Ontario

CABINET BRIEFING NOTE AND LRC RECOMMENDATION

Energy
DRAFT Financing Global Adjustment

Cabinet (info)	TB/MBC	Cabinet	Announcement	TB/MBC	Cabinet	Introduction
Feb 15, 2017	March 1, 2017	March 1, 2017	March 2, 2017	May 9, 2017	May 10, 2017	May 11, 2017

Summary of Proposal

The proposed legislation contains no variance from Cabinet direction [TBC].

Context for Decision:

This proposal follows Cabinet direction to the Ministry of Energy to take the necessary steps to implement electricity price mitigation initiatives that would provide additional rate relief to Ontario electricity ratepayers.

The proposed legislation, the *Ontario Fair Hydro Plan Act, 2017*, if enacted, enables approaches to fairly allocate the costs of the Global Adjustment (GA) amongst specified current and future electricity rate payers, and help the most vulnerable Ontarians through enhancements to electricity support programs through government funding. To fully implement the initiative, the Ministry of Energy will be seeking future approvals for regulations identified in the proposed bill.

The proposed legislation:

1. Establishes a framework to finance a portion of the GA costs in order to reduce costs for electricity ratepayers in the near term and spread the costs of the GA more fairly across ratepayers between July 1, 2017 and April 30, 2047, or a later date as may be prescribed:
   - July 1, 2017 to April 30, 2018, reduces, on average, after-tax electricity costs for "specified consumers" by 25% (including the 8% rebate implemented Jan 1, 2017).
   - May 1, 2018 to April 30, 2022, electricity rates will be set by Order in Council (OIC) with the intention to keep increases in line with the Consumer Price Index (CPI) (See page 17- Fiscal Pressure).
   - May 1, 2022 to April 30, 2047, electricity rates will increase at a pace that ensures recovery of the accumulated debt, interest costs and

administrative costs, around 10% of total electricity costs [TBC]. (See page 14- Future Impacts to Electricity Rates)

- Through the bill and amendments to the *Electricity Act, 1998* and the *Ontario Energy Board Act, 1998,* expands the powers of Ontario Power Generation (OPG), the Ontario Energy Board (OEB), and the Independent Electricity System Operator (IESO) to provide for appropriate oversight, put in place appropriate payment, settlement and cost-recovery authorities for and through the IESO (including accommodating payments to and from any appropriate entity) to manage the deferred GA costs. (See page 19- OPG Mechanism)

2. Expands electricity support programs for the most vulnerable consumers and moves program costs from the rate base to the tax base. The bill amends the *Ontario Energy Board Act, 1998* to:
   - Move the recently expanded Ontario Electricity Support Program (OESP) to government funding, transition the program to be administered by the Crown, and to enable information exchange between the Ontario Disability Support Program to potentially allow for scoped automatic enrolment procedures to be established;
   - Enable a broadening of the Rural or Remote Electricity Rate Protection (RRRP), including the ability to prescribe a harmonizing of distribution costs for customers with the highest distribution rates (currently targeted for Local Distribution Companies (LDC) with the highest distribution charges) and moving the program to be government funded; and,
   - Require the establishment of a government funded program to provide a First Nation delivery credit to prescribed on reserve customers.

Terms you need to know

- **Global Adjustment (GA) –** The GA accounts for the difference between generation costs (contracted and rate-regulated) and the wholesale market price, helping to recover fixed costs, including capital costs, of putting in place and operating Ontario's generation fleet, fixed generation costs, such as renewables, gas and nuclear contracts, as well as the cost of conservation and demand management programs. The GA is instrumental in maintaining a reliable electricity system by ensuring that sufficient generating capacity is available.
- **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.)
- **Delivery charge –** The costs of getting electricity from generating stations to homes and businesses. Appears as one line on electricity bills, includes three components:
  - Transmission: The costs of moving electricity across high voltage lines from generating stations to the distribution system. This cost is recovered through a

variable per unit charge that is approved by the OEB.

- Distribution: The costs of moving electricity from the transmission system to homes and businesses. Depending on the LDC, distribution costs makes up about 60% to 80% of the Delivery line. This cost is currently recovered through both a variable per unit charge and a fixed charge, approved by the OEB. Distribution rates are moving to a fully-fixed charge over next 5 years._
- Line Loss: The costs to recover electricity that is lost as heat when it is delivered over a power line.

