture) the right to enforce collection of the deferral repayments to pay off amounts owed by the OPG Financing Entity to the investors upon certain defaults by the OPG Financing Entity under an indenture.

(5) **Deemed Perfection and Priority of Pledges** - Any Pledge made by a Regulatory Asset Owner in accordance with the Treasury Plan shall be deemed to have been and shall be perfected, valid and binding from the time when the Pledge is made and shall be valid and binding as against the Regulatory Asset Owner making the Pledge and all other persons who have claims of any kind (whether in tort, contract or otherwise) against the pledging Regulatory Asset Owner, irrespective of whether such persons have notice of the Pledge and the security interests of the Pledgee under such Pledge shall have

priority over any liens in favour of such other persons. All proceeds of the Regulatory Asset that are subject to such a Pledge that are received by the Regulatory Asset Owner shall immediately be subject to the such Pledge, and such proceeds shall be perfected, without any physical delivery thereof, registration of any financing statement with respect thereto pursuant to the [PPSA] or any other further act. A Pledge 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 Regulatory Asset subject to the Pledge unless the Pledgee has otherwise agreed in writing. Any Pledgee shall have a perfected security interest in revenues or other proceeds 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 revenues or other proceeds with other funds. [A Pledgee shall cause a financing statement to be filed in respect of a Pledge for informational purposes only under the [PPSA].

This is reinforcing that a commercial pledge given by OPG Financing Entity is valid and will have priority without specific "perfection". The result is that a pledge of the Regulatory Asset as security in accordance with the Treasury Plan will be given priority to other claims. The Pledge includes proceeds from the Regulatory Asset and is not affected by comingling or the ordinary requirement to file a financing statement under the PPSA.

(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.

(7) **Collective Action Required** – If a Regulatory Asset Owner's right and interest 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 joint] basis with each other Regulatory Asset Owner, and any agreement among all of the Regulatory Asset Owners in furtherance of such collective action shall be valid and binding on each Regulatory Asset Owner and each Absolute Assignee, Pledgee and successor of a Regulatory Asset Owner in accordance with its terms.

This anticipates that the Regulatory Asset will be structured as a variable interest that can be divided between IESO (until it sells) and one or more OPG Financing Entitys. The likely format will be a co-ownership agreement, that will allow for different owners to have a fractional undivided ownership interest in the Regulatory Asset. Those will entitle the owners to a specified share of the cash flows, which will correspond to their finance payment obligations. This will allow for future financing flexibility.

Article 7 – Establishment of the Fair Allocation Plan

(1) **Adoption of the Fair Allocation Plan** – The Minister of Energy may by written order designate and adopt a Fair Allocation Plan in compliance with Article 7. The Fair Allocation Plan so designated and adopted shall be the Fair Allocation Plan for all purposes of this Part, except if amended, amended and restated or terminated by a further written order issued by the Minister of Energy [in compliance with Section •].

The Minister of Energy can establish a "fair allocation plan"

The purpose of the plan is generally to try and reallocate the portion of GA attributable to the procurement contracts over the anticipated useful life of the generation assets under those contracts. This is the intergenerational funding of the Green Generation Initiaitve.

One policy question is whether the amounts deferred and the period over which the deferred amounts are repaid are to be limited to the portion of GA attributable to the procurement contracts and to the anticipated useful life of the generation assets under those contracts. From a constitutional validity perspective (and hence a financeability perspective) these limits are very important. Modelling to verify this link is required.

(2) **Principles and Parameters** – A Fair Allocation Plan shall seek to allocate Unrecovered Transition Costs across present and future Ratepayer Groups on a basis that the Minister of Energy, in its sole and absolute discretion, determines to be equitable, having regard to the following principles and parameters[9]:

1. Unrecovered Transition Costs should be allocated over a period not to exceed the later of (a) the estimated remaining useful life of the Related Generating Assets and (b) the remaining term of IESO's commitments under the Power Contracts.

2. The Fair Allocation Plan should specify the Reference Periods (e.g., 6 month periods), for the purpose of identifying applicable Ratepayer Groups and allocating among them responsibility to bear the Unrecovered Transition Costs on a relative basis over time.

3. The share of Unrecovered Transition Costs allocable to a particular Ratepayer Group in respect of a Reference Period should be proportionate to a reasonable assessment of the benefits of the Green Generation Initiative to the Ratepayer Group over such Reference Period.

4. The estimated Unrecovered Transition Costs to be allocated to a Ratepayer Group and any future Ratepayer Group at a particular time should not exceed the estimated value of the Related Generating Assets based on their remaining useful lives or terms, measured in respect of the period following such particular time.

5. No future Ratepayer Group should bear an unreasonably disproportionate share of the Unrecovered Transition Costs. Except in exceptional circumstances or in the case of any backward-looking adjustment made as contemplated in 7, below, the share of the Unrecovered Transition Costs to be allocated under a Fair

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[9] We have provided a few examples of what could be the basic principles. These will depend on market considerations, the Province's decision on the required amount of detail and the ability to sustain the legal basis for the program. These examples are not meant to suggest the appropriate balance – just illustrative to advance a discussion among the stakeholders.

Allocation Plan to any future Ratepayer Group should have regard to [Insert formula if a year-over-year maximum amount is determined to be appropriate][10].

6. A reasonable estimate of the rate of inflation should be applied to equate the relative values of the nominal amount of Unrecovered Transition Costs to be allocable to Ratepayer Groups over time.

7. Backward-looking adjustments to a Fair Allocation Plan may be made to achieve a fair distribution among Ratepayers of the benefits of the Green Generation Initiative to that Ratepayer Group over an applicable Reference Period, including to provide an abatement to one or more Ratepayer Groups to the extent that one or more earlier Ratepayer Groups are considered by the Minister of Energy to have borne an unfair share of the Unrecovered Transition Costs.

Based on this initial description (which is only illustrative to advance the initial stakeholder discussion), the Minister would determine the details of the "fair allocation plan", but must take into consideration the following principles:

- **The deferred GA costs should be spread over a period not exceeding the anticipated remaining useful life of the generation assets under the procurement contracts**

- **The plan should specify the length of the "reference periods", to identify which deferral consumers are responsible for which deferral repayments**

- **The share of the deferral repayments to be allocated to deferral consumers in each "reference period" should reflect a reasonable assessment of the remaining anticipated useful life of the generation assets under procurement contracts and perhaps to the benefits received by those deferral consumers from the procurement contracts (e.g. transition off coal)]**

- **No deferral consumer group should bear a unreasonably disproportionate share of the deferral repayments. That could be limited to a maximum amount, determined on a formula basis, if it makes sense to the stakeholders**

- **In making the allocations, real (i.e. inflation-adjusted) dollars should be usedThe fair allocation plan is made using forward-looking information and projections.**

- **If, after the fact, the Minister determines that a Ratepayer Group paid more than would otherwise would have been the case had the projections for such period been accurate or other considerations come to light, adjustments to the plan could be made.**

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[10] Consider if a quantitative limit needs to be included in the legislation.

(3) **Attribution Methodology** – The Fair Allocation Plan shall specify an objective methodology (the "Attribution Methodology") for the purposes of allocating the Period Transition Charges across all of the Ratepayers of a particular Ratepayer Group. The Attribution Methodology shall result in an attribution of such Transition Charges that are considered by the Minister of Energy to be equitable, and may have regard to such principles and parameters as may be further set forth in a Regulation. [may have regard to considerations such as their relative electricity usage rates and usage patterns; the relative geographic density of individual Ratepayer's residence *[See basis for GA allocation method for other principles]]*

The program will need to define how deferral consumers will be allocated a share of aggregate adjustment amount

(4) **[Confirmation][Review] of the Fair Allocation Plan** – [OEB?]

Consideration will be needed regarding the level of review and confirmation of the plan is needed or appropriate. For example, should the scope of review be limited to calculations only? If there is a need for review, then consideration will be needed as to who will be the reviewer and under what authority, etc.

Article 8 – The Treasury Plan

(1) **Power to Prepare and Implement the Treasury Plan** – The Administrative Agent shall prepare and propose the adoption of a Treasury Plan that is consistent with the principles, parameters, requirements and conditions set forth in Schedule 3, together with and subject to such conditions and requirements as may be specified in a further written order of the Minister of Energy or in accordance with the Regulation. If the Administrative Agent is unwilling or unable to prepare and propose the adoption of a Treasury Plan, the Minister of Energy may by written order designate one or more other persons to prepare and implement such a Treasury Plan.

The "Treasury Plan" will be prepared by OPG. It must follow the requirements set out in this Part. Accounting considerations will need to be factored into this delegation, as well as the degree of province input initially and on an on-going basis. [Note for leg counsel: We will need to create the necessary sub-delegation authority]

(2) **Required Terms and Conditions of the Treasury Plan** – The Treasury Plan shall establish the basis for funding decisions that have the effect of allocating the Unrecovered Transition Costs across present and future Ratepayer Groups on a basis that is consistent with the Fair Allocation Plan. The Treasury Plan shall be consistent with the principles, parameters, requirements and conditions set forth in Schedule C.

The Treasury Plan will establish the basis for OPG making funding decisions, which will need to align with the Fair Allocation Plan.

(3) **Power to Review and Approve the Treasury Plan** – The Minister of Energy may by written order designate one or more persons to review and, if considered necessary, require and prescribe amendments of the Treasury Plan and may specify conditions and requirements in respect of such review and prescriptions as may be specified in such written order.

The Minister may designate one or more persons to review, and require changes to the Treasury Plan. (This review could also be given to the Minister.)

(4) **Consistency with the Fair Allocation Plan** - Funding Obligations should only be incurred if Repayments and Funding Costs would be borne by present and future Designated Ratepayers on a basis that is [generally] consistent with their respective allocations of the costs and benefits of the Green Generation Initiative contemplated in the Fair Allocation Plan. In that regard, at the time of setting the Fair Allocation Plan for any particular period, the aggregate amount payable during future Reference Periods on account of Funding Obligations incurred on or before the date on which a new Funding Obligation is incurred should not exceed the allocation of the costs and benefits of the Green Generation Initiative to the applicable Ratepayer Group contemplated in the Fair Allocation Plan. If, despite the foregoing, the Administrative Agent determines that the anticipated amount of any Repayment (together with payments of other Finance Amounts) to be made in respect of a Reference Period would materially exceed the allocation of the costs and benefits of the Green Generation Initiative to the applicable Ratepayer Group under the then current Fair Allocation Plan, the Treasury Plan shall require the Administrative Agent to make diligent efforts to determine whether a Refinancing or deferral of such Repayment may be reasonably and cost-effectively effected based on then prevailing market terms, conditions an circumstances, if such a Refinancing or deferral is determined to be available the Treasury Plan shall require the Administrative Agent to make diligent efforts to implement such Refinancing or deferral on a basis that is consistent with the Fair Allocation Plan.

(5) **Obligation to Apply IESO Remittances** – The Administrative Agent shall ensure that amounts transferred to it under Article 5, as agent for and on behalf of the Regulatory Asset Owner, or otherwise in respect of or as proceeds from the Regulatory Asset shall only be applied or used to pay Finance Amounts when they are due and payable and for no other purpose.[11]

OPG will need to ensure that pass-through amounts, transferred to it as agent for the OPG Financing Entity, are only used to repay the debt and related costs.

(6) **Non-Recourse** – The Treasury Plan shall be implemented so that Funding Obligations incurred shall be without recourse to or to any assets of the Electricity Distributors, IESO, any Alternative Invoicing Agent, and Alternative Collection Agent, the Administrative Agent, the OEB or the Province, other than if and to the extent that such persons or entities are liable for the performance of obligations or duties arising under this Part expressly pursuant to any Funding Obligation or obligation in relation to a Finance Amount. [All Funding Obligations shall contain a statement to the following effect: "Neither the full faith and credit nor the taxing power of the Province of Ontario is pledged to the payment of the principal of, or interest on, this [obligation].]

The Treasury Plan will provide that the investors and other contracting parties will not have recourse to the IESO, LDCs, agents, the OEB or the Province, except

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[11] We need to work in the idea that there may be Finance Reserve Deposits or other amounts that remain after paying Finance Amounts. Those surplus amounts should be credited back to Ratepayers.

where such parties fail to comply with applicable law. This may be modified in the contracts under which a financing arises.

The documentation creating the Funding Obligations must expressly state that such obligations are not guaranteed by the Province.

(7) **Incurrences are Binding** – Despite any failure to adhere to the Treasury Plan or to comply with any requirement of this Part, all amounts payable or becoming due and payable by or on behalf of the Regulatory Asset Owner under or in connection with any obligation purporting to be a Funding Obligation, shall be deemed to be binding for the purposes of this Part, including in determining the amount of Transition Charges, despite any impairment or defect resulting from such failure.

A failure to implement the Treasury will not impair the pass-through of the deferral amounts or the validity of an otherwise valid funding obligation.

Article 9 – Compliance Matters

(1) **Right of the [OEB] to Inspect Books and Records** - For the purpose of investigating compliance with the provisions of this Part, the [OEB] shall have the right, jurisdiction, power and authority to examine the books and records of any person who is or may become obligated or have duties that arise under this Part or any Funding Obligation.

OEB may be given the power to investigate compliance with the legislation and the power to examine books and records, etc.

(2) **Power to Investigate Compliance and Impose Regulatory Sanctions** - Subject to the limitations set forth regarding the irrevocability of Transition Charges and the Undertaking of the Province, nothing in this Part shall (a) prevent or preclude the [OEB] from investigating the compliance of any person who is or may become obligated or have duties that arise under this Part [or any Funding Obligation] with the terms and conditions of this Part and requiring compliance by such person therewith; or (b) prevent or preclude the authority or any successor regulator from imposing regulatory sanctions against any person who is or may become obligated or have duties that arise under this Part for its failure to comply with the terms and conditions of this Part.

This legislation will not limit the OEB's power to investigate compliance or prevent or preclude the OEB's power to impose sanctions. The OEB can investigate compliance with this part and to impose regulatory sanctions for non-compliance.

The OEB cannot, however, take any action to affect the irrevocability of the Transition Charges or the Undertaking of the Province.

(3) **[Other Rating Settings** – When setting other rates for or in respect of any person who is or may become obligated or have duties that arise under this Part, including any Electricity Distributor, IESO, Generator or the Administrative Agent, nothing in this Part shall prevent the [OEB] or any successor regulator from taking into account the collection by or attribution to such person of administrative or servicing fees in excess of

the actual incremental costs incurred by such person of providing administrative or servicing services.]

The OEB would not be precluded from taking into account the performance of duties under this Part by any entity regulated by the OEB, including fees received by such entity in excess of the incremental costs of the provision of such services.

Article 10 – Undertaking of the Province

(1) **No Action to limit, alter, or impair or terminate Transition Charges, the Regulatory Asset or Collections** – The Province may not in any way take or permit any action to reduce, impair, postpone or terminate the obligation of Ratepayers to pay Transition Charges or impair the Regulatory Asset or the collection or recovery of Transition Charge Collections, either directly or indirectly. The Province undertakes that the amount of Transition Charges determined hereunder shall not be subject in any way to reduction, impairment, postponement or termination as a result of any action taken or failure by the Province.

The Province will be prohibited from taking or permitting any action to limit, alter, or impair or terminate Transition Charges, the Regulatory Asset or collections.

(2) **Undertaking and Agreement** – The Province undertakes to and agrees with the Regulatory Asset Owner, including any Absolute Assignee from time to time, and any Pledgee from time to time, that the Province will not in any way take or permit any action that limits, alters or impairs the value of the Regulatory Asset or, except as required by the estimates and adjustments made in determining the True-up Amount, reduce, alter or impair Transition Charges that are imposed, collected and remitted for the benefit of the Regulatory Asset Owner, including any Absolute Assignee from time to time, and any Pledgee from time to time.

Under this Undertaking, the Province will agree for the benefit the OPG Financing Entity that it will not impair the value of the Regulatory Asset or the Transition Charges imposed under this Part. This "pledge" is in line with market expectations. Enforcement issues arise in this sort of undertaking, which will be assessed by the market and rating agencies based on the likelihood that a failure by the Province would lead to a successful damages claim. Unlike in the U.S., the law regarding such a claim is uncertain. Nevertheless, we expect that this sort of Undertaking will be requested in the legislation itself (i.e., requiring an act of the legislature to disavow – which is a higher bar than simply walking away from a contractual undertaking.

(3) **References to the Undertaking and Agreement** – Any non-confidential reference to the Undertaking of the Province, including in marketing materials and other documentation authorized for use by the Administrative in connection with any Funding Obligation may be made provided that [*Add conditions to protect the Province*].

Article 11 – Regulations

Regulations may be made under this Part for the purposes described in Sections •,•,• and • and may be promulgated for any of the following purposes:

(a) to set standards and measures regarding the commercially reasonable expectations of the Province associated with any Regulated Asset Owner incurring Funding Obligations or becoming obligated to pay any Finance Amount, including to establish guidelines regarding all-in funding costs; permitted Additional Funding Costs; required maturities and redemption and termination rights of Funding Obligations; liquidity requirements, in each case to a Treasury Plan that is consistent in its effect with the Fair Allocation Plan;

(b) to establish and empower one or more regulated entities to undertake decision-making activities with respect to this Part;

(c) to set out reasonable expectations regarding the appointment or retention of advisors, agents, service providers, contract counterparties, including in relation to 'market terms and conditions' parameters;

(d) to provide for audit and compliance standards applicable to those persons who are or may become obligated or have duties that arise under this Part [or under any Funding Obligation];

(e) to provide for any pre-vetting and approval requirements in relation to any incurrence by the Regulatory Asset Owner of any Funding Obligation or obligation to pay any Finance Amount; and

(f) to provide for appeal and due process considerations in connection with the establishment, adoption, implementation and review of the Fair Allocation Plan or the Treasury Plan.

The power to implement the program (and to set out some of the details of the program) through regulations is important. Decisions remain to be made (once the drafting is a little further advanced) about what provisions/details need to appear in the proposed legislation, and what provisions/details can be set out in regulations.

Article 12- Miscellaneous

(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 Ontario.

(2) **Conflict of law** – In the event of conflict between this Part 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 Part 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 Part shall be required with respect to the actions to be taken in compliance with this Part, including under the Treasury Plan or in relation to the establishment of the Fair Allocation Plan, and the transactions and contracts authorized in or contemplated by this Part or the Treasury 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 Treasury Plan.

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

(5) **Severability** - If any Article, Section, paragraph or subparagraph of this Part 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 Part are intended to be severable and that the Legislature would have enacted this Part even if any Article, Section, paragraph or subparagraph of this Part held to be unconstitutional or invalid had not been included in this Part.

Consideration will be given to whether any additional 'miscellaneous' provisions are needed (and expected by the market) to support the financing of this structure. Some of these provisions are not typical in legislation, and so will need further consideration (in consultation with leg counsel).

Schedule 1

Guidelines for Estimates

[To be considered.]

Schedule 2

Requirements Applicable to Alternative
Invoicing Agent/ Alternative Collection Agent

[To be considered.]

Treasury Plan:

princs + parameters – Ug/reg

(1) – directn to OPG to come up w/ treasurer's plan

(2) the actual treasury plan (malleable, can Δ, can be reviewed)

(3) implementn of TP – incurrg funding obligns

– once get to this pt, locked

OEB review to ensure consistency w/ TP principles + parameters

Schedule 3

Principles, Parameters, Requirements and Conditions for Establishing the Treasury Plan

Separate from the legislative provisions, we will also be preparing a very rough sketch of some of the items that might be included in the Treasury Plan direction. The sketch will be for illustration purposes only and will be for use in discussions with stakeholders including OPG and IESO.

Section [X] – Procedure to Adopt a Treasury Plan

(1) **Submission of Treasury Plan** – The person(s) designated by written order of the Minister of Energy under Section 8(1) shall prepare a Treasury Plan and submit it to the Minister of Energy and any person designed by the Minister of Energy under Section 8(2) to review such Treasury Plan [within the time period specified in such written order]/[within [•] days of such written order]. Such person(s) shall implement any changes proposed under Section [X](3) and submit the revised Treasury Plan to the **[OEB]** for approval within [within the time period specified in such written order]/[within [•] days of such written order].

(2) **Content of Treasury Plan** – Any Treasury Plan shall have regard to the following specifications:

a. A description of how the incurrence of Funding Obligations by present and future Designated Ratepayers will be on a basis that is consistent with their respective allocations of costs and benefits as contemplated in the Fair Allocation Plan;

b. The form, amount and timing of Funding Obligations under the Treasury Plan; and

c. the entities involved in the incurrence of Funding Obligations and execution of the Treasury Plan.

(3) **Review of Treasury Plan**– The Minister of Energy, or the person(s) designated by written order of the Minister of Energy under Section 8(2), shall review the Treasury Plan submitted in accordance with Section [X](1) and propose any changes to such Treasury Plan that are necessary or desirable to align the Treasury Plan with the requirements set out the [Minister's Order].

(4) **Approval of Treasury Plan** – The **[OEB]** shall have the power to and shall approve or disapprove of the Treasury Plan based solely on whether the Treasury Plan includes the specifications contemplated under Section [X](2) and whether those specifications [accord with] the assumptions, conditions, requirements and standards set out in the Treasury Plan and the order(s) of the Minister of Energy issued under Section 8(1) and 8(2). If the **[OEB]** fails to approve or disapprove any Treasury Plan within [30] days of [receiving such Treasury Plan],[12] the Treasury Plan is deemed to have been approved.

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[12] Consider whether the Minister's order should set out timelines for each of steps contemplates by this Section [X], or whether these time periods should be hard-coded into the legislation.

Section [X] – Creation of the [OPG Financing Entity]

(1) Creation of the [OPG Financing Entity] – The person(s) designated by written order of the Minister of Energy under Section 8(1) to implement a Treasury Plan may [create] one or many entities, each known as a "OPG Financing Entity" having regard to the following principles:

a. No part of the revenue or assets of a OPG Financing Entity shall enure to the benefit or be distributable to its trustees, officers or directors, as the case may be, or any other private persons, except as may be provided for actual services rendered;

b. OPG Financing Entity shall be authorized to:

i. issue bonds contemplated by a Treasury Plan and use the proceeds thereof to purchase or acquire, and to own, hold and use the Regulatory Asset;

ii. contract for servicing of the Restructuring Asset and any bonds contemplated by a Treasury Plan and for administrative services;

iii. pledge the Regulatory Asset to secure bonds contemplated by a Treasury Plan.

c. So long as any bonds contemplated under a Treasury Plan are outstanding, OPG Financing Entity shall not be authorized to merge or consolidate, directly or indirectly, with any person or entity.

d. OPG Financing Entity shall not have the power or authority to incur or guarantee or otherwise become obligated to pay any debt or obligations other than what is contemplated under a Treasury Plan.

e. OPG Financing Entity shall cause the proceeds of any bond issuance contemplated under a Treasury Plan to be placed in one or more separate accounts and used only to purchase the Regulatory Asset and pay any costs as provided for in a Treasury Plan.

f. So long as the Regulatory Asset is pledged to secure bonds issued under a Treasury Act, the OPG Financing Entity must apply revenues from the collection of Transition Charges only to repay bonds and other costs as provided for in a Treasury Plan.

(2) Governance of [OPG Financing Entity] – A person or persons that effect the creation of OPG Financing Entity shall design the governance of OPG Financing Entity having regard to the following principles:

a. **[Number of trustees]**

b. **[Replacement of trustees; vacancies; appointment of successors]**

c. **[Removal of trustees for neglect of duty or misconduct]**

d. **[Quorum and meetings]**

e. **[Fiduciary duty]**

f. **[Isolation, separateness and other "non-consolidation" and "bankruptcy remoteness" criteria]**

g. **[Delegation of powers and duties to administrative agents]**

OEB shd have role

↓

entity's rates - estbd by or appvd by 3rd p. regulator

OPG - to consolidate on their bks: power + ability to profit in order to be VIE (variable int. entity)

- contingent gitee → depends on contingencies → legn challenged + overturned

- asset backed commercial paper - banks make all the treasury decns but don't consolidate on bank's books

(3) govt bus enterprise → self-sustaining from own opns

3 criteria — no fiscal impact

① mkt opns put on IESO bks on prov

IESO ② IESO sells ~~Reg~~ asset to OPG → true sale

OPG consolidated on BS of prov on one line only → increase in asset netted out against debt to fce the asset

— how use regulatory acctg?
→ OPG follows regtory acctg
↳ deferred costs can be chgd in fut

② — OEB → regulator oversight
↳ OEB appvl of Fair Allocn Plan

talk w/ Kim Marshall from IESO + their acctts

③ IESO recogze mkt activities on its bk

— cd sell every 3 mths? → * never shows up on IESO F/S

OPG trust gets acctd for diffly than IESO

no A/R from LDC or customer
↳ haven't been billed for it yet
↳ OEB says can recover based on fut consumptn

OPG bks — no q. of recognn of intangibl asset

— banks don't consolidate their conduit

IESO key issues with draft legislation

In addition to a number of detailed drafting questions and comments, the IESO has identified the following as its key issues on the draft legislation circulated April 3, 2017:

1. Regulatory Asset / deferral amount definition –
    a. Stikeman's draft proposing language relating to the creation and transfer of regulatory asset. Property issues.
    b. Role of OEB in setting price during deferral phase and recovery phase. Important for regulatory accounting treatment.
    c. Clarity of drafting – should not be defined by what is purchased by Financing Entity, but rather by what is deferred (i.e. difference between amount invoiced to LDCs and amount collected due to price mitigation).
    d. What is included in regulatory asset? i.e. IESO financing costs, taxes? RPP forecast variance? Original RPP variance as at April 30 2017 – does this get included?
    e. Limited to GA attributable to procurement contracts? What if difference between amount invoiced to LDCs and amount collected is greater than GA attributable to procurement contracts.
    f. can asset be created in the financing entity to avoid need for sale?

2. IESO liability relating to regulatory asset –
    a. Legislation must be clear that the IESO does not have obligations/liabilities regarding the regulatory asset after it has been divested to the Financing Entity. No recourse to IESO. Amounts cannot be debts / guarantees of the IESO.
    b. IESO role collecting deferral amount – as agent, not principal.
    c. IESO cannot be obligated to make full payment of deferral amount by a certain date. Should be drafted to indicate the regulatory asset must be collected by a set date, without placing that obligation on the IESO.
    d. Important from accounting and pragmatic perspective (i.e. IESO is not for profit entity with no source of funding other than ratepayers, or primarily government backed lending).
    e. Is there possibility deferred amount is not purchased from IESO? What happens in that eventuality?
    f. What is role of IESO, as principal or as clearing house?

3. Role of IESO:
    a. in determining difference between amounts collected from eligible consumers and the amounts that LDCs owe the IESO must be understood. IESO receives payments and information regarding amounts collected from LDC consumers only from the LDCs. LDCs inform the IESO of the shortfall in the total amount invoiced by the IESO to the LDC. IESO does not generate this information itself.

deemed LDCs

   b. Collecting deferral amount from consumers. IESO will collect from LDCs, who collect from the eligible class of consumers.
   c. IESO role collecting deferral amount – as agent, not principal.
   d. IESO cannot be entity to determine recovery amounts. Needs to be another party [Ministry/OEB?] from inputs from financing entity.

4. IESO objects –
   a. We recommend that the new IESO objects relating to Fair Hydro Plan be drafted generally rather than specifically to provide flexibility for unanticipated issues.

5. Legislation structure –
   a. IESO supports a separate section for the deferral mechanisms. (i.e. separate from 25.33).

6. Recovery amount –
   a. An input into RPP price, or a separate identifiable amount?
   b. Role of OEB in determining this amount is important for accounting.

7. IESO is not borrowing from financing entity –
   a. these references in draft legislation to be removed.

8. IESO and OPG trust sale process –
   a. Need to clarify roles and obligations and make sure sale must occur or deal with what happens if it does not.

LSB Instructs (April 2-17) based on CONFIDENTIAL
GOV2016.146.e
5-TK/TP

Fair Hydro Financing Plan Act, 2017 (Hydro Financing Initiative, etc. - title TBD)

EXPLANATORY NOTE

[Insert explanatory note.]

Our current approach is to put the "Fair Hydro Plan" provisions into the Electricity Act, with consequential amendments to the Ontario Energy Board Act.

The alternative approach would involve the creation of a new statute. One reason for considering this approach might be the large number of legislative provisions supporting the Fair Hydro Plan initiative.

However, there would be significant challenges associated with having a new statute. For e.g., the Fair Hydro Plan is essentially based on a re-allocation of GA over a longer period of time, and the GA is addressed in the Electricity Act.

The current draft of the legislation would amend the EA. A significant amount of re-drafting would be required to convert this into a new statute. As such, any decision about having a new statute would have to be made promptly. We are not recommending having a separate statute, but want to raise the issue now so it can be quickly addressed.

ELECTRICITY ACT, 1998

1. (1) Section 1 of the *Electricity Act, 1998* is amended by adding the following clause:

Section 1 of the EA sets out "purposes" of the Act. We could add new purpose(s) – either here or in a new Part dealing with the Fair Hydro Plan – relating to electricity prices and intergenerational fairness (fair allocation of electricity prices). This will be important for the markets to see, and might help support the validity of the legislation from a constitutional law perspective (charge vs. tax)

[OLC Note: GGRA provisions have been removed for now. Please confirm if they should be re-inserted.]

(2) Clause 1 (f) of the Act is struck out and the following substituted:

no more than 10% total bill can be spent

(f) to protect the interests of consumers with respect to the adequacy, reliability and quality of electricity service;

(f.1) to protect the interests of consumers with respect to the prices they pay for electricity, including protection of those interests through the Hydro financing initiative;

[OLC Note: Since the Hydro financing initiative is a defined term and is clearly required to be implemented under the new substantive provisions of the Act, I'm still not sure why this needs to be addressed in the purpose clause. However, I have included a purpose provision as per your instructions.]

Article 1 – Purpose

The proposed new legislation will likely include a large number of provisions intended to support the "financeability" of the structure. As a result, it may make sense for (LSB is exploring the potential) the Bill to create a new stand-alone energy statute, much like the *Green Energy and Green Economy Act, 2009* created the *Green Energy Act, 2009*.

The new legislation would have a purpose clause that explains the objective of intergenerational fairness. This would be useful for the markets to see, and may help support the validity of the legislation from a constitutional law perspective (charge vs. tax)

x. Subsection 2 (1) of the Act is amended by adding the following definitions:

"Financing Entity" means the trust established by Ontario Power Generation Inc. under clause XX (a) or the entity prescribed for the purposes of clause XX (b); ("French")

"hydro financing initiative" means those policies of the Government of Ontario related to its decision to ensure costs to Ontario electricity consumers are allocated fairly over time, taking into account the useful life of new sources of and technologies for electricity; ("French")

[OLC Note: I have applied the precedent of the "smart metering initiative" as per your instructions. Just want to reiterate my concern that the reference to government policies is really vague (which initiative/ policies? At which point in time?) and I think this could cause lots of confusion, particularly if the policies evolve over time. It could also have unintended consequences.]

[OLC Note: To consider -- by describing the initiative as we have in the above definition, we are potentially linking the deferred amount to amounts that would otherwise be paid for by consumers as part of the GA. If the deferred amounts are not all about "the useful life of new sources and technologies" then the description of the initiative should likely be broadened. (For example, if some of the deferred amount may be used to cover high wholesale prices, one could argue that the initiative is NOT about allocating costs fairly over time… it's just about pushing the cost increase to future consumers without considering what is "fair" across the generations.]

Article 2 - Definitions

The new legislation will include many new defined terms.

We will have a definition for the "Financing Entity", which is the OPG Financing Trust or one or more other SPVs established by OPG under certain rules.

We will also have a definition for the "fair allocation plan", which is the Fair Hydro Plan. The idea is to use terminology that emphasizes the inter-generational re-allocation of Global Adjustment costs.

We will also use the term "funding shortfall" (or an equivalent term). This will be the net reduction in cash flows to IESO as a result of the reallocation of a portion of the Global Adjustment to later periods of time. Currently, the "Funding Shortfall" would be limited to the Global Adjustment attributable to the procurement contracts, but this is a question that still has to be settled.

One important term will be "Funding Shortfall" (or equivalent wording). This will be the net reduction in cash flows to IESO as a result of the reallocation of a portion of the Global Adjustment to later periods of time. Currently, the "Funding Shortfall" would be limited to the Global Adjustment attributable to the procurement contracts, but this is a question that still has to be settled.

Another important defined term that is worth noting is "Replacement Event". This is an event under which the market would want to replace a person who has responsibility to take essential actions under the program (including LDCs, IESO and OPG), like invoicing and collecting amounts.

The triggering events are likely to include insolvency and breach of duty/obligation. We wanted to flag this concept for you because it would be quite a departure from the existing regulatory framework if such an event arose.

Another key defined term is "Transition Charge". This is the amount that will be calculated and applied to the "deferral consumers", based on the amounts of payments due under funding obligations incurred to cover the funding shortfall (i.e., what we have until now been calling "deferral repayments").

Another important defined term will be "Treasury Plan". This will be the written plan prepared by OPG relating to the sale of the "regulatory asset(s)" to the OPG Financing Entity (sometimes previously referred to as the "Financing Trust") and the debt issued by the OPG Financing Entity to the markets. OPG will be required to prepare this plan in accordance with specific legal rules, further described later on in this draft.