- **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.
- **Customer classification for Hydro One** – Customer service types are determined by the kind of electricity service as well as by density – how many customers there are in the area and the number of customers per kilometre of line. The more customers there are in the area, the lower the cost to serve. R1 customers are considered 'medium density' customers and R2 are considered 'low density customers.'
- **Ontario Power Generation (OPG)** – A business corporation owned by the Province that owns and operates generation assets, including nuclear and hydro, and generates almost half of Ontario's electricity.
- **Ontario Energy Board (OEB)** – A Crown Agency that independently regulates Ontario's electricity and natural gas sectors in the public interest. Implements an open and transparent process to allow for stakeholders to comment on various items.
- **Independent Electricity System Operator (IESO)** – An independent corporation and agency of the Ministry of Energy that operates the electricity market in Ontario. Balances the supply of and demand for electricity in Ontario and then directs its flow across the province's transmission lines, including interties with other jurisdictions.
- **Special Purpose Vehicle (SPV)** – A Special Purpose Vehicle (SPV) sometimes referred to as a Special Purpose Entity (SPE) is an offbalance sheet vehicle (OBSV) comprised of a legal entity created by the sponsor or originator, typically a major investment bank or insurance company, to fulfil a temporary objective of the sponsoring firm. SPVs can be viewed as a method of disaggregating the risks of an underlying pool of exposures held by the SPV and reallocating them to investors willing to take on those risks. This allows investors access to investment opportunities which would not otherwise exist, and provides a new source of revenue generation for the sponsoring firm. (Source: PWC)
- **Security Interest** – A security interest is a type of property interest created by agreement or by operation of law over assets to secure the performance of an obligation, usually the payment of a debt. It gives the beneficiary of the security interest certain preferential rights in the disposition of secured assets.

Why does Ontario need these changes? Why now?

Addressing rising electricity prices is among the highest priorities for Ontarians. On March 2, 2017, the Ontario government announced Ontario's Fair Hydro Plan, and since then, there has been increased media attention and public pressure for the government to bring forward the legislation which would enact the commitments made in the Plan. The government has committed to implement further rate relief measures by the summer 2017. On April 20, 2017, the OEB announced that, starting in May, electricity rates would be 17% lower than would have otherwise been without the 8% rebate (OREC), the anticipated move of OESP costs to government funding, and a portion of the reductions estimated under Ontario's Fair Hydro Plan based on a comfort letter sent from the Minister of Energy.

What is the expected cost to government?

The total cost of the proposal is $3B [TBC] in 2017/18, $499M funded through the fiscal plan and $2.5B to eventually be recovered through the electricity rate base.

TABLE 1: Cost Impact ($M)	2017-18	2018-19	2019-20	2020-21
Moving Social Programs to Government-Funded (details provided in the chart below)	499	753	829	892
GA Financing (Assumes funded from the electricity rate base)*	2,534	2,668	2,942	3,420
Cumulative Total	4,133	3,421	3,771	4,312

***Note:** GA Financing includes equity injection from the province to OPG. $1.1B in 2017-18 (requires appropriations)

The bill establishes a structure in which the IESO records the GA cost recovery deferral as a regulatory asset (regulated by the OEB). The IESO may then sell the regulatory asset, at which time it becomes an investment asset. The investment asset owner (OPG Trust/Special Purpose Vehicle (SPV) or "financing entities") may then further sell or securitize all or part of the regulatory asset to other parties in exchange for a funding obligation. Under this structure, OPG, acting as the "Financial Services Manager," would therefore take on the risk and responsibility of financing the deferral by purchasing monthly regulatory assets from the IESO. The OPG would finance these purchases through a combination of an equity investment by the Province flowed through the OFA [TBC] ($1.1 B in 2017-18; See Table 1) and external private sector financing. The structure would increase gross debt of the Province (to finance the equity injection in OPG), increase net investment in OPG (so no net debt impact), increase interest on debt related to that external debt, and increase earnings of OPG to offset the increase in interest costs.

The estimate for the combined impact of the support programs for the most vulnerable consumers would begin in 2017/18 and is expected to be $499M in 2017/18, growing to $753M in 2018/19 and rising. This investment has been factored into the 2017 Ontario Budget's fiscal plan. These estimates are based on variable inputs such as program uptake and future energy consumption of various consumer groups, and are therefore subject to change.

TABLE 2: Fiscal Impact ($M)	17-18	18-19	19-20	20-21
RRRP Enhancements*	344	472	484	497
OESP Enhancements	140	261	325	375
First Nations On-Reserve Delivery Credit	15	20	20	20
Total	499**	753	829	892

Notes:
* Current regulatory framework calls for RRRP to increase by average distribution rate increase. Forecast assumes 2.6% annually though is subject to OEB proceedings. Fiscal projection is subject to consumer consumption patterns that may change due to extreme weather or other factors. Does not include Algoma Power or Hydro One Remotes, which would continue to be on the rate base.
** Value adjusted from $665 million to reflect July 2017 implementation.
*** OFHP also includes programs, no part of the legislative package, Affordability Fund $100M in 2016-17, and the Ontario Rebate for Electricity Consumers, $$939M in 2017-18.

There is inherent risk in the financial estimates given the number of variables that are included in the calculations (e.g. cost of borrowing, electricity demand and electricity market conditions and accounting assumptions). In addition, under the proposal, electricity prices would increase around 10% [TBC] above forecast residential monthly bills from 2028 to 2047 (See page 13- Expected Impacts on Electricity Costs). The public may expect that the government is committed to reducing or holding constant the absolute cost of electricity for consumers in the longer term. Under the mechanism, the government would not have the ability to direct further changes to the rate of repayment for GA refinancing, which would limit the government's options to address electricity rate concerns in the future (See page 17- Fiscal Pressure).

What are the key steps to deliver this proposal?