Another defined term will be "True-up Amount". This is a key provision for the market. It allows for a catch-up for estimate/actual adjustments and to address consumer non-payment credit losses.

A further defined term will be "Undertaking of the Province". This will be a promise by the Government not to impair the program. This will be expected by the market, even though it will be understood that there may be issues for investors to enforce the promise, or get damages if there is a breach. This concept will require much careful thought, particularly given the differences between Canadian and U.S. law.

x. (1) Subsection 6 (1) of the Act is amended by adding the following clauses:

The legislative amendments would set out additional objects of the IESO, to ensure it has the necessary legal authority to implement the fair hydro plan.

(q.1) to enter into agreements or arrangements with the Financing Entity;

(q.2) to engage in activities related to making payments to and receiving payments from the Financing Entity under Part V.2, as required under this Act, and to engage in related settlement activities;

OLC Note: Is some of this covered already by clause (i)? Could we address this by expanding upon clause (i)? Trying to understand whether there is any potential overlap.]

(q.3) to engage in activities related to the [sale/disposition/conveyance/assignment] of the [right/regulatory asset] created under section XX, which activities may include,

[OLC Note: As discussed, please confirm terminology.]

(i) incurring liabilities in relation to the [right/asset];

(ii) [selling/assigning/disposing of?] the [right/asset] to the Financing Entity;

(iii) assigning [the right/asset] to third parties;

[OLC Note: I don't understand (iii) -- I thought the rights to the asset were being assigned to the trust and nobody else?]

(q.4) acting as a recovery agent for the Financing Entity in relation to [the right/asset];

x. (1) Subsections 25.33 (1) and (2) of the Act are repealed and the following substituted [TBD].

[OLC Note: As per our telephone discussion today (March 27), there seems to be ongoing debate about the policy direction:

1. Do you want to amend the GAM so that the money received from the FE and the money recovered by the FE are part of the initial GA calculation?

2. Do you want to leave the GAM section as is and add a requirement (in a new section) for the IESO to conduct additional adjustments for a subset of the payments referred to in s. 25.33? This second adjustment would be engaged in after the existing GAM is calculated. So it would be a further adjustment of what has already been adjusted under the GAM.

Until this fundamental question is answered, we are removing the proposed amendments to s. 25.33.]

Given that the Global Adjustment as a whole will be calculated separately from the deferrals, it appears to make sense to address the deferrals in a new section or section, with appropriate cross-references to the GAM section 25.33.

OPTION 2:

Deferral adjustments, 25.33 amounts.

25.33.2 (0.1) For the purposes of this section and sections 25.34 and 25.35,

(a) "authorized entity" means **[the hydro financing trust established by Ontario Power Generation Inc. for the sole purpose of financing the recovery of the balance in the deferral account, or]** such **[other]** entity as may be prescribed by regulation;

(b) "deferral account" means the deferral account established under section 25.34;

(c) "deferral amount" means the amount recorded in the deferral account for each month during the deferral and recovery period;

(d) "deferral and recovery period" means the period from May 1, 2017 to April 30, 2047;

(e) "deferral consumer" means a consumer who is a member of a class of consumers prescribed by the regulations for the purposes of sections 25.34 and 25.35;

[NTD: This will be set out in a new subection 4(3) of O. Reg. 95/05 and will reflect OREC-eligible consumers other than non-grid connected customers of IPAs (who would not pay a GA charge anyway). Note that this is not quite the same as "RPP-eligible" consumers.]

(f) "electricity supply cost" means the amount calculated according to the formula:

$$(A + B + C + D) - E$$

where,

A is the amounts paid by the IESO to generators, the Financial Corporation and distributors, whether the amounts are determined under the market rules or under section 78.1, 78.2 or 78.5 of the *Ontario Energy Board Act, 1998,*

B is the amounts paid by the IESO to entities with whom the IESO has a procurement contract, as determined under the procurement contract,

[NTD: A and B use exactly the same wording as is set out in (a) and (b) of the existing ss. 25.33(1).]

C is

[NTD: C is the "net new" costs associated with the GA deferral. These are costs that the IESO will record in the GA deferral account established under s. 25.34, and that the IESO (or its assignee) will subsequently recover. These costs consist of the interest and financing-related admin costs associated with the GA deferral (which costs will be flowed through from the hydro financing trust to the IESO). These costs do not include the principal amount deferred and recovered, since that is already captured as part of A and B.

The "net new" costs in C will be recoverable solely from a newly prescribed class of consumers - deferral consumers (i.e. those consumers who will benefit from the GA deferral). The rules for the recovery of these costs will be part of a new subsection 4(3) of the RPP Regulation.]

D is any other amounts that may be prescribed by regulation,

[NTD: Paragraph D would give us flexibility to add new cost categories by reg. if/as needed now or later.]

[GGRA-related amendments are removed for the time-being]

and

E is any other amounts that may be prescribed by regulation;

[NTD: Paragraph E would give us flexibility to add new cost categories by reg.

Question for leg counsel: If in the future HOEP were to exceed contract prices and/or regulated rates, presumably the formula would still work (i.e. in such case the amounts for A and B would simply be negative amounts)?] ***[ntd-LSB: IESO appears to agree with that idea, based on our shared appreciation of how EA s.25.33 works today.]***

(f) "reduction period" means the period commencing May 1, 2017 and ending April 30, 2018;

(g) "RPP Regulation" means Ontario Regulation 95/05 (Classes of Consumers and Determination of Rates).

Electricity pricing adjustments

Adjustments by IESO

(1) The IESO shall, through its billing and settlement systems, make adjustments in accordance with the regulations that ensure that, over time, payments by such classes of market participants in Ontario as are prescribed by regulation, reflect the electricity supply cost.

Adjustments by distributors and retailers

(2) Distributors and retailers shall, through their billing systems, make adjustments in accordance with the regulations that ensure that, over time, payments by such classes of consumers in Ontario as are prescribed by regulation, reflect the electricity supply cost.

[NTD: There will be two "classes of consumers in Ontario that are prescribed" for the purposes of RPP-"plus" deferral – the EA regulation that "prescribes" these two classes will refer to (or be aligned with) the two classes as described in the RPP Regulation. 1) The first class are the deferral consumers (see definition above), and 2) the second class (or defined base consumer) will be the "proxy" Toronto Hydro consumer whose bill will only be allowed to increase year-over-year according to rules prescribed in a new s. 6.1 of the RPP Regulation.]

Variance accounts

(3) The IESO shall, in accordance with the regulations, establish and maintain such variance accounts as may be necessary to record all amounts payable or receivable by it under this section and under sections 25.34 and 25.35, in accordance with such rules and requirements as may be prescribed by regulation. *[ntd-DAN: I left "this section" even though this provision is part of a new s.25.33.2 – did you want "this section" to refer to "section 25.33"? If so, then we'd add this to the list we've started referencing proposed new s.25.34 and s.25.35. Consider.]*

[Drafting note: We can prescribe the different variance accounts that must be maintained, and the different amounts that must be tracked and accounted for, by the IESO. Among other things, the IESO will presumably need to establish variance accounts related to the GA deferral and payback, to take into account timing and other differences. Any financing costs associated with these variance accounts (over and above the financing costs passed through to the IESO by the authorized entity (the hydro financing trust) would be subject to Board scrutiny.]

Same, distributors and retailers

(4) Distributors and retailers shall, in accordance with the regulations, establish and maintain such variance accounts as may be necessary to record all amounts payable or receivable by them under this section and under sections 25.34 and 25.35, in accordance with such rules and requirements as may be prescribed by regulation.

x. The Act is amended by adding the following sections:

Deferral account

25.34 (1) The IESO shall establish a deferral account to record, for each month during the reduction period and the deferral and recovery period, the difference between,

(a) the amounts that would be payable by deferral consumers in respect of the electricity supply cost for the month under section 6.1 of the RPP Regulation; and

(b) the amounts payable by deferral consumers in respect of the electricity supply cost for the month under section 6.2 of the RPP Regulation.

[NTD: IESO to confirm whether the differences between (a) and (b) would be recorded monthly.

Explanatory note: The Board will determine a rate under a new s. 6.1 of the RPP Regulation that will essentially follow the same process the Board uses to establish the RPP rate, except that it will establish a rate for the deferral consumers (which is a slightly broader class than RPP consumers). The Board will also determine a "proxy" rate for the deferral consumers, calculated according to a different set of rules set out in a new s. 6.2 of the RPP Regulation. The rules in s. 6.2 will establish the "proxy" rate for a "proxy" Toronto Hydro customer consuming an average of 750 kWh/mth, to achieve an all-in tax-included total bill amount reduction of approximately 17% (the bill reduction for GA deferral + 8% OREC will result in an all-in bill reduction for May 1, 2017 – April 30, 2018 of 25% over the May 1, 2016 – April 30, 2017 period). There will be additional rules dealing with bill increases and full repayment of the GA deferral by April 30, 2047.]

Note that because we refer to the new provisions in the RPP Regulation, we will need to amend that regulation *before* the introduction of the proposed legislative amendments. Drafting of the proposed RPP Regulation amendments is underway.

Do we need to create a parallel provision requiring distributors and retailers to establish deferral accounts as well?]

(2) The IESO shall record interest on the balance of the deferral account at a rate or rates reflecting the costs incurred by the IESO, or by any assignee under section 25.35, to finance the amounts recorded in the deferral account.

(3) The IESO shall also record in the deferral account the costs incurred by the IESO to finance the amounts recorded in the deferral account.

[NTD: This is a placeholder for what we will need here. The concept is that ss. (2) and (3) will ultimately apply to the interest and admin costs incurred by the hydro financing trust (assignee of the right of recovery under s. 25.35) in providing funds to the IESO to finance the GA deferral. Those interest costs and admin costs will be fully recoverable through section 25.35, subject to Board scrutiny presumably limited to verifying the calculations. This is not intended to address interest and costs incurred by the IESO and recorded in the variance accounts established under ss. 25.33(5).]

Recovery of GA deferral amounts

25.35 (1) The IESO shall have the right to fully recover the balance recorded in the deferral account. **[The Board shall authorize?]** recovery of the balance from the

deferral consumers over the deferral recovery period in accordance with the prescribed rules.

[NTD: What role should the Board play in determining the amounts recovered each year (within the smoothing parameters that are prescribed)? For e.g., could the Board set rates such that the year-over-year increase in the proxy Toronto Hydro customer's all-in bill was less than the maximum permitted under the prescribed rules?

The prescribed rules will be set out in the new s. 6.2 of the RPP Regulation, which will determine how much the "proxy" Toronto Hydro customer's monthly average bill can increase year-over-year (after the reduction period). Basically, for the first four years after the reduction period, the increase will be limited to CPI. For the balance of the deferral and recovery period, the increases will be limited to 10%, with an overarching requirement that the deferral amounts be fully repaid by April 30, 2047.]

Assignment of right of recovery

(2) The IESO shall have the right to assign**[, in whole or in part?,]** to **[one or more?]** authorized entities, the IESO's rights under subsection (1).

[NTD: This is largely a placeholder for what needs to be addressed here. We will need to determine how to characterize this transaction. For e.g., will it be an outright assignment? Will it be a series of assignments? Should it be characterized as a "sale"? How will this transaction be implemented – e.g. by way of a contract between the IESO and the Trust? We will need the input of external counsel and others to ensure that it adequately supports the contemplated financings.]

Payments to assignee

(3) In the event of an assignment to an authorized entity under subsection (2), the IESO shall, through its billing and settlement systems, make payments to the authorized entity of the full amounts paid to the IESO in respect of the rights assigned.

[NTD: This is largely a placeholder for what needs to be addressed here. Iin addition to requiring IESO to make payments to the authorized entity, do we need to include explicit provisions giving the assignee the right to recover the amounts in the deferral account that are covered by the assignment?

We will need provisions dealing with billing and payment as between the authorized entity and IESO. We will also have to decide whether the interest and admin costs incurred by the authorized entity will simply be passed through to IESO, or whether the authorized entity (or OPG) will have an opportunity to keep any profits made on financing activities (swaps, etc.) by establishing some sort of "reference rate" that IESO would have to pay (and that might be different than the rate(s) the authorized entity would have to pay). A middle ground that could be considered would be to cap the amount of profits the authorized entity (or OPG) could make.

Along similar lines, the amounts charged by OPG to the authorized entity to provide admin services should be subject to Board review (e.g. for reasonableness). This would not jeopardize the ability of the authorized entity to recover all of its costs (since it would affect the amounts OPG could recover from the authorized entity).

We also need to contemplate a provision that if there is a change of law by the Government of Ontario that materially adversely affects the ability of the authorized entity to fully recover the assigned deferral account amounts, then repayment of those amounts will be accelerated and become immediately due and payable.]

x. The Act is amended by adding the following provisions after s.29:

Transition Charges -- Ratepayer Obligation to Pay a Transition Charge

s.29.0.1 (1) Each consumer in the class of ratepayers to which this program applies (previously referred to as the "deferral consumers") will have a direct statutory obligation to the OPG Financing Entity to pay its share of the deferral repayments (principal, interest, financing costs).

Indebtedness of Ratepayers –
(2) This will be a debt owed by the consumer directly to the OPG Financing Entity. If it is not paid, the OPG Financing Entity can sue the consumer directly through the agreed procedures. This is identifying an explicit and identifiable revenue stream for the comfort of investors.

Separate tracking - distributors,
(3) This debt is separate from the debt owed by the consumer to its LDC, although the LDC will be the collection agent.

No set-off, etc. ***[see similar provision at EA s.29.0.3(2)]***
(4) This debt cannot be netted out against any amount owed by the LDC to the consumer (e.g. year-end credit to consumer on equal monthly billing).

Allocation of Ratepayer Payments
(5) If a consumer pays less than its total invoiced amount, the payment will be allocated pro rata between the deferral repayment and the amounts owing to the LDC.

Transition Charges are Irrevocable

(6). This is intended to prohibit any reversal of amounts that must be paid to meet the terms and conditions of the funding obligations to be incurred under the program.

> **The deferral repayments are due regardless of whether a financing obligation incurred under the treasury plan is consistent with government policy at the time a related payment obligation arises.**
>
> **If the Fair Allocation Plan is amended after a funding obligation is properly incurred, any inconsistency in the payment profile will not impair the existing funding obligation or the pass-through of related payment amounts as Transition Charges.**

Anti-avoidance; No-by-pass

(7) The idea here tracks the U.S. transactions, which say that the obligation of a consumer to pay Transition Charges cannot be "by-passed". If a consumer leaves the grid, he or she will still be obligated. See the highlighted text in the definition of "Ratepayer" for a sense of how this may be accomplished.

> **This concept is a key to a rated market financing and will need to be developed further.**
>
> **For example, self-generating customers could be charged a flat fee (for example, equal to the amount that would be payable by the "representative" Toronto Hydro customer that underpins the current government policy on the 25% or some other basis.)**

Distributor, agent for Financing Entity,
s.29.0.2(1) LDC is agent for the OPG Financing Entity. LDC must invoice the deferral consumer the deferral repayment amount - referable to the items described in "Finance Amount" (i.e., an amount already borrowed).

IESO - Calculation of the Period Transition Charge

(2) IESO will calculate the total amount of deferral financing that will be repayable in an applicable [e.g. 6 month] period.

(3) IESO will then determine the deferral repayments due from deferral consumers based on a prescribed methodology for allocating payments to individual deferral consumers.

Notice of Transition Charges, IESO to distributors

(4) IESO will then inform each LDC of the amount of the deferral repayments to be included in the invoices issued to each deferral consumer in the LDC's service territory.

Adjustments ***[ntd: Consider – Deferral repayment amount final]***

(5) Deferral consumers cannot challenge the amount of the deferral repayment showing on their invoice unless there is a substantial calculation error.

Successors of Electricity Distributors –
(6) Any successor of an LDC will be bound by the same obligations as the original LDC re: billing and collecting deferral repayments.

Successors of IESO –

(7) Any successor of the IESO will be bound by the same obligations as the original IESO re: billing and collecting deferral repayments from distributors ***[ntd-LSB: what about from consumers?].***

Appointment of an Alternative Invoicing Agent ***[NTD – this provision may be moved closer to the powers/authorities of the OPG financing entity.]***

(8) If a "replacement event" (as defined in any payment obligation incurred to fund a deferral) occurs in respect of an LDC, the OPG Financing Entity can appoint someone else as the OPG Financing Entity's agent to collect deferral repayments. The LDC must sign whatever agreements and assignments are needed to enable the replacement agent to collect the deferral repayments from the LDC's deferral consumers.

Regulatory Asset Owner has Standing

(9) The OPG Financing Entity (or investors through their security) will be able to sue LDCs for failing to properly calculate or invoice the financing repayments.

29.0.3 Collections and Remittances [Collecting and Remitting Deferral Repayments]

(1) If a "replacement event" (as defined in any payment obligation incurred to fund a deferral) occurs in respect of an LDC or the IESO, the OPG Financing Entity can appoint someone else as the OPG Financing Entity's agent to collect and remit deferral repayments. The LDC (or IESO, as applicable) must sign whatever

agreements and assignments are needed to enable the replacement agent to collect and remit the deferral repayments. "Replacement Events" are necessary to investors to safeguard against a person holding money in a distressed circumstance.

No Set-off, etc. ***[see similar provision at EA s.29.0.1(3)]***

(2) The deferral repayments cannot be netted out against any amounts owed by the party responsible for collecting those repayments.

Sequestration,

(3) If any LDC or the IESO fails to remit deferral repayments, the OPG Financing Entity can get a court to order the LDC (or IESO, as applicable) to require them do so.

x. Subsection 53.1 (1) of the Act is repealed and the following substituted:

Objects of Ontario Power Generation Inc.

53.1 (1) The objects of Ontario Power Generation Inc. include, in addition to any other objects, the following:

[OLC Note: I know that the words "in addition to any other objects" appears in the current provision, but it seems very odd. This suggests that the objects are unlimited, which doesn't seem to be the intention but I could be wrong.]

1. Owning and operating generation facilities.

2. Establishing, operating and supervising the activities of entities for the purposes of supporting and promoting the government's hydro financing initiative.

3. Providing financial and other support to the IESO in its activities in relation to the hydro financing initiative.

4. Engaging in such financing, borrowing, lending and related activities and transactions to support the IESO with short-term or long-term financing.

5. Providing equity, not exceeding the prescribed amount, to support the financing capacity of the Financing Entity.

Subsidiaries

(1.1) Ontario Power Generation Inc. may create one or more subsidiaries in order to more efficiently conduct its activities or achieve its objects.

x. Section 53.2 of the Act is repealed and the following substituted:

Rights of the Minister[1]

53.2 (1) The Minister, on behalf of Her Majesty in right of Ontario, may acquire, hold, dispose of and otherwise deal with securities or debt obligations of, or any other interest in, Ontario Power Generation Inc. or any of its subsidiaries.

Agreements

(2) The Minister, on behalf of Her Majesty in right of Ontario, may enter into any agreement or arrangement that the Minister considers necessary or incidental to the exercise of a power under subsection (1).

x. The Act is amended by adding the following Part:

PART V.2
HYDRO FINANCING INITIATIVE

FAIR HYDRO FINANCING PLAN

Establishment and adoption of the Fair Allocation Plan

A. 1 (1) The Minister of Energy [may/shall] establish a "fair allocation plan"

(a) The purpose of the plan is generally to try and reallocate the portion of GA attributable to the procurement contracts over the anticipated useful life of the generation assets under those contracts.

- **This is the intergenerational funding of the Green Generation Initiaitves.**
- **One policy question is whether the amounts deferred and the period over which the deferred amounts are repaid are to be limited to the portion of GA attributable to the procurement contracts and to the anticipated useful life of the [renewable] generation assets under those contracts.**

  - From a constitutional validity perspective (and hence a financeability perspective) these limits are very important.

---

[1] FLS - this provision is based on s. 49 of the Act

-Financial/economic modelling to verify this link is required.

Principles and Parameters,

(2) Based on this initial description (which is only illustrative to advance the initial stakeholder discussion), the Minister would determine the details of the "fair allocation plan", but must take into consideration the following principles:

- **The deferred GA costs should be spread over a period not exceeding the anticipated remaining useful life of the generation assets under the procurement contracts**

- **The plan should specify the length of the "reference periods", to identify which deferral consumers are responsible for which deferral repayments**

- **The share of the deferral repayments to be allocated to deferral consumers in each "reference period" should reflect a reasonable assessment of the remaining anticipated useful life of the generation assets under procurement contracts and perhaps to the benefits received by those deferral consumers from the procurement contracts (e.g. transition off coal)]**

- **No deferral consumer group should bear an unreasonably disproportionate share of the deferral repayments. That could be limited to a maximum amount, determined on a formula basis, if it makes sense tot he stakeholders**

- **In making the allocations, real (i.e. inflation-adjusted) dollars should be usedThe fair allocation plan is made using forward-looking information and projections.**

- **If, after the fact, the Minister determines that a Ratepayer Group paid more than would otherwise would have been the case had the projections for such period been accurate or other considerations come to light, adjustments to the plan could be made.**

Attribution Methodology

(3) The program will need to define how deferral consumers will be allocated an appropriate share of aggregate adjustment amount.

Confirmation][Review] of the Fair Allocation Plan – [OEB?]

Confirmation][Review] of the Fair Allocation Plan – [OEB?]

(4) Consideration will be needed regarding the level of review and confirmation of the plan is needed or appropriate. For example, should the scope of review be limited to calculations only? If there is a need for review, then consideration will be needed as to who will be the reviewer and under what authority, etc.

THE TREASURY PLAN

Power to Prepare and Implement the Treasury Plan –

A.2 (1) The "Treasury Plan" will be prepared by OPG. It must follow the requirements set out in this Part. Accounting considerations will need to be factored into this delegation, as well as the degree of province input initially and on an on-going basis. [Note for leg counsel: We will need to create the necessary sub-delegation authority]

Required Terms and Conditions of the Treasury Plan

(2) The Treasury Plan will establish the basis for OPG making funding decisions, which will need to align with the Fair Allocation Plan.

Power to Review and Approve the Treasury Plan

(3) The Minister may designate one or more persons to review, and require changes to the Treasury Plan. (This review could also be given to the Minister.) ***[NTD-: Assumin no role for OEB – confirm. Any role for MOF/OFA here?]***

Obligation to Apply IESO Remittances,

(4) OPG will need to ensure that pass-through amounts, transferred to it as agent for the OPG Financing Entity, are only used to repay the debt and related costs.

Non-Recourse,

(5) The Treasury Plan will provide that the investors and other contracting parties will not have recourse to the IESO, LDCs, agents, the OEB or the Province, except where such parties fail to comply with applicable law. This may be modified in the contracts under which a financing arises.

NOTE: The documentation creating the Funding Obligations must expressly state that such obligations are not guaranteed by the Province.

NOTE: See IESO/Stikeman's language for "Regulatory Asset" above.

Incurrences are Binding,

(6) A failure to implement the Treasury Plan will not impair the pass-through of the deferral amounts or the validity of an otherwise valid funding obligation.

- **NOTE: Separate from the legislative provisions, we will also be preparing a very rough sketch of some of the items that might be included in the Treasury Plan direction.**
- **The sketch will be for illustration purposes only and will be for use in discussions with stakeholders including OPG and IESO.**

Crown bound, actions prohibited,

A.3 (1) No Action to limit, alter, or impair or terminate Transition Charges, the Regulatory Asset or Collections – *[NTD: alternative* - Crown bound, prohibition against discriminatory action.

(2) The Province will be prohibited from taking or permitting any action to limit, alter, or impair or terminate Transition Charges, the Regulatory Asset or collections.

Undertaking and Agreement

(3) Under this Undertaking, the Province will agree for the benefit the OPG Financing Entity that it will not impair the value of the Regulatory Asset or the Transition Charges imposed under this Part. This "pledge" is in line with market expectations. Enforcement issues arise in this sort of undertaking, which will be assessed by the market and rating agencies based on the likelihood that a failure by the Province would lead to a successful damages claim. Unlike in the U.S., the law regarding such a claim is uncertain. Nevertheless, we expect that this sort of Undertaking will be requested in the legislation itself (i.e., requiring an act of the legislature to disavow – which is a higher bar than simply walking away from a contractual undertaking.

[OLC Note: TBD where to place this Part within the Act and how to structure this Part. Temporary number (e.g. A1, A2, A3 etc.) has been used for now.]

FINANCING ENTITY

Financing Entity, established or prescribed

A1. (1) For the purpose of accomplishing the hydro financing initiative, the Minister may,

(a) direct Ontario Power Generation Inc. to establish and operate a trust; or

(b) direct Ontario Power Generation Inc. to [oversee? Administer?] an entity prescribed by the regulations.

[OLC Note: Would the direction of the Minister include any additional instructions re timing etc.?]

Duty of Ontario Power Generation Inc.

(2) Ontario Power Generation Inc. shall comply with the direction of the Minister.

[OLC Note: Once OPG takes action under A1 in accordance with the Minister's direction, what happens if at some point in the future, the Minister wants a different entity to take over the role of the FE? Is this a concern that needs to be addressed?]

Object of Financing Entity

A2. (1) The object of the Financing Entity is to finance the amounts required to accomplish the hydro financing initiative.

[OLC Note: We are imposing several obligations on the Financing Entity (FE). As a practical matter, how will these obligations be enforced? Who will be responsible for meeting these obligations? (e.g. would there be directors or officers of the trust?). Or will the OPG be responsible for meeting these obligations as the body that establishes/manages the trust or oversees the designated entity?]

Activities

(2) To achieve the object, the Financing Entity <u>shall</u> engage in the following activities:

[OLC Note: Just want to confirm that this should be "shall" and not "may".]

1. Borrowing funds from the Financial Corporation or from such other persons or entities [as may be prescribed?].

2. Investing funds.

3. Making payments <u>and loans</u> to the IESO or such other entity as may be prescribed in accordance with the regulations [or an order of the Board].

[OLC Note: I think it would be best to specify whether the rules would be set out in a reg or in a Board order to avoid confusion.]
[OLC Note: Should the "loans" language be removed, since you noted that the IESO is not "borrowing" from the FE?]

4. Receiving payments from the IESO or such other person or entity as may be prescribed in accordance with the regulations.

5. Issuing securities or debt ***[in the manner prescribed?].***

6. Engaging in any activities, including entering into such transactions, agreements or arrangements as may be prescribed and in accordance with the regulations.

Board review of expenditures, etc.

A3. (1) The Financing Entity shall, at least 60 days after the end of each fiscal year, submit its expenditures relating to its operations for the fiscal year including the expenses it has charged to Ontario Power Generation Inc. or the IESO, or that it has been charged by the Financial Corporation, in relation to those operations, to the Board for review.
[OLC Note: The list of items that have to be reported on could be more prescriptive (e.g. specifying specific amounts to be set out) or it could also allow for the Board to specify what it wants to see in the report. Let me know if you'd like to adjust the wording of the requirement.]

Board recommendations, etc.

(2) The Board may review the expenditures and charges referred to in subsection (1) and make recommendations to the Financing Entity as are appropriate in order to ensure the most efficient operation and management of the Financing Entity in order to protect consumers.
[OLC Note: Rather than saying "in order to protect consumers", should this say "in order to achieve the object of the FE"? Or perhaps this could just be deleted altogether with no need for replacement language.]

Deemed assets, entity,

A4. Despite any other provision of this Act or the *Business Corporations Act,* the assets and liabilities which are resident in and form part of the property of the Financing Entity shall not form part of the assets and liabilities of Ontario Power Generation Inc. or any of its subsidiaries for any purpose.
[OLC Note: You posed a question about excluding an OPG subsidiary from this rule. Please instruct.]

OBTAINING FINANCING

[OLC Note: It will be important to read all of the provisions that follow against the provisions in the existing Act, to ensure there is no overlap/confusion being created due to potential interactions between existing authority and new authority. The drafting focus so far has just been to get the relevant substantive provisions into the draft without evaluating how they fit into the broader scheme of the Act.]

Ontario Power Generation Inc. to obtain financing

A5. (1) The IESO may direct Ontario Power Generation Inc. to cause the Financing Entity to engage in any of the following activities in order to accomplish the hydro financing initiative:

[OLC Note: As a practical matter, how would OPG "cause the FE" to do these things? How is this different from "directing"?]

1. Financing, borrowing or lending to provide the IESO with short-term or long-term financing.

2. [Purchasing/receiving/obtaining the right created under section XX] and making any payments to the IESO that relate to the IESO's activities in support of the hydro financing initiative.

[OLC Note: Not sure if the regulated assets would always be "purchased" or if other terminology might be needed. Please advise.]

3. Collecting from the IESO amounts that the IESO is required to pay in relation to its activities in support of the hydro financing initiative.

4. Assigning its [the IESO's?] rights to all or part of the regulatory assets established under section XXXX.

[OLC Note: What is para. 4 about? If this is about forcing OPG to make the FE do things, then does this belong in the list? I thought that it was only the IESO that would be assigning the rights to the FE]

5. Such other activities as may be prescribed.

Same

(2) Ontario Power Generation Inc. shall comply with a direction under subsection (1) within the time specified in the direction [and any prescribed rules?].

IESO to enter into transactions

A6. (1) The IESO shall, in order to support the achievement of the hydro financing initiative, enter into transactions with the Financing Entity or any other entity for such amounts as are necessary to support the hydro financing initiative.

[OLC Note: My understanding is that the need for "or any other entity" stems from the need to allow for the IESO to obtain temporary financing in the immediate term, before it is able to access the FE. Do you want to narrow this so that the IESO is only authorized to do this before the FE is up and running? Or do you want to keep it available on an ongoing basis?]

Same

(2) In entering into transactions under subsection (1), the IESO shall comply with the regulations.

RIGHT OF RECOVERY [CREATION OF REGULATORY ASSET]

[OLC Note re the following provisions:
I found a provision dealing with the concept of "regulatory asset" in Bill 210 from 2002 (see s. 79.13 of the OEBA). It deems certain things to be regulatory assets but does not say much more. On the phone, you noted that the term "regulatory asset" does not have any legal meaning on its own but is just an accounting term that has been used to describe the statutorily created right of recovery. However, you also said that there may be a need to use this term in order to convey the intended meaning from an accounting perspective.

In order to ensure that the drafting captures the policy intent, please answer/address the following questions:

1. Should we be creating a statutory right of recovery or deeming certain amounts to be a regulatory asset? [NTD-LSB: Yes. The term "Regulatory Asset" has currency in commercial law (parliance) and since much of what we're doing is to support a securitization model, the term should remain for now. Further, the term "regulatory asset" was consistently referred to in the documents provided to ENERGY LSB by Blakes. Further, IESO/Stikemans offered up alternative language for the creation of a "regulatory asset" (as an intangible asset of sorts). You said you'd consult on whether the regulatory asset terminology is important to flag in the Bill.

2. You said you're not sure whether or not the Act will require the IESO to sell/assign the right. Please instruct. If it is optional for the IESO to sell/assign, then it seems that the right could in theory remain with the IESO (unless you are saying that the statute can just create the right of the FE to recover without any need for the right to be assigned/sold by the IESO… in which case please explain why we need to deal with the sale/assignment at all). Please clarify.

3. I'm assuming that if we are creating a right, then the right must be held by someone (e.g. the IESO) before it can be assigned/sold? So should the right be created in the Act for the IESO (e.g. the IESO has a right to recover the amounts from distributors and prescribed consumers) since the IESO would then sell/assign/transfer the right to the FE?

The FE must also have the right to recover from the IESO itself, so that creates an extra complication.

4. Should there be some indication of when the right of recovery/regulatory assets will no longer continue to exist (e.g. once all of the amounts have been paid?). I notice that your instructions below about the debt indicate that the debt is no longer owing once the amounts are paid, but do we need to indicate that the regulatory asset also ceases to exist at that point?

Right of recovery created

A7. A right to recover the following amounts in full from the IESO, distributors and prescribed consumers is created.

1. The [deferred amount].

2. The amounts of costs relating to the operation or management of the Financing Entity, as are approved by the Board.

[OLC Note: How will the Board be approving these costs? Is this related to the expenditure report submitted to the Board? That provision dealing with Board expenditures doesn't refer to any approval taking place… just a review and recommendations.]
[OLC Note: Need to mention expenditures?]

3. Other amounts as may be prescribed or as may be approved by the Board.

OLC Note: Are you going to be saying anything about how the interest will be calculated?

Sale [and/or?] assignment of [right? Regulatory assets?]

A8. (1) The IESO [may? Shall?], in accordance with the regulations, sell [and/or?] convey to the Financing Entity the right to recovery created established under section A7 on such terms and conditions as are provided for by the Financing Entity.
[OLC Note: Your instructions include the terms "sell", "assign" and "convey" -- which are correct?]
[OLC Note: Your instructions suggested that something other than the "regulatory assets" may need to be assigned to the FE. Are you referring to the "warehousing" liabilities assumed by the IESO in the early days? What else would need to be assigned? Could these items be listed above in A7 or is there a reason why they need to be kept separate?]