- May 11, 2017 - introduce legislation.
- Spring- Summer 2017- Energy to work with IESO, OEB, OPG, OFA and LDCs on the implementation of the Fair Hydro Plan.
- Information postings of proposed regulations.
- June 2017- Energy to bring regulations to TB/MBC.
- June 2017- Energy to bring regulations to LRC/Cabinet.
- July 1st, 2017- the remaining Fair Hydro Plan reductions and programs would take effect. Programs that are not established on this day for technical implementation issues will have benefits that are retroactively applied to customers once program is operational in individual LDCs.

How will the changes be communicated?

On March 2, 2017, the Premier announced the Fair Hydro Plan, which would lower electricity bills by 25 per cent for all residential customers including many small businesses and farms. Communications was sustained through minister announcements, local MPP echoes, a radio campaign, and a webpage that features all the programs and initiatives the government is taking to reduce electricity costs.

On May 11, 2017, there will be a news release to announce the introduction of legislation to implement the Fair Hydro Plan. Phase two of the marketing campaign will start this summer and will include radio and television.

A robust issues management plan will be developed to mitigate the GA financing risks.

Notes and Recommendation from LRC

LRC item direct to Cabinet.

Cabinet Office Analysis

The proposed legislation allows for the implementation of the main elements of Ontario's Fair Hydro Plan announced March 2 to provide further rate relief to Ontario electricity ratepayers. The Global Adjustment (GA) smoothing proposal will provide, on average, 25% in electricity rate relief (including the 8% announced in 2016) to "specified consumers" (i.e., residential and other eligible farm and small businesses under the Regulated Price Plan (RPP)) between July 1, 2017 and April 31, 2018 ("The Fair Adjustment"). Electricity rates would then change by amounts prescribed in the regulations under the bill, with the intention to keep rate increases in line with Consumer Price Index (CPI) between May 1, 2018 and April 30, 2022. Additional relief will be provided to Ontarians most in need through enhancements to electricity support programs through government funding.

1. Refinancing the Global Adjustment

The proposed legislation establishes the framework to defer some of the current Global Adjustment (GA) costs to future ratepayers by recognizing the longer term benefit of these assets to the electricity system. The methodology is based on the assumption that some generation assets are expected to continue to provide benefit to future ratepayers beyond the term of current contracts (typically 20 years), and that future ratepayers are expected to continue to be able to utilize and benefit from these assets, and that they will also reduce the need to finance the development of new generation assets in the future. Similarly, conservation costs are recovered through the GA on an annual basis while conservation initiatives can provide benefits to the electricity system over many years.

According to a legal opinion by former Supreme Court Justice Binnie, the amount that could be financed would need to reflect the true value of the underlying assets being amortized over a longer period of time. Shifting too much of the current GA costs to future generations leaves the process more susceptible to constitutional challenge and could jeopardize the regulatory nature of the cost deferral charges (the "clean energy adjustment"), and risk it being deemed an unlawful tax. The bill has been drafted to mitigate this risk and clearly articulates the desire to fairly attribute intergenerational costs and benefits of the "clean energy initiative." In addition the bill includes provisions to allow for the balance of the legislation to remain in effect if any particular clause or section is struck down by a court (See page 16- Legal Risk).

The bill establishes a structure in which the Independent Electricity System Operator (IESO) records the GA cost recovery deferral as a "regulatory asset" (regulated by the Ontario Energy Board (OEB)), supported at its foundation by the fact that the refinancing of the GA is not a reduction in the GA, but rather a deferral to be collected at a future time ("the Fair Adjustment" and "IESO deferral"). "Specified consumers" would receive, on average, a 25% reduction in electricity rates from July 1, 2017 to April 30, 2018. The IESO may then sell the regulatory asset, at which time it becomes an "investment asset." The investment asset owner (OPG Trust/Special Purpose Vehicle (SPV) or "financing entities") may then further sell or securitize all or part of the regulatory asset to other parties in exchange for a funding obligation.

The Minister, following the principles in the bill, would regularly calculate the "Fair Allocation Amount" to ensure a proper match of the allocation of the intergenerational costs and benefits in relation to each on the next 60 six month "reference periods." The financings will be backed primarily by the clean energy adjustments payable by specified consumers. The "clean energy adjustments" will track the actual payment obligations incurred by the financing entities when they become due and payable. OPG, in its role as the Financial Services Manager will calculate the aggregate clean energy adjustment payable in each month of the reference period, and to ensure intergenerational fairness, these amounts will be managed to align with the fair allocation amounts determined by the Minister. The OEB would set the rates at which the clean energy adjustment could be collected from specified consumers. Starting in May 2022, to recoup the costs associated with the fair adjustment, consumers would be invoiced the Clean Energy Adjustment on their electricity bills through existing IESO and Local Distribution Companies (LDC) processes, which will be channeled through to pay each financing entity's related funding obligations.

OPG is planning to create a SPV or Trust to finance the GA smoothing. To maintain the integrity of the structure, OPG must have the ability to appoint and remove the Trustee (or Board of Trustees) of the SPV/Trust, with no veto right by the Province. No party shall have the ability to remove OPG from its role and authority in the SPV/Trust. The SPV/Trust will be consolidated by OPG, giving OPG the appropriate powers to impact its exposure to variability of the income in the SPV/Trust. OPG will have the ability to direct the financing of the SPV/Trust and both benefit from its financing strategy and be at risk as a result of it.