Sale deemed final

(2) The sale and conveyance referred to in subsection (1) is deemed to be final for all purposes.
[OLC Note: What is this intended to achieve? Is this based on precedent language that has been interpreted to have the desired effect?]

Debts

(3) For greater certainty, the [amounts to which the FE has a right of recovery] are debts owing by the IESO, distributors and prescribed consumers to the Financial Entity until the amounts have been fully paid and fully discharged.

[OLC Note: Why is subs. (3) necessary? Isn't it inherent in the sale of the regulatory assets that the FE would have acquired the future right to collect these amounts? Perhaps it is unclear that the amount can be collected from not just the IESO but from others down the chain. But isn't that what the "right of recovery" section above is meant to cover?]

[OLC Note: I haven't checked to see how other similar provisions dealing with debts are drafted. Not sure we need the "for greater certainty" and also not sure what the distinction is between "fully paid" and "fully discharged". This provision will need further consideration. You also noted that you may want to specify who determines when all obligations have been satisfied.]

IESO to recover amounts

A9. The IESO shall recover the amounts set out in section A7 from distributors and prescribed consumers, in accordance with [...]:

OLC Note: how are the requirements that would determine recovery for this subsection meant to interact with the GAM reg?

[OLC Note: The following two subsections are placeholders. You noted that *the provision is going to have to evolve to deal with consumers who exit the grid (disconnect) completely either because they leave the province or they decide to generate their own electricity and completely disconnect. You also want to be able to prescribe* methods of ensuring that the amounts required cannot be "by-passed". I'll need to understand what is meant by "by-passed".]

Distributors liable

(x) The IESO and distributors are entitled to compensation for any shortfall in relation to the amounts the IESO must pay to generators, the Financial Corporation or other persons including prescribed persons, under section 25.33 resulting from the IESO's activities under the hydro financing initiative.

Consumers liable

(X) Prescribed consumers are required to contribute towards the amount of any compensation referred to in subsection (4) in accordance with the amounts and methods prescribed by the regulations and such amounts shall not be by-passed.

USE OF FUNDS TO REDUCE ELECTRICITY BILLS

[OLC Note: Depending on how things land with s. 25.33, this might be a place to explain how the transactions between the IESO and the FE translate into reduction in the electricity bills of RPP consumers. Regulations could specify how the IESO would ensure that the short-term rate reductions that flow from the FE amounts are only received by the targeted class of consumers and that this same class of consumers is the only class responsible for the repayment of FE funds in the long-term.]

ALTERNATIVE LANGUAGE – REGULATORY ASSET -- PROPOSED BY IESO (STIKEMANS)

Regulatory Asset Created

A7. (1) There is hereby created and conferred upon the IESO a "Regulatory Asset" consisting of the right to recover, in addition to the amounts otherwise recoverable, in accordance with the Regulations, the aggregate of the following amounts [from distributors and] prescribed consumers. **[Quare: do we regard the Regulatory Asset as a single asset in a variable amount or as different assets arising on each deferral]:**

1. The [deferred amount, including interest accrued thereon].
2. The amounts of costs relating to the operation or management of the Financing Entity, as are approved by the Board.
3. Other amounts as may be prescribed or as may be approved by the Board.

(2) The Regulatory Asset created by (1), shall constitute, for all purposes, a property right, shall be transferable by the IESO in accordance with Section A8, and shall constitute an intangible in which a security interest can be created for purposes of the *Personal Property Security Act.*

Election to Transfer Regulatory Asset

A8. (1) The IESO shall, from time to time, in accordance with the Regulations, elect to transfer to the Financing Entity all or any portion of the Regulatory Asset, on such terms and conditions as IESO may determine.

(2) Upon any election by the IESO pursuant to (1), the Financing Entity shall pay to the IESO in respect of the Regulatory Asset, or the portion thereof in respect of which the election was made, an amount, not less than the Deferred Amount, determined in accordance with the Regulations.

(3) Upon any election by the IESO pursuant to (1), the Financing Entity shall become the person entitled to the benefit of the Regulatory Asset, or the portion thereof in respect of which the election was made, free and clear of any adverse claim (other than any such claim created by the Financing Entity) and shall be entitled to exercise all of the rights and remedies conferred by or arising in respect of the Regulatory Asset, or

the portion thereof in respect of which the election was made, and the IESO shall cease to have any rights (except as provided in Section A9) to or in respect of the Regulatory Asset, or the portion thereof in respect of which the election was made, all as if the Regulatory Asset, or the portion thereof in respect of which the election was made, had originally been conferred upon the Financing Entity and not the IESO.

(4) Upon any election by the IESO pursuant to (1), the IESO shall have no further rights or obligations in respect of the Regulatory Asset, or the portion thereof in respect of which the election was made, and the Regulatory Asset, or the portion thereof in respect of which the election was made, shall not form part of the assets and liabilities of IESO for any purpose.

(5) The LG in Council may adopt regulations providing for the circumstances in which IESO shall make the election or elections provided for in (1).

Financing Entity may Grant Security Interest

A9. (1) The Financing Entity may, at any time after an election referred to in Section A8(1), create a security interest in favour of any person in all or any portion of the Regulatory Asset subject to such election, all on such terms and conditions as the Financing Entity may determine.

(2) Except as provided for in Regulations adopted pursuant to (3*), The Personal Property Security Act* shall apply to any security interest created pursuant to (1), except that the rights of the secured party on default shall be limited to receiving the amounts collected in respect of the Regulatory Asset, or the portion thereof subject to the security interest, as and when collected by the IESO in accordance with A10.

(3) The LG in Council may adopt regulations providing for the terms on which the security interest provided for in (1) can be created and perfected and for the priority of any such security interest.

IESO to Collect Amounts in Respect of the Regulatory Asset

A10. Subsequent to any election pursuant to Section A8, the IESO shall, as agent on behalf of the Financing Entity and any secured party, use reasonable efforts to collect the amounts owing in respect of the Regulatory Asset, or the portion thereof in respect of which the election was made, and shall promptly pay over to the Financing Entity or the secured party the amounts collected.

--------END OF IESO/BLAKES ALTERNATIVE LANGUAGE FOR REG. ASSET ---

------- BLAKES VERSION OF LANGUAGE FOR REGULATORY ASSET

The Regulatory Asset, Composition,

A7(1) The "regulatory asset" consists of the following:

- **present and future statutory obligation of:**

- deferral consumers - to make all deferral repayments (including interest and late payment fees)
- LDCs - to invoice the deferral consumers for the deferral repayments and to remit the amounts collected to the IESO
- IESO - to receive and remit the deferral repayments from LDCs to the OPG Financing Entity

- All deferral repayment amounts collected
- All amounts in LDC or IESO deferral payment bank accounts

Validity of Dispositions

(2) This section is reinforcing by statute the "sale" of the asset to the Financing Entity. This has been an important feature of the legislation in other jurisdictions in similar circumstances. Specifically, it says that "Dispositions" of the Regulatory Asset are "true sales", and not subject to challenge. This is an essential requirement for a securitization transaction. This provision identifies possible grounds for a challenge that a sale took place and indicates that those events do not affect the validity of the sale.

Deemed Perfection and Priority of Dispositions

(3) This is reinforcing the automatic nature of the "sale" of the asset. It Provides for a clean sale to the OPG Financing Entity, free and clear of encumbrances (i.e., no specific need to "perfect" the sale.

Validity of Pledges,

(4) Statutory override permitting the OPG Financing Entity to give a security interest in the "regulatory asset" to investors.

> **This would give the investors (through an indenture) the right to enforce collection of the deferral repayments to pay off amounts owed by the OPG Financing Entity to the investors upon certain defaults by the OPG Financing Entity under an indenture.**

Deemed Perfection and Priority of Pledges

(5) This is reinforcing that a commercial pledge given by OPG Financing Entity is valid and will have priority without specific "perfection". The result is that a pledge of the Regulatory Asset as security in accordance with the Treasury Plan will be given priority to other claims. The Pledge includes proceeds from the Regulatory Asset and is not affected by comingling or the ordinary requirement to file a financing statement under the PPSA.

Enforcement of Property Rights –

(6) 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. ***[ntd-: NOT an annotation – pulled directly from Blakes' document.]***

Collective Action Required –
(7) This anticipates that the Regulatory Asset will be structured as a variable interest that can be divided between IESO (until it sells) and one or more OPG Financing Entitys. The likely format will be a co-ownership agreement, that will allow for different owners to have a fractional undivided ownership interest in the Regulatory Asset. Those will entitle the owners to a specified share of the cash flows, which will correspond to their finance payment obligations. This will allow for future financing flexibility.

MISCELLANEOUS

Fair Hydro Financing Plan, miscellaneous,

A.8 (1) Consideration will be given to whether any additional 'miscellaneous' provisions are needed (and expected by the market) to support the financing of this structure. Some of these provisions are not typical in legislation, and so will need further consideration (in consultation with leg counsel).

Regulations

114(1.5) The LGIC may make regulations to implement the Fair Hydro Financing Initiative

-(a) The power to implement the program (and to set out some of the details of the program) through regulations is important. Decisions remain to be made (once the drafting is a little further advanced) about what provisions/details need to appear in the proposed legislation, and what provisions/details can be set out in regulations.

admin agency agmt betw OPG + Trust

ONTARIO ENERGY BOARD ACT, 1998

x. Subsection 1 (1) of the *Ontario Energy Board Act, 1998* is amended by adding the following paragraph:

6. To facilitate the implementation of the [hydro financing initiative].

[OLC Note: Would need to link with definition in the EA or else spell out the definition here - TBD.]

x. Section 27.1 of the Act is amended by adding the following paragraph:

Hearings

(1.1) A directive may specify whether the Board is to hold a hearing, the circumstances under which a hearing may or may not be held and, if a hearing is to be held, the type of hearing to be held and the time within which it must be held.

The underlined is what makes this different from the other provisions in the Act that basically have the same wording. There are already a number of places in the Act where you have this type of hearings provision re directives (e.g., s. 27.2 (7)). If you basically want the same authority in each instance, then the wording should be consistent in each case. There are already some discrepancies between the current provisions (e.g., s. 27.2 (7) talks about types of hearings, whereas s. 28 (2) doesn't). Differences in wording will typically be presumed to be differences in meaning. So, the question is what you're intending to authorize in each case, and whether differences are intended. If you want the same thing everywhere, it should all be worded the same. Let me know.

[OLC Note: Waiting for confirmation whether amendments to s. 78.7 are needed. Please advise.]

x. Section 78 of the Act is amended by adding the following subsection after subsection (3.0.5):

Rates, fair hydro financing initiative activities -IESO, OPG, distributors, etc.

(3.0.6) The OEB would not be precluded from taking into account the performance of duties under this Part by any entity regulated by the OEB, including fees received by such entity in excess of the incremental costs of the provision of such services.

x. Section 79.16 (3) of the Act is repealed and the following substituted:

variable int in structured fce entity
↳ person in most equity
however small

Adjustment to eliminate variances

(3) In determining rates under clause (1) (b), the Board shall take into account balances in variance accounts established under section 25.33 of the *Electricity Act, 1998* and, subject to section X of that Act, make adjustments with a view to eliminating those balances within 12 months or such shorter time periods as the Minister may direct. [OLC Note: Please let me know what section the highlighted portion is supposed to refer to… is it the provision that says the IESO has the 30 year period to pay off the amount in the variance account for the hydro financing initiative? I wonder if this is confusing and whether the amendment to subs. (3) above works… it almost seems unnecessary to say that the Board has to "take into account" this balance, given that we are setting up a bunch of very specific rules about what has to be done by various entities in order to eliminate this amount. What would the Board be expected to do with information about this variance account? For consideration.]

Fee that exists to 10% of ec. value

PART VII.3

COMPLIANCE – FAIR HYDRO FINANCING INITIATIVE

Right of the [OEB] to Inspect Books and Records,

113 (1) OEB may be given the power to investigate compliance with the legislation and the power to examine books and records, etc.

Power to Investigate Compliance and Impose Regulatory Sanctions

(2) This legislation will not limit the OEB's power to investigate compliance or prevent or preclude the OEB's power to impose sanctions. The OEB can investigate compliance with this part and to impose regulatory sanctions for non-compliance.

Limitation, Board,

(2.1) The OEB cannot, however, take any action to affect the irrevocability of the Transition Charges or the Undertaking of the Province.

- IESO
- OPG
- Cindy

Commencement

xx. This Act comes into force on [insert commencement rule]

- how asset being est'd
- FAP + TPlan
- Steve → role of prov.
- income tax rules deem trust to be taxpayer, paying [illegible] at highest marginal rate

Ontario Fair Hydro Plan Act, 2017
Loi de 2017 sur le Plan ontarien pour des frais d'électricité équitables

ONTARIO REGULATION 195/17

FAIR ADJUSTMENT UNDER PART II OF THE ACT

Consolidation Period: From June 15, 2017 to the e-Laws currency date.

No amendments.

This Regulation is made in English only.

Interpretation

1. (1) In this Regulation,

"billing period" means a period of time in respect of which an invoice for electricity is issued by an electricity vendor, a specified consumer or a unit sub-meter provider providing unit sub-metering for a specified consumer;

"Ontario Consumer ~~Price Index~~" means, for a 12-month period, the Consumer Price Index for Ontario (All-Items) as reported monthly by Statistics Canada under the authority of the *~~Statistics Act~~* (Canada), averaged over the 12-month period;

"Toronto Hydro" means Toronto Hydro-Electric System Limited;

"Total Invoice Amount A" means the total invoice amount described in subsection (2);

"Total Invoice Amount B" means the total invoice amount described in subsection (3);

"Total Invoice Amount C" means the total invoice amount described in subsection (4).

(2) Total Invoice Amount A consists of the following types of amounts that would be invoiced in respect of a billing period to a hypothetical regulated rate consumer who meets the criteria set out in section 2:

1. The commodity price of the electricity, as determined under the comparison rates described in subsection 7 (3) of the Act.
2. The rates and charges as of May 1, 2017 as set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*, except for the rates and charges related to any rural or remote rate protection compensation required under subsection 79 (4) of the *Ontario Energy Board Act, 1998* or any compensation required under subsection 79.2 (10) of that Act.
3. The rates and charges as of April 30, 2017 as set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*, related to any rural or remote rate protection compensation required under

subsection 79 (4) of the *Ontario Energy Board Act, 1998* or any compensation required under subsection 79.2 (10) of that Act.

4. 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 paragraphs 1, 2 and 3.

(3) Total Invoice Amount B consists of the following types of amounts that would be invoiced in respect of a billing period to a hypothetical regulated rate consumer who meets the criteria set out in section 2:

1. The commodity price of the electricity, as determined under the rates determined in accordance with section 3.
2. The rates and charges as of May 1, 2017 as set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*, except for the rates and charges related to any rural or remote rate protection compensation required under subsection 79 (4) of that Act.
3. The rates and charges as of July 1, 2017 as set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*, related to any rural or remote rate protection compensation required under subsection 79 (4) of that Act.
4. 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 paragraphs 1, 2 and 3.

(4) Total Invoice Amount C consists of the following types of amounts that would be invoiced in respect of a billing period to a hypothetical regulated rate consumer who meets the criteria set out in section 2:

1. The commodity price of the electricity, as determined under the rates determined in accordance with subsection 5 (1).
2. The rates and charges as of May 1, 2018 as set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*.
3. 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 paragraphs 1 and 2.

(5) The following types of amounts shall be excluded from Total Invoice Amount A, Total Invoice Amount B and Total Invoice Amount C:

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 consumption of electricity.

4. Any of the following charges that may be set out in the applicable rate 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".

5. 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 paragraphs 1, 2, 3 and 4.

(6) The Board shall take into account any financial assistance under the *Ontario Rebate for Electricity Consumers Act, 2016* when determining Total Invoice Amount B and Total Invoice Amount C, but shall not do so when determining Total Invoice Amount A.

(7) For the purposes of making a determination under clause 11 (1) (a) of the Act, the rate of inflation is the percentage change between,

(a) the value of the Ontario Consumer Price Index for the 12-month period immediately preceding the 12-month period described in clause (b), and

(b) the value of the Ontario Consumer Price Index for the 12-month period ending on the last day of February immediately preceding the day on which the determination of the Board under clause 11 (1) (a) of the Act takes effect.

Hypothetical regulated rate consumer

2. For the purposes of subsection 7 (2) of the Act, a hypothetical regulated rate consumer meets the following criteria:

1. The consumer purchases electricity directly from Toronto Hydro.
2. The consumer has an account with Toronto Hydro that falls within the residential-service rate classification as specified in a rate order made by the Board under section 78 of the *Ontario Energy Board Act, 1998*.
3. The consumer's billing period is 30 days.
4. The consumer is not invoiced by Toronto Hydro for electricity on an equal monthly payment plan, an equal billing plan or a net metered basis.
5. The consumer is not a rate-assisted consumer within the meaning of section 79.2 of the *Ontario Energy Board Act, 1998*.
6. The consumer uses 750 kilowatt hours of electricity in each billing period.

7. The consumer's time-of-use consumption profile in each billing period is described as follows:

i. 65 per cent of the consumer's usage occurs during off-peak periods associated with the regulated price referred to as $RPEM_{OFF}$ in section 3.4 of the "Standard Supply Service Code for Electricity Distributors" issued by the Board.

ii. 17 per cent of the consumer's usage occurs during mid-peak periods associated with the regulated price referred to as $RPEM_{MID}$ in section 3.4 of the "Standard Supply Service Code for Electricity Distributors" issued by the Board.

iii. 18 per cent of the consumer's usage occurs during on-peak periods associated with the regulated price referred to as $RPEM_{ON}$ in section 3.4 of the "Standard Supply Service Code for Electricity Distributors" issued by the Board.

Regulated rate consumers, first fair adjustment under s. 7 of the Act

3. For the purposes of section 7 of the Act, the Board shall determine the rates that would, when applied for the purposes of determining the commodity price of the electricity included in Total Invoice Amount B, result in Total Invoice Amount B being 25 per cent less than Total Invoice Amount A.

Other specified consumers, first fair adjustment under s. 8 of the Act

4. (1) For the purposes of section 8 of the Act, the Board shall determine a dollar per megawatt hour amount that represents the difference between the following:

1. The comparison rates described in subsection 7 (3) of the Act.
2. The rates determined by the Board under section 3 of this Regulation.

(2) The adjustment to be applied by electricity vendors in respect of each billing period with respect to specified consumers who are not regulated rate consumers shall be determined as follows:

1. The electricity vendor shall multiply the dollar per megawatt hour amount determined by the Board under subsection (1) by the total volume of electricity consumed by the specified consumer during the billing period.
2. The electricity vendor shall deduct the amount determined under paragraph 1 from the amount otherwise payable by the specified consumer in respect of the billing period for adjustments made under section 25.33 of the *Electricity Act, 1998*.

(3) For the purposes of paragraph 1 of subsection (2), the total volume of electricity consumed by a specified consumer in a billing period shall be,

(a) in the case of a specified consumer that is a market participant as defined in the *Electricity Act, 1998*, the net volume of electricity withdrawn from the IESO-controlled grid by the specified consumer during the billing period, as determined in accordance with the market rules made under section 32 of that Act; or

(b) in any other case, the volume of electricity distributed to the specified consumer during the billing period by the electricity vendor, adjusted for total losses as defined in and in accordance with the Retail Settlement Code, issued by the Board under the *Ontario Energy Board Act, 1998*.

(4) For greater certainty, if the amount determined under paragraph 2 of subsection (2) in respect of a billing period is a negative amount, that amount shall be a credit for the specified consumer for that billing period.

Subsequent adjustments, regulated rate consumers, s. 11 (1) (a) of the Act

5. (1) For the purpose of determining the electricity rates payable by regulated rate consumers for the period beginning on May 1, 2018 and ending on April 30, 2019, the Board shall,

(a) if the rate of inflation is a negative amount or is zero, determine electricity rates for regulated rate consumers in accordance with subsection (2); or

(b) in any other case, determine electricity rates for regulated rate consumers in accordance with subsection (3).

(2) For the purposes of clause (1) (a), the Board shall determine the rates that would, when applied for the purposes of determining the commodity price of the electricity included in Total Invoice Amount C, result in Total Invoice Amount C being equal to Total Invoice Amount B.

(3) For the purposes of clause (1) (b), the Board shall determine the rates that would, when applied for the purposes of determining the commodity price of the electricity included in Total Invoice Amount C, result in Total Invoice Amount C being greater than Total Invoice Amount B by the rate of inflation.

Subsequent adjustments, other specified consumers, s. 11 (1) (b) of the Act

6. (1) For the purpose of determining adjustments to be applied in respect of specified consumers who are not regulated rate consumers for the period beginning on May 1, 2018 and ending on April 30, 2019, the Board shall determine a dollar per megawatt hour amount that represents the difference between the following:

1. The rates mentioned in subsection (4).
2. The rates determined by the Board under subsection 5 (1).

(2) The adjustment to be applied by electricity vendors in respect of each billing period for the period beginning on May 1, 2018 and ending on April 30, 2019 with respect to specified consumers who are not regulated rate consumers shall be determined as follows:

1. The electricity vendor shall multiply the dollar per megawatt hour amount determined by the Board under subsection (1) by the total volume of electricity consumed by the specified consumer during the billing period.
2. The electricity vendor shall deduct the amount determined under paragraph 1 from the amount otherwise payable by the specified consumer in respect of a billing period for adjustments made under section 25.33 of the *Electricity Act, 1998*.

(3) For the purposes of paragraph 1 of subsection (2), the total volume of the electricity consumed by a specified consumer in a billing period shall be,

(a) in the case of a specified consumer that is a market participant as defined in the *Electricity Act, 1998*, the net volume of electricity withdrawn from the IESO-controlled grid by the specified consumer during the billing period, as determined in accordance with the market rules made under section 32 of that Act; or

(b) in any other case, the volume of electricity distributed to the specified consumer during the billing period by the electricity vendor, adjusted for total losses as defined in and in accordance with the Retail Settlement Code issued by the Board under the *Ontario Energy Board Act, 1998*.

(4) The rates referred to in paragraph 1 of subsection (1) are the rates that would have been effective May 1, 2018 if they had been determined by the Board using the method prescribed by regulations made under clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998*, without taking into account any forecasted impact of any provision of the Act.

(5) For greater certainty, if the amount determined under paragraph 2 of subsection (2) in respect of a billing period is a negative amount, that amount shall be a credit for the specified consumer for that billing period.

Sub-metering

7. For the purposes of subsection 12 (2) of the Act, the amount payable for the electricity by the person who is liable to pay the invoice shall, in respect of each billing period, reflect the person's proportionate share of any determination of the Board under section 9 or 11 of the Act that applies to the invoice for electricity payable by the specified consumer.

PROPOSED AMENDMENTS TO O. REG. 95/05 (RPP REGULATION):

[NTD: The proposed amendments are shown as tracked changes. Portions highlighted in yellow are "Notes to Draft"]

Definitions

1. In this Regulation,

[NTD: These are new definitions to be added to s. 1.]

"average monthly invoice amount" means the average monthly invoice amount during a specified period for,

1. the proxy consumer (TOU) in respect of the proxy consumer (TOU) account, or
2. the proxy consumer (two-tier) in respect of the proxy consumer (two-tier) account;

"base period" means the 12-month period that commences on May 1, 2016 and ends on April 30, 2017;

"bill reduction period" means the period that commences on May 1, 2017 and ends on April 30, 2018;

"bill smoothing period" means the period that commences on May 1, 2018 and ends on April 30, 2022;

"CPI" means the all items Consumer Price Index published for Ontario as published by Statistics Canada under the authority of the Statistics Act (Canada);

"cross-generational consumer" means a consumer described in subsection 4 (3);

[NTD: I understand that it would be helpful legally to use defined terms that reflect the cross-generational allocation of the GA costs that this GA mechanism is intended to achieve. Given that certain current GA costs will be allocated over a 30-year period (in total), it would not be misleading to say "cross-generational".]

"cross-generational recovery period" means the period that commences on May 1, 2022 and ends on April 30, 2047;

"invoice amount" means the sum of the amounts in respect of the following:

1. the commodity price of the electricity;
2. the rates and charges set out in the applicable rate order issued by the Board under subsection 78 (3) of the Act;

[NTD (for Energy Policy): My understanding is that paragraph 2 would include all of the following rates and charges, but this should be confirmed with the OEB:

- **service charge**
- **distribution volumetric rate**
- **retail transmission rate - network service rate**
- **retail transmission rate – line and transformation connection service rate**
- **wholesale market service rate**
- **RRRP charge**
- **OESP charge**
- **Standard supply service – administrative charge]**

3. any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*;
4. the amount of any harmonized sales tax payable under Part IX of the *Excise Tax Act* (Canada);

but does not include any of the invoice amount exclusions:

"invoice amount exclusions" means amounts in respect of the following:

1. the balance of any amounts carried forward from previous invoices;
2. penalties and interest;
3. any charges that do not relate to the consumption of electricity;
4. the fixed monthly service charge payable by a generation facility, within the meaning of section 56 of the Act, that is classified as "microFIT" in a rate order issued by the Board under subsection 78 (3) of the Act;
5. charges labelled as "specific service charges" or "retail service charges" in the applicable rate order issued by the Board under subsection 78 (3) of the Act; and
6. rate riders set out in the applicable rate order issued by the Board under subsection 78(3) of the Act;

"proxy consumer (TOU)" means a potential consumer who satisfies all of the following conditions:

[NTD: This is not intended to be an actual consumer. Instead, this is just a "proxy" or "representative" consumer who is used for purposes of calculating rates under new section 6.1 below.

Important note: Because some (most) cross-generational consumers are on TOU pricing, and some are on two-tier pricing, we will need *TWO* proxy consumers so the Board can set both TOU rates and two-tier rates on a going-forward basis, starting in the bill reduction period.]

1. The consumer is a member of the class of consumers described in subsection 4 (3).
2. The consumer purchases electricity directly from Toronto Hydro.

[NTD: "Directly from" is intended to exclude, for e.g., a consumer whose consumption is measured by a sub-meter in a sub-metered building that purchases its electricity from TH. This avoids the need to address sub-metering fees.]

"RPA" → supply cost
→ all TOU + 3 tiered prices set to recover RPA

3. The consumer is billed time-of-use rates.

4. The consumer consumes, on average, 750 kilowatt hours of electricity each month, of which:

   (a) 65% is consumed during the off-peak period;

   (b) 17% is consumed during the mid-peak period; and

   (c) 18% is consumed during the on-peak period;

   [NTD (for Energy Policy): The Regulated Price Plan Price Report for the period from Nov1/16 to Oct31/17 states that the % of TOU consumption figures listed above (65% off-peak, 17% mid-peak and 18% on-peak) "are based on several years of consumption data for consumers provided by the IESO".

   Do you want to apply those %'s to the proxy consumer (TOU)?]

"Residential cust." DL uses at relevant time to measure bill impacts

5. The consumer 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 Act.

6. The consumer is not in a contract with a retailer for the purchase of electricity from the retailer.

7. The consumer is invoiced by Toronto Hydro on a monthly basis.

8. The consumer is not invoiced by Toronto Hydro for electricity on an equal monthly payment plan or an equal billing plan.

9. The consumer is invoiced by Toronto Hydro only for the invoice amount.

"proxy consumer (two-tier)" means a potential consumer who satisfies all of the conditions applicable to a proxy consumer (TOU) except that the potential consumer:

1. is billed two-tier rates; and

2. consumes, on average, 750 kilowatt hours of electricity each month, of which:

   (a) 53% is consumed during the lower tier period; and

   (b) 47% is consumed during the upper tier period;

   [NTD (for Energy Policy): The Regulated Price Plan Price Report for the period from Nov1/16 to Oct31/17 states that "[b]ased on historical consumption, approximately 53% of RPP tiered consumption is forecast to be at the lower tier price … and 47% at the higher tier price".

   Do you want to apply those %'s to the proxy consumer (two-tier)?]

"proxy consumer account" means, in respect of the proxy consumer (TOU) or the proxy consumer (two-tier), an account with Toronto Hydro for the provision of electricity;

"rate of inflation" for a specified period means the rate calculated according to the formula:

(CPI(B) / CPI(A)) - 1

where,

CPI(B) is the all items Consumer Price Index published for Ontario as published by Statistics Canada under the authority of the Statistics Act (Canada) for the last month of a specified period, and

CPI(A) is the all items consumer price index published for the province of Ontario by Statistics Canada for the month preceding the commencement of the specified period;

"Toronto Hydro" means Toronto Hydro-Electric System Limited;

Class of consumers, s. 79.16

4. (1) REVOKED: O. Reg. 494/10, s. 2 (1).

(2) On and after November 1, 2009, the following are prescribed as ~~the~~ a class of consumers for the purposes of subsection 79.16 (1) of the Act:

1. Low-volume consumers.
2. A consumer who has a demand of 50 kilowatts or less.
3. A consumer who has an account with a distributor, if the account relates to,
   i. a dwelling,
   ii. a property as defined in the *Condominium Act, 1998*,
   iii. a residential complex as defined in the *Residential Tenancies Act, 2006*, or
   iv. a property that includes one or more dwellings and that is owned or leased by a co-operative as defined in the *Co-operative Corporations Act*.
4. A consumer who annually uses at least 150,000 but not more than 250,000 kilowatt hours of electricity.
5. A consumer who has an account with a distributor if the consumer,
   i. carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and
   ii. holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act. O. Reg. 58/08, s. 1; O. Reg. 115/09, s. 1 (2); O. Reg. 494/10, s. 2 (2, 3).

(3) Commencing May 1, 2017 and continuing until the end of the cross-generational recovery period, the following are prescribed as a class of consumers for the purposes

of subsection 79.16 (1) of the Act **[and sections 25.34 and 25.35 of the *Electricity Act, 1998*]**:

[NTD:

The above in square brackets is a placeholder for linking the calculation of the new GA reduction rate with the determination of the amount of GA that will be "deferred" each month (and financed by the Financing Trust) under the proposed *Electricity Act, 1998* amendments.

The list below describes those consumers who will be covered by the GA relief. It covers all consumers who are entitled to OREC except for those not paying a GA charge (i.e. non-grid connected customers of IPAs).

While this is a new section, to assist in seeing the changes made relative to the description of RPP consumers in section 6, those changes are highlighted in green.]

1. Low-volume consumers.

2. A consumer who has a demand of 50 kilowatts or less.

3. A consumer who has an account with a licensed distributor, a licensed retailer or the IESO, if the account relates to,

[NTD: The above changes (relative to section 6, and highlighted in green) are needed to properly capture the consumers entitled to the deferral - e.g. we need to say "licensed" distributor to exclude customers of IPAs]

i. a dwelling,

ii. a property as defined in the *Condominium Act, 1998*,

iii. a residential complex as defined in the *Residential Tenancies Act, 2006*, without regard to section 5 of that Act, or

iv. a property that includes one or more dwellings and that is owned or leased by a co-operative as defined in the *Co-operative Corporations Act*.

4. A consumer who annually uses at least 150,000 but not more than 250,000 kilowatt hours of electricity.

5. A consumer who has an account with a licensed distributor, a licensed retailer or the IESO, if the consumer,

i. carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and

ii. holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act.

Determining rates, ss. ~~79.16~~ 4 (2) consumers

6. (1) ~~For~~ Subject to subsection (4), for the purpose of clause 79.16 (1) (b) of the Act, the Board shall determine rates for the consumers described in subsection 4 (2) in the following manner:

[NTD: The existing section 6 determines the rates for the existing RPP class of consumers (described in the existing ss. 4 (2).

If the RPP class of consumers is 100% a subset of the new ss. 4 (3) class of consumers (the "cross-generational consumers" benefitting from the GA "deferral"), then section 6 will not be used until after the end of the 30-year "cross-generational recovery period" (other than to calculate the "delta" or amount of the deferral under the new sections 6.1 and 6.3).

The new section 6.1 sets out the rate-setting process that the Board would follow for the "cross-generational consumers" if the goal was to ensure that the rates reflected the GA costs over each May 1 – April 30 period.

The new section 6.2 sets out the rate-setting process that the Board will follow for the "cross-generational consumers" where the goal is to reduce the proxy consumer's bill by 25% in the first year, only increase that bill year-over-year for the next 4 years by CPI, and then limit year-over-year increases in subsequent years to 10% (with an overriding requirement that 100% of the GA "deferred" be recovered by April 30, 2047).

The new section 6.3 sets out the calculation of the rate "delta" between having the cross-generational consumers pay the full amount of GA each 12-month period and having them pay something less than the full amount of GA. This rate "delta" (multiplied by the volume of electricity consumed by all of the cross-generational consumers in the 12-month period in question) is the amount of the GA that is being "deferred" for that period, and that must ultimately be recovered from the cross-generational consumers over the 30-year period.]

1. The Board shall determine rates in a manner that is consistent with the Standard Supply Service Code issued by the Board.
2. The first rates determined by the Board shall remain in effect for not less than 12 months. The Board shall determine separate rates after that time for periods of not more than 12 months or for such shorter time periods as the Minister may direct.
3. In determining the rates, the Board shall forecast the cost of electricity to be consumed by the consumers to whom the rates apply, taking into consideration adjustments required under section 25.33 of the *Electricity Act, 1998* and shall ensure that the rates reflect those costs.