Once the OPG Trust/SPV has purchased the regulatory asset, which is under no obligation to do, it will ultimately take on the risk and responsibility of financing the deferral through debt financed from OPG and external sources. OPG's debt would be funded through a combination of an equity investment by the Province through the OFA [TBC] (See page 4: Table 1) and external financing through sale or securitization of the investment asset. The structure would result in increased gross debt of the Province (to finance the equity injection in OPG), increased interest on debt related to that Provincial debt, increased net investment in OPG (to offset the Provincial borrowing for no net debt impact), and increased earnings of OPG (to offset the interest on debt).

The legislation also provides that no action or omission by the OEB, the Minister, or the Crown is effective to reduce, impair, postpone or terminate the obligations of specified consumers to pay the clean energy adjustment. Additionally, to support the program, the

Ontario will be expected to provide certain performance guarantees, indemnities and bond-purchase covenants. The terms of these obligations will be worked out over time in connection with the marketing of financings through OPG. The goal will be to achieve the highest rated securities, although that will largely depend on issues such as the strength of the Ontario's undertakings not to adversely affect the program through subsequent legislation.

The potential cost to government associated with providing this type of guarantee and the cost of borrowing from private lenders is unknown at this time, but could be as high as $2-3B annually [TBC]. It should be noted that the external borrowing by the OPG Trust will be at a higher interest cost than Provincial borrowing costs, which would affect the carrying costs that would need to be recovered from ratepayers in the future.

Key elements of this component of the bill include:

Specified Consumers:

- The defined group of consumers to whom the "Fair Adjustment" applies. Primarily residences, farms and small businesses under the RPP.

Fair Adjustment

- The adjustment to rates, starting on July 1, 2017, to ensure intergenerational fairness.
- July 1, 2017- April 30, 2018- 25% average reduction in rates for "specified consumers."
- May 1, 2018- April 30, 2022- the bill allows for rates to be set by regulation (See page 17- Fiscal Pressure).

Fair Allocation Amount

- Principles established in the bill require proper match over time between the costs of providing facilities for clean electricity generation and conservation "clean energy costs" and the consumers who benefit from these investments in the system.
- The Minister sets the fair allocation amount, and is required to:
    - Fairly measure and allocate the estimated clean energy costs (and the clean energy benefits) among the "specified consumers" for applicable "reference periods" (typically every 6 months); and
    - Take into account (in the fair allocation) funding obligations (financing) that have been incurred (largely arising from the redistribution of cost across generations of consumers)(Page 16- Legal Risk; See page 17- Fiscal Pressure).

Clean Energy Adjustment

- Determined by Financial Services Manager (OPG), the clean energy adjustment is the amount that will be recovered from consumers in the future to pay principle, interest, transaction costs and administrative costs associated with the fair adjustment and consistent with the fair allocation amount.

- Will be subject to true-up process that will reconcile actual amounts collected with expected amounts.
- July 1, 2017- April 30, 2022- OPG to internally capitalize the costs related to the fair adjustment, which will result in increased financing costs during this time.
- May 1, 2022- April 30, 2047- to be invoiced to consumers and collected as part of the electricity bills through existing IESO and LDC processes.
- In accordance with the regulations, the OEB to set the rate at which specified consumers are invoiced to recover the clean energy adjustment.

Regulatory Asset and Investment Asset

- A regulatory asset is created as IESO defers its right collect a portion of the rates that it would have otherwise would have received from customers/LDCs if not for the implementation of the Fair Adjustment.
- Subject to OEB approval, IESO records the funding shortfall as a regulatory asset, as IESO would also have collection rights to recover the funding shortfall, which may be sold. Collection rights are deferred until May 1, 2022.
- The Financing Plan contemplates the Financial Services Manager (OPG) establishing financing entities (OPG Trust/SPV) to buy the regulatory asset and the associated rights in exchange for a payment to the IESO. IESO would use the payment to offset the funding shortfall.
- This purchase and sale turns the regulatory asset into an investment asset for the investment asset owner. The transfer includes the rights to collect amounts related to the clean energy adjustment in a manner consistent with the bill.
- The investment interest owner may further sell all or a portion of its rights and interests including by dividend or undivided interest, consistent with the Financing Plan. An investment interest owner may also grant a security interest over all or a portion of its right, title and interests to secure a funding obligation.
- After 5 years (May 1, 2022) the IESO has the right to collect its funding shortfall from ratepayers in the event that a portion of the regulatory asset is not bought and sold. If the regulatory asset is not sold, the IESO would require an alternative source of financing. IESO has requested a credit facility from the Ontario Financing Authority (OFA) (See page 17- Fiscal Pressure).
- The rights associated with the investment asset require IESO and LDCs to collect money from rate payers as agent of the investment asset owner.