4. In determining rates commencing May 1, 2011, the Board shall set an off-peak period associated with the regulated price referred to as RPEMOFF in section 3.4 of the "Standard Supply Service Code for Electricity Distributors" issued by the Board,

   i. that begins no later than 7 p.m. on every weekday and ends,

      A. no earlier than 7 a.m. on the next day if the next day is a weekday, or

      B. no earlier than 12 a.m. on the next day if the next day is Saturday, Sunday or a holiday, and

   ii. that begins no later than 12 a.m. on every Saturday, Sunday and holiday and ends no earlier than,

      A. 12 a.m. on the next day, if the next day is Saturday, Sunday or a holiday, or

      B. 7 a.m. on the next day if the next day is a weekday.

(2) The times of day set out in subparagraphs 4 i and ii of subsection (1) are in central standard or daylight saving time or eastern standard or daylight saving time, whichever is then prevailing in the particular location in Ontario.

(3) Despite paragraph 4 of subsection (1), the Board may set different off-peak periods for the purpose of such electricity price pilot projects as it specifies.

(4) The provisions of this section only apply for a period contemplated in paragraph 2 of subsection (1) if there are consumers described in subsection 4 (2) who are not also consumers described in subsection 4 (3).

[NTD: New section 6.1 below sets out the rules the Board is to follow in determining the rates for the "cross-generational consumers" described in ss. 4 (3) based on the assumption that the *full amount* of GA attributable to this class is to be recovered by the end of each 12-month period.]

Determining rates, s. 6.3

6.1 (1) The Board shall determine rates for the consumers described in subsection 4 (3) in the manner set out in subsection 6 (1) solely for the purpose of section 6.3.

[NTD for leg counsel: The "delta" calculation in this reg. will quantify the amount of GA being "deferred" and later recovered under the proposed new EA provisions. To bridge the gap between this reg. (made under the OEBA) and the EA, we will presumably need to provide a cross-reference link in an EA reg. (e.g. 429/04 or a new reg.).]

[NTD: New section 6.2 below sets out the rules the Board is to follow in determining the rates for the "cross-generational consumers" described in ss. 4 (3) who receive the GA reduction]

Determining rates, ss. 4 (3) consumers

6.2 (1) For the purpose of clause 79.16 (1) (b) of the Act, the Board shall determine rates for the consumers described in subsection 4 (3) in the following manner:

1. Subject to paragraphs 2, 3, 4, 5 and 6, the Board shall determine rates in a manner that is consistent with the Standard Supply Service Code issued by the Board.

   [NTD (for Energy Policy): Will the SSSC have any relevance to the determination of rates on a going-forward basis for the cross-generational consumers, based on the approach required under this new s. 6.2? I assume not. If the SSSC will not be relevant, then this paragraph 1 should be removed.]

2. The first rates determined by the Board under this section shall remain in effect for the bill reduction period. The Board shall determine separate rates after that time for periods of 12 months.

   [NTD (for leg counsel): Do we need to specify that the "periods of 12 months" are from May 1 – April 30? I assume that "after that time" refers to immediately after that time. If that is correct, then presumably we don't need to specify May 1 – April 30?]

3. In determining the rates for the bill reduction period, the Board shall:

   a. calculate the average monthly invoice amount for the base period for the proxy consumer (TOU) account and for the proxy consumer (two-tier) account;

   b. determine time-of-use rates that would reduce the average monthly invoice amount for the proxy consumer (TOU) account for the bill reduction period by an amount equal to twenty-five percent of the average monthly invoice amount for the proxy consumer (TOU) account for the base period; and

   c. determine two-tier rates that would reduce the average monthly invoice amount for the proxy consumer (two-tier) account for the bill reduction period by an amount equal to twenty-five percent of the average monthly invoice amount for the proxy consumer (two-tier) account for the base period.

4. In determining the rates for the bill smoothing period, the Board shall:

   a. determine time-of-use rates that would increase the average monthly invoice amount for the proxy consumer (TOU) account for each of the twelve month periods in the bill smoothing period by the rate of inflation relative to the average monthly invoice amount for the proxy

consumer (TOU) account for the immediately preceding twelve month period; and

b. determine two-tier rates that would increase the average monthly invoice amount for the proxy consumer (two-tier) account for each of the twelve month periods in the bill smoothing period by the rate of inflation relative to the average monthly invoice amount for the proxy consumer (two-tier) account for the immediately preceding twelve month period.

5. Subject to paragraph 6, in determining the rates for the cross-generational recovery period, the Board shall:

a. determine time-of-use rates that would increase the average monthly invoice amount for the proxy consumer (TOU) account for each of the twelve month periods in the cross-generational recovery period by no more than ten percent relative to the average monthly invoice amount for the proxy consumer (TOU) account for the immediately preceding twelve month period; and

b. determine two-tier rates that would increase the average monthly invoice amount for the proxy consumer (two-tier) account for each of the twelve month periods in the cross-generational recovery period by no more than ten percent relative to the average monthly invoice amount for the proxy consumer (two-tier) account for the immediately preceding twelve month period.

6. Despite paragraph 5, the Board shall determine time-of-use rates and two-tier rates with a view to ensuring that the rates reflect the **[full amount of GA deferred, plus financing costs (interest, admin and other servicing costs incurred by the IESO or the financing trust)]** by the end of the cross-generational recovery period.

[NTD: We will be able to more fully develop this paragraph as we sort out the proposed legislative amendments related to the GA "deferral" financing.]

Determining differences in rates

6.3 (1) For each 12-month period in the bill smoothing period and the cross-generational recovery period, the Board shall determine the difference between,

(a) the total amount payable by the cross-generational consumers for electricity using the rates determined under section 6.2, and

(b) the total amount that would have been payable by the cross-generational consumers for electricity using the rates determined under section 6.1,

based on the amount of electricity actually consumed by the cross-generational consumers in the 12-month period.

[NTD: Will it be possible for the Board to make the above determinations (e.g. based on information provided by the IESO)?

The difference between (a) and (b), if positive, would represent a principal amount of the cross-generational consumers' electricity costs that would be "deferred". If the difference is negative, this would represent the amount of the "deferral" being repaid in the 12-month period (which payment would cover not just principal but also interest and other financing related costs).

The differences between (a) and (b) will have to link back to the proposed EA amendments related to the "deferral" and repayment of the "deferral".

It appears at first blush to be necessary to take this approach when determining the amounts "deferred". The reason for this is that any "variance" between:

(i) the amounts paid (by LDCs) to the IESO in respect of the cross-generational consumers, and
(ii) the amounts owed by cross-generational consumers,

for the electricity consumed by the cross-generational consumers would be made up of components other than just the amounts being "deferred".]

[NTD (for Energy Policy): Please confirm that no changes are required to sections 7 or 8 of the RPP reg. (reproduced below) in relation to the new GA "deferral" class of consumers, or to s. 79.16 (4) of the OEBA, which relates (in paragraph (b)) to section 8 below (note that we will need to amend 79.16 (3)).]

Exemptions, s. 79.16

7. (1) Clause 79.16 (1) (b) of the Act does not apply to a consumer in respect of electricity retailed to the consumer by Fort Frances Power Corporation pursuant to its obligations under section 29 of the Electricity Act, 1998 for the volume of electricity supplied to Fort Frances Power Corporation by Abitibi-Consolidated Hydro Limited Partnership.

(2) Revoked: O. Reg. 494/10, s. 4 (2).

(3) Subsection 79.16 (1) of the Act does not apply to a consumer with respect to generation station service. O. Reg. 95/05, s. 7 (3).

Criteria for purpose of s. 79.16 (4) (b)

8. (1) For the purposes of clause 79.16 (4) (b) of the Act,

(a) the criterion is that the consumer must file a written statement in accordance with clause 79.16 (4) (a) of the Act, if before November 1, 2009, the consumer is not a low-volume consumer or a consumer otherwise referred to in subsection 4 (2); or

(b) the criteria are, if the consumer is a low-volume consumer or a consumer otherwise referred to in subsection 4 (2),

(i) the consumer must file a written statement in accordance with clause 79.16 (4) (a) of the Act, and

(ii) the statement must relate to a property for which an interval meter, that measures the amount of electricity used, is used for billing purposes. O. Reg. 115/09, s. 2.

(2) A consumer who on or before March 31, 2005 meets the criteria of subsection 79.4 (2) of the Act shall be deemed to meet the criteria set out in subsection (1).

An Act in respect of the cost of electricity

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[TOC]

Definitions

1. (1) In this Act,

"billing period" means a period of time that is wholly or partly in the eligible period and for which an invoice in respect of an eligible account is issued; ("période de facturation")

"Board" means the Ontario Energy Board; ("Commission")

"consumer" means a person,

(a) to whom an invoice is issued in respect of an eligible account for a billing period, or

(b) who is prescribed by the regulations or who satisfies such conditions as may be prescribed by the regulations; ("consommateur")

"distribution system" has the same meaning as in section 3 of the *Ontario Energy Board Act, 1998*; ("réseau de distribution")

"electricity vendor" means the IESO, a licensed distributor, a licensed retailer or a person prescribed by the regulations; ("vendeur d'électricité")

"eligible account" means, in respect of a consumer, an account with an electricity vendor, or with a person prescribed by the regulations, for the provision of electricity in Ontario if,

(a) the consumer has a demand for electricity of 50 kilowatts or less, or such other amount of demand for electricity as may be prescribed;

(b) the consumer annually uses not more than 250,000 kilowatt hours of electricity, or such other amount of use of electricity as may be prescribed,

(c) the consumer,

(i) carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and

(ii) holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act,

(d) the account 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*, or

(e) the consumer or the account satisfies such conditions as may be prescribed by the regulations; ("compte admissible")

"eligible period" means the period commencing January 1, 2017 ~~and ending on such date as may be prescribed~~; ("période admissible")

"IESO" has the same meaning as in subsection 2 (1) of the *Electricity Act, 1998*; ("SIERE")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("distributeur titulaire d'un permis")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("détaillant titulaire d'un permis")

"market rules" means the market rules made under section 32 of the *Electricity Act, 1998*; (règles du marché")

"regulations" means the regulations made under this Act; ("règlement")

"retail" has the same meaning as in section 56 of the *Ontario Energy Board Act, 1998*; ("vendre au détail")

"unit sub-metering" means activities that are unit sub-metering for the purposes of the *Ontario Energy Board Act, 1998*; ("activités liées aux compteurs divisionnaires d'unité")

"unit sub-meter provider" means a person who is licensed to engage in unit sub-metering by the Board under Part V of the *Ontario Energy Board Act, 1998*. ("fournisseur de compteurs divisionnaires d'unité")

Eligible account

(2) For the purposes of this Act, if a consumer would, but for this subsection, have an eligible account with a licensed retailer and with a licensed distributor, but only one of them issues an invoice to the consumer for a billing period for all amounts payable by the consumer to them for the billing period,

(a) the consumer is deemed to have an eligible account for the billing period only with whichever of them issues the invoice for the billing period; and

(b) the licensed distributor or licensed retailer who issues the invoice for the billing period is deemed to be imposing all charges and other amounts payable under the invoice for the purposes of determining the amount of financial assistance to which the consumer is entitled.

Base invoice amount

2. (1) For the purposes of this Act, the base invoice amount for a billing period in respect of an eligible account is determined in accordance with the regulations and, unless

otherwise prescribed by the regulations, includes, if the invoice is issued by a licensed distributor or a licensed retailer, amounts in respect of,

(a) the commodity price of the electricity;

(b) 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* that are not required under subsection (2) or the regulations to be excluded;

[(c) any charges related to an assessment under section 26.1 of the *Ontario Energy Board Act, 1998*;]

(d) any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*;

(e) any debt retirement charge payable by the consumer under subsection 85 (4) of the *Electricity Act, 1998*; and

(f) anything else prescribed by the regulations.

Exclusions

(2) Except as otherwise prescribed by the regulations, the base invoice amount for a billing period must exclude,

(a) the balance of any amounts carried forward from previous invoices;

(b) all penalties and interest;

(c) any charges that do not relate to the consumption of electricity;

(d) the fixed monthly service charge payable by a generation facility, within the meaning of section 56 of the *Ontario Energy Board Act, 1998*, that is classified as "microFIT" in a rate order issued by the Board under subsection 78 (3) of that Act;

(e) charges labelled as "specific service charges" or "retail service charges" in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*;

(f) the amount of any harmonized sales tax payable under Part IX of the *Excise Tax Act* (Canada); and

(g) any other amounts prescribed by the regulations.

↳ cap + trade consumer excluded

transitional bill
↳ just 2017 nearly est.

Financial assistance

3. (1) ~~Subject to subsection (2), a~~A consumer who has an eligible account during a billing period is entitled to receive financial assistance in respect of the cost of electricity during the billing period in an amount equal to 8 per cent of the base invoice amount for the billing period in respect of the eligible account.

~~**Maximums**~~

~~(2) A consumer is entitled to receive financial assistance in respect of the cost of a prescribed maximum number of kilowatt hours of electricity per eligible account per month, billing period or other prescribed period, subject to prescribed exemptions and determined in accordance with the regulations.~~

~~**Effective date**~~

~~(3) The maximums described in subsection (2) shall be in effect as of such date or during such period as may be prescribed.~~

Exception

(~~4~~2) Despite subsection (1), a consumer is not entitled to receive financial assistance under this Act,

(a) in respect of electricity consumed in generation station service;

(b) in such circumstances as may be prescribed by the regulations; or

(c) if the regulations prescribe that ~~they are~~the consumer is excluded from financial assistance.

Payment of financial assistance

(~~5~~3) The financial assistance to which a consumer is entitled under this Act shall be paid,

(a) by crediting the consumer's eligible account; or

(b) in such other manner as may be prescribed by the regulations.

Money appropriated by the Legislature

(~~6~~4) The money required for the purposes of this Act shall be paid out of the money appropriated for those purposes by the Legislature.

No assignment of financial assistance

(~~7~~5) An assignment by a consumer to another person or entity, including a licensed retailer, of the consumer's entitlement to any payment, rebate or credit does not apply to

any financial assistance to which the consumer is entitled under this Act, whether the assignment was made before or after this subsection comes into force.

Same

(~~8~~6) Subsection (~~9~~7) applies if,

(a) a consumer provides to another person electricity in respect of which the consumer is entitled to financial assistance under subsection (1); and

(b) an invoice for the electricity is issued to the person by the consumer, by an agent of the consumer or by a unit sub-meter provider providing unit sub-metering for the consumer.

Requirement to pass on benefit

(~~9~~7) Despite subsections (1) and (~~7~~5), the consumer and every unit sub-meter provider providing unit sub-metering for the consumer shall ensure that each person who is liable to pay an invoice referred to in clause (~~8~~6) (b) receives a credit, determined in the manner prescribed by the regulations, in respect of the financial assistance to which the consumer is entitled with respect to electricity the consumer provides to the person.

Invoices

4. (1) ~~Subject to~~Unless otherwise prescribed by the regulations, every electricity vendor who issues an invoice for a billing period to a consumer in respect of an eligible account shall clearly show on the invoice,

(a) a credit equal to the amount of the financial assistance provided to the consumer for the billing period; and

(b) the net amount of the invoice after the credit.

Invoice issued by consumer, etc.

(2) An invoice that is issued by a consumer, an agent of a consumer, a unit sub-meter provider or another person prescribed by the regulations must be in the form required by the regulations and contain or be accompanied by the information required by the regulations.

Transitional

(3) If, for technical or operational reasons, an electricity vendor or a person referred to in subsection (2) is unable to adapt its invoices to comply with this Act and the regulations by the time it issues its first invoice for electricity consumed in 2017 in respect of an eligible account,

→ Min's reg for invoicing

→ talk w/ leg counsel

(a) the electricity vendor or person shall adapt its invoices as soon as possible and, in any event, no later than July 1, 2017; and

(b) consumers continue to be entitled to receive the financial assistance to which they are entitled under this Act and may receive it as a lump sum credit on the invoice for the first billing period after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Financial arrangements

Purposes

5. (1) The purposes of this section are,

(a) to ensure that financial assistance under this Act and the regulations is provided to those persons entitled to receive it; and

(b) to authorize the making of financial arrangements to reimburse electricity vendors, and other persons prescribed by the regulations, for financial assistance provided under this Act and the regulations.