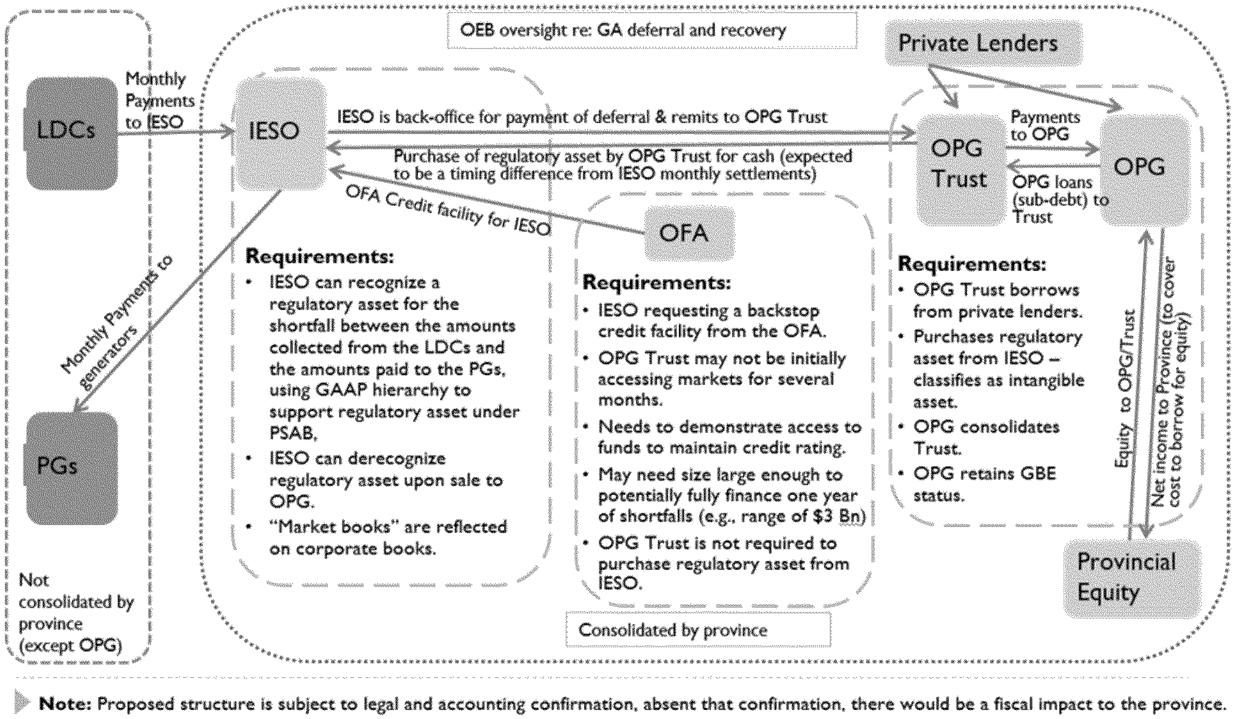
Financing Plan

- In practical terms, the Financing Plan is intended to show how debt (with varying degrees of incurrence dates, maturities, interest rates) will be used over time.
- Prepared by the Financial Services Manager (OPG) the Financing Plan is intended to set out when a "funding obligation" (financing) should be incurred so that the (OPG) financing entity can raise money to acquire the "investment interest" from IESO.
- Provided to the Minister Energy who may remove the Financial Services Manager if the Financing Plan is not consistent with the principles of the bill and the Financial Services Manager has been given the opportunity to address the Minister's concerns.

Crown Undertaking (Guarantee or Backstop)

- The bill provides that no action or omission of the Crown, the OEB, or the Minister would be effective to reduce, impair, or postpone or terminate the obligations of specified consumers to pay the clean energy adjustment.
- The Ministers of Energy and Finance together, with LGIC approval, may enter into agreements for compensation with any person in respect of the bill, including agreements regarding the performance of the IESO or electricity vendors under the bill.
- The Ministers of Energy and Finance together, with LGIC approval, may agree to guarantee and indemnify any debts, obligations, securities or undertakings associated with the investment interest.

Figure 1: Financing Structure



<u>External Opinions</u>

The proposed structure has been extensively reviewed by KPMG (Energy advisor and IESO auditor), and the firm has provided an accounting opinion confirming the validity of the structure under Public Sector Accounting Board (PSAB) standards [TBC]. This opinion can be made public [TBC] to support the government's rational for the plan. In addition, MAG and Blakes are confident that, depending on the size of the deferral attempted, the structure is constitutionally sound. MAG is confident that the initial fair adjustment is achievable and justifiable, but that this risk increases in the proceeding four years, and may impact the ability to fulfill the commitment to keep increase in line with CPI by this mechanism. If the government intends to keep rate increases to the pace of CPI from 2018 to 2022, this may require recourse to the fiscal plan to maintain constitutionality of the GA deferral mechanism structure.

For clarity, the below requirements were required to be met to ensure the structure was defensible. Based on the opinions received, Energy is confident that these requirements have been met: [TBC]

- IESO requirements :
  - IESO can recognize a regulatory asset for the shortfall between the amounts collected from the LDCs and the amounts paid to the PGs using GAAP hierarchy to support regulatory asset under PSAB;
  - IESO can derecognize regulatory asset upon sale to OPG;
  - "Market books" are reflected on corporate books; and,
  - OEB to act as regulator.
- OPG requirements:

- OPG Trust/SPV purchases regulatory asset from IESO – classifies as intangible asset;
- OPG consolidates Trust/SPV; and
- OPG retains GBE status.

However, despite the fact that the structure has satisfied the legal, fiscal, and accounting requirements outlined in the policy submission, there remain some fundamental risks that the province would need to accept:

- The structure is unique in Canada and possibly the world, which increases the risk or unknown factors impacting its performance. The use of securities mechanisms to address debt is more common in the Unites States, but officials are currently unaware of any example that would compare to the size, complexity, or fluidity of what is proposed;
- Complexity of the structure and length of deferral/recovery increases risk and decrease transparency;
- Government would have no ability to control electricity prices resulting from these changes outside of recourse to the fiscal plan;
- Government would not know the price of private borrowing that would be required for the OPG Trust to work and will have limited control over OPG's direct operations as the Financial Services Manager. While removal of the Financial Services Manager is provided for in the bill, in practice this may prove problematic once the system is operational; and
- Private lenders and rating agencies may disagree with the assessment of the size of the Fair Allocation Amount which would increase the risk of the asset and therefore its saleability. This could in turn, decrease the amount of rate reduction achievable under this mechanism.

2. Enhancing electricity supports for vulnerable Ontarians and shifting costs from rate payer funded to government funded:

<u>Moving the Ontario Electricity Support Program (OESP) to the tax base:</u>

The OESP is an income-tested, application based program that lowers electricity costs of the most vulnerable consumers by providing a rebate directly on electricity bills. The program was launched in January 2016 and has had roughly 30% enrolment. Consistent with Cabinet direction, the program was recently expanded to increase the existing benefit scales by 50% and provide additional credits to more households.

Under the expanded program the basic OESP benefit scale increased from \$30-\$50 to \$45-\$75 a month and the enhanced OESP benefit scale would increase from \$45-\$75 to \$68-\$113 a month for eligible consumers.

The proposed bill amends the *Ontario Energy Board Act, 1998* to allow for the program to transition from the rate base to the tax base, and become administered by a Ministry or other entity as may be prescribed. The cost to the fiscal plan would be \$186M in 2017/18. The bill provides further amendments designed to allow information sharing between the Ontario Disability Support Program (ODSP) and the entity responsible for OESP. The intention is that this information sharing will allow for automatic enrolment of individuals that are already enrolled under the ODSP, but it is currently unknown to what extent this will significantly impact the enrolment under the program.

RRRP Enhancement (Delivery Charge Relief):

RRRP helps to offset the higher costs to distribute electricity to Ontario residents who live in rural or remote locations all across the Province. Currently, RRRP is a $241.9M program paid for by the ratepayers. For an average residential customer, the cost of supporting RRRP is roughly $1.58 per month. For other customers, the cost to support the RRRP can range from $65 for a greenhouse to $8,000 for a medium industrial.

In 2016 the OEB made a ruling that all LDCs need to move to fixed distribution charges. The OEB found that fixed distribution charges would establish a more equitable way to recover the costs of providing distribution service, and provides 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.

The proposed bill amends the *Ontario Energy Board Act, 1998* to require the creation of a distribution rate protection program and the ability to cap the distribution charges of prescribed distributors. The intention is to bring forward regulations for this to apply to the 8 LDCs with the highest distribution costs (Hydro One (R1 and R2 rate classes), Northern Ontario Wires, Lakeland Power (Parry Sound service territory), Chapleau Public Utilities Commission, Sioux Lookout, InnPower, Atikokan Hydro and Algoma Power). The amendments also establish that the existing and now expanded RRRP program will be funded by the tax base.

The intention is to draft regulations permitted under this section of the bill to harmonize the fixed distribution rates to the lowest distribution cost of the LDCs mentioned above at $38/month (which is the forecast rate for Northern Ontario Wires). If the costs of another LDC moved above these in the future, a regulation change would be required so that LDC can receive the same RRRP support. These enhancements are expected to benefit approximately 800,000 customers in Ontario.

Targeted RRRP consumers would see additional savings on their monthly bill that would vary based on their consumption level. The cost to the fiscal plan is expected to be $344M in 2017/18, $243M [TBC] of which is a transfer of existing programs to the tax base. If the legislation and required regulations are passed, the program would become active as of July 1, 2017. It is possible that for technical reasons not all LDCs will be able to implement the changes required under the program in time for the July 1 effective date. In these cases, the bill dictates that, once the changes have been made (required by October 1, 2017 at the latest), the LDC would provide a lump sum credit to customers that would otherwise have been eligible for benefits under the program starting July 1st.

On-reserve First Nations Delivery Credit

First Nation and Political-Territorial Organization leaders have advocated for the need for electricity rate relief for on-reserve customers and the review of delivery charges associated with transmission and distribution within the context of historical grievances. In this instance, historic grievances relate to lands affected by energy developments.

The proposed bill amends the *Ontario Energy Board Act, 1998* to require the creation of a tax base funded delivery credit program for on-reserve customers with the details to be prescribed in the regulations. The intention is to enact regulations that would eliminate the delivery charge for all on-reserve First Nation household customers and eliminate the monthly service charge for customers of licensed distributors which charge a bundled rate.