Regulations

(2) The Lieutenant Governor in Council may, for the purpose of this section, make regulations,

(a) authorizing the Minister of Energy to make payments to persons who are electricity vendors or persons prescribed by the regulations in respect of the amount of financial assistance to which consumers are entitled under this Act and prescribing methods for determining the amounts payable;

(b) requiring the IESO to make payments to licensed distributors, or to persons prescribed by the regulations, in respect of financial assistance provided under this Act or the regulations and prescribing methods for determining the amounts payable;

(c) requiring a licensed distributor to make payments to other licensed distributors or licensed retailers in respect of financial assistance under this Act and prescribing methods for determining the amounts payable;

(d) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments in respect of financial assistance to consumers or other persons entitled to receive the financial assistance and prescribing the circumstances in which such payments are to be made and methods for determining the amounts payable;

(e) authorizing the Minister of Energy to make payments of financial assistance directly to consumers and prescribing the circumstances when such payments are to be made;

(f) requiring a person who is an electricity vendor or a person prescribed by the regulations to make payments to the Minister of Finance in respect of amounts received by them or in circumstances prescribed by the regulations and prescribing methods for determining the amounts payable;

(g) authorizing payments referred to in clause (a), (b), (c), (d) or (f) to be made by way of set-offs and credits and prescribing conditions entitling or requiring amounts to be set off or credited;

(h) governing the payments required under clause (a), (b), (c), (d) or (f), including methods for paying the amounts payable and when the payments must be made, and governing methods for determining amounts to be set off or credited, including the times within which amounts must or may be set off or credited;

(i) for the purposes of this Act and the regulations, requiring persons who are electricity vendors or persons prescribed by the regulations to provide information to the Minister of Energy, the Minister of Finance, the IESO, the Board or licensed distributors and prescribing the information to be provided and when it must be provided;

(j) governing the establishment and maintenance of variance accounts required for the purposes of this Act.

Conflict with market rules and codes

(3) In the event of a conflict, a regulation made under subsection (2) prevails over the market rules to the extent of the conflict and prevails over a code issued by the Board under section 70.1 of the *Ontario Energy Board Act, 1998* to the extent of the conflict.

Provision of information

(4) A person may do anything required by a regulation made under clause (2) (i) despite any agreement to the contrary and, if the person does so,

(a) the person is not liable for doing the thing in contravention of any agreement to the contrary; and

(b) doing the thing is deemed not to constitute a breach, termination, repudiation or frustration of any contract.

Cut-off dates and limitation periods for financial assistance, reimbursement
Financial assistance

6. (1) Despite any entitlement of consumers to financial assistance under this Act, no financial assistance is payable to a consumer after a date or after a limitation period ~~of time~~ prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after a date or limitation period ~~of time~~ prescribed by the regulations in respect of the electricity vendor or other person, other than in such circumstances as may be prescribed by the regulations.

Definition

7. In sections 8, 9 and 10,

"Minister" means the Minister of Finance or such other member of the Executive Council to whom the administration of those sections is assigned under the *Executive Council Act*.

Records

8. (1) Every electricity vendor and every person prescribed by the regulations shall keep at a location in Ontario such records as are necessary to determine and verify compliance with this Act and the regulations and any records required by the regulations to be kept.

Electronic records

(2) If a person keeps records in an electronic form, the person shall ensure that, from the time the records are first made and for as long as they are required to be retained,

(a) they remain complete and unaltered, apart from any changes or additions made in the normal course of communication, storage or display; and

(b) they are capable of being printed and of being produced in electronically readable format for inspection, examination or audit.

Retention of records

(3) Records required to be kept under subsection (1) shall not be destroyed unless authorization has been given in writing by the Minister.

Offence

(4) Every person who fails to keep records in accordance with this section is guilty of an offence and, on conviction, is liable to a fine of not less than $50 and not more than $5,000.

Inspections and inquiries

9. (1) The Minister may appoint one or more inspectors who are authorized to exercise any of the powers and perform any of the duties of a person authorized by the Minister under subsection 31 (1) of the *Retail Sales Tax Act* for any purpose related to the administration and enforcement of this Act.

Same

(2) Subsections 31 (1), (2), (2.1) and (2.2) of the *Retail Sales Tax Act* apply, with necessary modifications, with respect to the administration and enforcement of this Act.

Admission of evidence

(3) The Minister, or a person authorized by the Minister, may, for any purpose related to the administration of this Act or the regulations, reproduce from original data stored electronically any information previously submitted as required under this Act or the regulations in any form by any person, and the electronically reproduced document shall be admissible in evidence and shall have the same probative force as the original document would have had if it had been proved in the ordinary way.

Inquiry

(4) The Minister may, for any purpose related to the administration of this Act or the regulations, authorize any person, whether or not the person is an employee in the Ministry of the Minister, to make such inquiry as the Minister considers necessary with reference to anything relating to the administration of this Act or the regulations.

Copies

(5) If a book, record or other document is examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry may make, or cause to be made, one or more copies of it, and a document purporting to be certified by the person to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if proved in the ordinary way.

Compliance

(6) No person shall hinder or molest or interfere with any person doing anything that the person is authorized by this section to do or prevent or attempt to prevent any person doing any such thing.

Same

(7) Despite any other law to the contrary, every person shall, unless the person is unable to do so, do everything he, she or it is required by this section to do.

Administration of oaths

(8) Declarations or affidavits in connection with statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee for doing so.

Application of Public Inquiries Act, 2009

(9) Section 33 of the *Public Inquiries Act, 2009* applies to an inquiry under subsection (4).

Recovery of overpayments

Definitions

10. (1) In this section,

"inspector" means an inspector referred to in section 9; ("inspecteur")

"overpayment" means an amount received by a person in excess of any reimbursement to which the person is entitled under this Act and the regulations. ("trop-perçu")

Notice of overpayment

(2) If it appears to an inspector that a person has received an overpayment, the Minister may send a written notice to the person advising the person of the following:

1. That the person has received an overpayment.

2. The amount of the overpayment and how it was calculated.

3. The required steps to be taken by the person with respect to the overpayment.

4. The date, not more than six months after the date of the notice, by which these steps must be completed.

5. That the Minister has the authority to assess the person for the amount of the overpayment, plus interest, if the person fails to complete the required steps by the specified date.

Calculation of amount of overpayment

(3) For the purposes of this section, an inspector shall calculate an overpayment or the outstanding balance of an overpayment in the manner and form and using such procedures as the Minister considers adequate and expedient.

Assessment

(4) If a person fails to complete the steps required in a notice under subsection (2) within the time specified in the notice, and any additional time requested by the person and permitted by the Minister, the Minister may assess or reassess the amount of the overpayment, or the outstanding balance of the overpayment, based on the inspector's calculation described in subsection (3).

Penalty

(5) If the Minister makes an assessment or reassessment under subsection (4) and is satisfied that the person's non-compliance with the required steps in the notice was attributable to neglect, carelessness, wilful default or fraud, the Minister may assess a penalty against the person equal to the outstanding balance of the overpayment when the penalty is assessed.

Time limit

(6) The Minister shall not assess or reassess under subsection (4) more than 48 months after the end of the month in which the person received the overpayment.

Exception, where misrepresentation, etc.

(7) Subsection (6) does not apply if the Minister establishes that the person has made a misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in supplying information under this Act or the regulations or in omitting to disclose information.

Deemed debt retirement charge

(8) An amount assessed or reassessed by the Minister under this section is deemed for the purposes of the administration and enforcement of this Act to be a debt retirement charge, as defined in subsection 85 (1) of the *Electricity Act, 1998*, that has been collected, on the last day of the month in which the person received the overpayment, by the person as a collector appointed under subsection 85.3 (1) of the *Electricity Act, 1998* and, for those purposes,

(a) sections 85.11, 85.12, 85.14, 85.17 and 85.30 of that Act apply with necessary modifications;

(b) in the application of sections 85.11 and 85.14 of that Act and without limiting the generality of clause (a), references to the Financial Corporation are read as

references to the Minister of Finance and references to the Minister of Finance are read as references to the Minister as defined in section 7 of this Act;

(c) the regulations made under that Act for the purposes of calculating the rate or rates of interest payable under section 85.11 of that Act and the manner of calculating the amount of interest apply with necessary modifications; and

(d) sections 23 and 36, subsections 37 (1), (1.1) and (2) and sections 37.1, 38 and 39 of the *Retail Sales Tax Act* apply with necessary modifications.

Disposition of repaid amounts

(9) If all or part of an overpayment is repaid to the Minister of Finance, the Minister of Energy shall make such financial arrangements and payments as may be necessary to ensure that any electricity vendor or other person entitled to all or part of the overpayment receives the appropriate amount.

Confidentiality

11. (1) Except as authorized by this section, no person employed by the Government of Ontario shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister of Energy or the Minister of Finance for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Testimony

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

(a) to give evidence relating to any information obtained by or on behalf of the Minister of Energy or Minister of Finance for the purposes of this Act; or

(b) to produce any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Exception

(3) Subsections (1) and (2) do not apply in respect of,

(a) criminal proceedings under any Act of the Parliament of Canada;

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

(c) proceedings relating to the administration or enforcement of this Act or Part V.1 or VI of the *Electricity Act, 1998*.

Communication

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,

(a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law or to an employee of the Board information obtained by or on behalf of either Minister for the purposes of this Act; and

(b) allow another person employed by the Government of Ontario in the administration or enforcement of any law or an employee of the Board to inspect or have access to any record or thing obtained by or on behalf of either Minister for the purposes of this Act.

Reciprocal communication

(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to that Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of information

(6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

Same

(7) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to,

(a) the person from whom the information, record or thing was obtained;

(b) any person by whom an amount is payable or has been paid under this Act; or

(c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.

Information

(8) The Minister of Finance may permit information or a copy of any record or thing obtained by or on behalf of the Minister of Finance for the purposes of this Act to be given to any person employed by any government if,

(a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and

(b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

Offence

(9) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than $2,000.

Offences

False statements, etc., and fraud

12. (1) Every person who engages in any of the following acts or omissions is guilty of an offence:

1. Making, participating in, assenting to or acquiescing in the making of a false or deceptive statement in any document or answer required or submitted under this Act or the regulations.

2. Destroying, altering, mutilating, hiding or otherwise disposing of information or records of an electricity vendor or other person, for the purpose of evading compliance with this Act or the regulations.

3. Making, assenting to or acquiescing in the making of a false or deceptive entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

4. Omitting to make or assenting to or acquiescing in the omission of an entry of a material particular in a record of an electricity vendor or other person required to maintain records for the purposes of this Act.

5. Wilfully evading or attempting to evade, in any manner, compliance with an obligation under this Act or the regulations.

Penalty upon conviction

(2) A person convicted of an offence under subsection (1) is liable to either or both of the following penalties in addition to any other penalty assessed under this Act:

1. A fine in an amount that is not less than $1,000 and not more than $10,000.

2. Imprisonment for a term of not more than two years.

General offence

(3) Every person who contravenes, by any act or omission, a requirement imposed under this Act is guilty of an offence and, on conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than $50 and not more than $5,000.

Limitation period

13. A proceeding to prosecute an offence under this Act must be commenced within six years after the date on which the matter of the offence arose.

Payment of fines

14. Fines imposed on conviction of an offence under this Act are payable to the Minister of Finance on behalf of the Crown in right of Ontario.

Regulations

15. (1) The Lieutenant Governor in Council may make regulations,

~~**Note from the Office of Legislative Counsel:** Under s. 82 of the *Legislation Act, 2006*, a power to make a regulation includes the power to create classes and create different rules for different classes. For example, the power to cap financial assistance includes the power to impose different caps on different classes of consumers.~~

~~Also, regulations can be made in respect of multiple periods of time.~~

~~A question was asked about a general regulation-making power to exempt anyone from any provision of the Act. Although some Ontario statutes do have such a provision, it is not recommended. On its face, it is a sweeping power to negate the will of the Legislature. This is sometimes called a "Henry VIII clause". If an exemption power may be needed, it is better to identify which provisions may be affected and then provide in those provisions that the rule is subject to exceptions set out in regulation (as in s. 3 (2) of this draft), rather than by a more sweeping power.~~

~~It is also important to note that regulations are only authorized to the extent that they are consistent with the purposes of the Act. Therefore, a general power to grant an exemption may be less useful than it seems: a regulation made under a sweeping general power may seem less consistent with the purposes of the Act than a regulation made under a specific power contemplated in the substantive provisions of the Act.~~

(a) prescribing anything required to be or referred to in this Act as being prescribed by the regulations;

(b) defining any word or expression used in this Act that is not already expressly defined in this Act;

(c) requiring any person to take such action or refrain from taking such action as may be necessary for the purposes of or in connection with any regulation made under this Act;

(d) prescribing information that must or may be included on invoices issued to consumers or that must or may accompany invoices issued to consumers or payments of financial assistance under this Act;

(e) governing the presentation of financial assistance under this Act on invoices issued to consumers;

(f) governing information that must or may be provided to consumers concerning this Act and eligibility for financial assistance under it;

(g) governing the determination of the base invoice amount for a billing period with respect to a class of electricity vendors or a class of consumers;

~~(h) governing the determination of the maximum financial assistance to which a consumer is entitled under subsection 3 (2) in respect of a month, billing period or other specified period, including,~~

~~(i) prescribing what constitutes a month or other specified period for the purposes of the maximum;~~

~~(ii) prescribing the method for determining the number of kilowatt hours of electricity consumed per month, billing period or other specified period, and~~

~~(iii) prescribing exemptions for the purposes of that subsection;~~ (i) prescribing a method of paying or crediting to a consumer an amount of financial assistance to which the consumer is entitled under this Act and the circumstances in which the method applies;

(~~j~~i) requiring a unit sub-meter provider to provide financial assistance in respect of the cost of electricity and prescribing,

(i) the circumstances in which the financial assistance is to be provided,

(ii) the person or class of persons entitled to receive the financial assistance,

(iii) the method of determining the amount of the financial assistance to be provided,

(iv) the manner for paying or otherwise providing the financial assistance;

(~~k~~j) setting out one or more dates or limitation periods for the purposes of subsection 6 (1) or (2), and governing the circumstances in which that subsection does not apply;

(~~l~~k) respecting records to be kept by electricity vendors or by persons prescribed by the regulations;

(~~m~~l) providing for matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the implementation of this Act and the regulations.

Retroactive regulations

(2) A regulation made under this Act is, if it so provides, effective with reference to a period before it is filed.

Subdelegation

(3) A regulation under this Act may authorize a person to require, authorize, prescribe or otherwise determine any matter that may be required, authorized, prescribed or otherwise determined by the Lieutenant Governor in Council under this Act.

Repeal

16. On the day this section comes into force, this Act is repealed.

Ontario Clean Energy Benefit Act, 2010

17. (1) The *Ontario Clean Energy Benefit Act, 2010* is amended by adding the following section:

Cut-off dates for financial assistance, reimbursement

Financial assistance

6.1 (1) Despite any entitlement of consumers to financial assistance under this Act, no financial assistance is payable to a consumer after the date prescribed by the regulations in respect of the consumer, other than in such circumstances as may be prescribed by the regulations.

Reimbursement

(2) Despite any requirement under this Act to reimburse an electricity vendor or other person for financial assistance provided by them to consumers, no amounts for reimbursement are payable to the electricity vendor or other person after the date prescribed by the regulations in respect of the electricity vendor or other person, other than in such circumstances as may be prescribed by the regulations.

(2) Subsection 15 (1) of the Act is amended by adding the following clause:

(i.1) setting out one or more dates for the purposes of subsection 6.1 (1) or (2), and governing the circumstances in which that subsection does not apply;

Ontario Energy Board Act, 1998

~~16.~~**18. (1) The definition of "enforceable provision" in section 3 of the *Ontario ~~Clean~~ Energy Board Act, 1998* is amended by adding the following clause:**

(c.2) a provision of the *Ontario Rebate for Electricity Consumers Act, 2016* or the regulations made under it,

(2) On the day this subsection comes into force, clause (c.2) of the definition of "enforceable provision" in section 3 of the Act, as made by subsection (1), is repealed.

(3) Section 70 of the Act is amended by adding the following subsection:

Deemed condition of licences, unit sub-meter provider, *Ontario Rebate for Electricity Consumers Act, 2016*

(2.3) Every licence issued to a unit sub-meter provider is deemed to contain the condition that the unit sub-meter provider is required to comply with the *Ontario Rebate for Electricity Consumers Act, 2016* and the regulations made under it.

~~**Repeal**~~

~~**17. This Act is repealed on a day to be named by proclamation of the Lieutenant Governor.**~~ **(4) On the day this subsection comes into force, subsection 70 (2.3) of the Act, as made by subsection (3), is repealed.**

Commencement

~~**18. This**~~**19. (1) Subject to subsection (2), this Act comes into force on the later of January 1, 2017 and the day it receives Royal Assent.**

(2) Section 16 and subsections 18 (2) and (4) come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

~~19.~~20. The short title of this Act is the *Ontario Rebate for Electricity Consumers Act, 2016*.

Document comparison by Workshare Compare on August-31-16 22:15:06

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Rendering set	Standard

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Padding cell	

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