Eligible recipients would be automatically enrolled in the program (~21,500 customers) and receive an average monthly benefit of $85. The program will cost approximately $20M annually and provides for a July 1, 2017 effective date. It is possible that for technical reasons not all LDCs will be able to implement the changes required under the program in time for the July 1 effective date. In these cases, the bill dictates that, once the changes have been made (required by October 1, 2017 at the latest), the LDC would provide a lump sum credit to customers that would otherwise have been eligible for benefits under the program starting July 1st.

Expected Impacts of the Proposal on Electricity bills:

The impact of proposed legislation to an eligible customer's bill in July 2017 is an average 25% decrease combined with the 8% from ORECA effective Jan. 1, 2017), followed by an increase in price over time. Between May 2018 and April 2022 electricity rates will be set by regulation with the intention that rate increases would be kept in line with CPI. Customers that are eligible for the RRRP enhancements and, OESP and the First Nations On-Reserve Delivery Credit will see further reductions in their electricity rates beyond the average 25% cited above.

Residential (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%**

Commercial & Small Industrial ($/MWh)	Actual 2016	2017	2018	2019	2020	2021
Class B Total (excludes HST)	**160**	**165**	**160**	**162**	**173**	**169**
Class B Revised Total (excludes HST)	**160**	**162**	**157**	**159**	**170**	**166**
Year-over-Year Change		1%	-3%	1%	7%	-2%
Change from Forecast		-2%	-2%	-2%	-2%	-2%

Large Industrial ($/MWh)	Actual 2016	2017	2018	2019	2020	2021
Class A Total (excludes HST)	**90**	**91**	**93**	**88**	**95**	**96**
Class A Revised Total (excludes HST)	**90**	**88**	**90**	**84**	**92**	**93**
Year-over-Year Change		-2%	2%	-6%	9%	1%
Change from Forecast		-4%	-4%	-4%	-4%	-4%

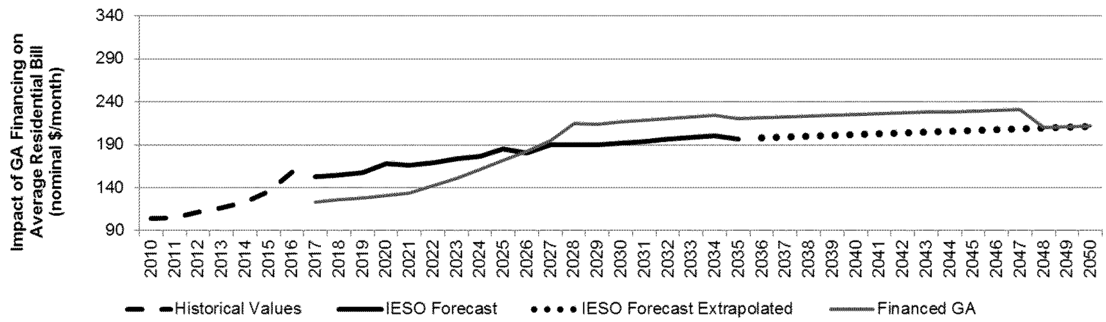
Notes: *Based on IESO's revised OPO forecast as of February 2017. Includes the cancellation of LRP II and EFW, expansion of ICI. Does not include smoothed OPG rates. Above residential bill is based on a 750 kWh per month Toronto Hydro customer. Above Class B estimate based on a 1 MW customer connected to Toronto Hydro, assumes delivery charge escalates as per residential forecast. "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.*

Risks and Considerations:

Future Impacts to Electricity Rates

Borrowing money to defer GA costs for ratepayers would lower costs in the short term but result in substantial debt and higher electricity prices in the future. Based on the GA deferral portion of the plan, electricity prices would increase to about 10% [TBC] above the actual cost of electricity over the recovery period (peaking at 13%[TBC]). The proposal may create the expectation that the government is committed to reducing or holding constant the cost of electricity for consumers. The government would not have the ability to control this portion of electricity rates in the future outside of recourse to the fiscal plan.

Figure 2: Electricity Rates 2010-2050



Notes: Assumes 30 year financing period and a nominal interest rate of 5% (compounded monthly). Ratepayer GA payments increase annually beyond 2021 such that the average monthly residential electricity bill increases by 6.5% per year with a limit of $2.2 billion above the true cost of GA in any given year to cap repayment charges at a maximum of 13% of total bill. IESO forecast is based on IESO's revised OPO forecast as of February 2017. 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.

The government may be criticized for creating a new debt structure which could be compared to the previous debt retirement charge (DRC). The debt retirement charge was removed from residential bills in January 2016 and was removed for remaining customers in April 2018.

Future repayment cost estimates are based on a static assumed interest rate of 5%, and forecast electricity market conditions and demand levels. GA smoothing assumptions are also based on a static Toronto Hydro average customer's residential bill at 750 kWH per month. This "fictional rate regulated consumer's" bill is primarily comprised of system costs and the commodity cost for electricity. Should the system costs for a Toronto Hydro customer's bill increase, the commodity price would need to be reduced accordingly to align with the 25% reduction commitment and require more borrowing. Declining demand levels due to conservation, technology adoption, and self-generation would increase the costs borne by remaining customers to decease the debt associated with GA financing. IESO forecasted demand has historically been over-projected which also increases the risk of the static demand assumption. To partly mitigate against the risk that increased self-generation poses, the bill provides that the Clean Energy Adjustment may not be "set-off". In other words, it would exist as a separate and distinct component of the bill that could not be reduced by methods such as net-metering. Lastly, should interests rates increase above 5% after 2020, residential bills would also significantly increase during the repayment phase of the plan. All of these factors increase the risk that the province would have to absorb some of the debt in the future.

Not all generating assets will continue operations at the end of their contract. If the Fair Allocation Amount is not properly designed, future rate payers will be paying the cost for assets that are no longer in use, which would be unconstitutional, unless legislatively authorised as a tax (See page 16- Legal Risk). High capital costs, equipment obsolescence or surplus capacity / low demand conditions mean that some generators will shut down at the end of their contract. Future ratepayers would be paying for these assets that no longer produce power in paying down the deferred GA and accumulated interest costs, and it would need to be justified that these assets are still providing some kind of benefit to the system after they cease operation.

Accounting and Provincial Credit Rating and Borrowing

The significant amount of additional provincial borrowing needed to refinance the GA and associated risks and fiscal costs (interest rates, repayment timelines) could put pressure on the Province's credit rating and overall borrowing capacity.

The complexity of the structure and length of deferral (i.e., recovery of debt) increase the overall risk of the proposal and decrease transparency to the public. The structure of the GA deferral was designed to result in an (1) increase in provincial borrowing (2) no increase in net debt, and (3) no impact on annual surplus/deficit. However, depending on funding to OPG from the Province, an increase in interest on debt and an increase on income from OPG will result. The structure is also contingent on the size of the GA deferral that is seen as possible, which, as previously mentioned, increases the likelihood of pressures on the fiscal plan in the near future. (See page 17- Fiscal Pressure)

Rating agencies and investors in the Province's debt may view all of the borrowing (whether by the Province directly or the OPG Trust) as an obligation of the Province. Depending on the magnitude of the debt incurred, the Province's borrowing cost may be impacted.

The Ontario Auditor General (OAG) has been briefed on the proposal and has had access to the March 1, 2017 policy submission for Ontario's Fair Hydro Plan. While the auditors of OPG and IESO have provided their assessments and the Office of the Provincial Controller Division (OPCD) has been engaged, the OAG has historically raised concern with "rate regulated accounting" and may take this into account when the provincial books are audited (i.e., it may impact whether the OAG qualifies the provincial books).

Based on early assessments, only a maximum of 18% rate relief [TBC] can be justified by amortizing contracts over the useful life of the underlying assets. Reducing electricity rates up to or beyond this amount is dependent on increased borrowing. All of the deferral is dependent on increased borrowing.

Legal Risk – constitutionality of financing the GA

The current GA amount paid by consumers is a regulatory charge. One of the requirements of a valid regulatory charge (as opposed to a tax) is that the person paying the charge either benefits from the regulatory scheme or causes the need for regulation. In principle, refinancing a portion of the GA to spread the costs of generation and conservation assets over the useful life of the assets presents only a low risk of being a tax, as each cohort of consumers pays for a proportion of the GA cost roughly equal to the proportion of the benefit they receive from the useful life of the assets.

Former Supreme Court Justice Binnie has provided legal analysis of this proposal, stating that the amount that could be financed would need to reflect the true value of the underlying assets being amortized over a longer period of time. Shifting too much of the current GA costs to future generations could jeopardize the nature of this being a regulatory charge.

A proposal for refinancing the GA that appears to cross-subsidize near-term consumers at the expense of long-term consumers by back-loading costs more than if costs were spread equally over the estimated lifespan of generation and conservation assets presents a moderately high risk (more likely than not) of constituting a tax. If the government fails to establish that the relevant electricity generating assets will continue to provide benefits over the 30 year period, or if the GA charge is in the opinion of the Court disproportionately backend loaded, the GA will not qualify as a regulatory charge (and would be characterized as a tax). Were the charge characterized as a tax, in the event of a challenge, it would be struck down by a court as unconstitutional and consumers would be entitled to recover their payments. This risk could be eliminated, either up front or retroactively, by the imposition of a valid tax.

The degree of constitutional risk is in direct proportion to the extent the government is not able to show a proper match between the cost of providing facilities for electricity generation and the group of consumers who benefit year to year from electricity generated by those facilities. By shifting costs to the 20-30 year customers, the government may in reality be disproportionately back-end loading the GA with the effect that the 20-30 year consumers will be subsidizing the 1-20 year consumers. In short, the bigger the reduction in charges to current consumers, the greater the constitutional risk.

The bill has been drafted to mitigate the constitutional risk of the proposal and clearly articulates the desire to balance the costs and benefits of assets across generations. The bill includes provisions to allow for the balance of the legislation to remain in effect if any particular clause or section is struck down by a court. In addition, external consultant Navigant [TBC] has provided an interim report on the costs and benefits of the long lived assets which supports the previous conclusions regarding the size of the GA deferral that would be supportable. This is further supported by the conclusions of OPG's independent analysis of the question [TBC].

MAG and Blakes are confident that the structure is constitutionally sound, but, as identified above, emphasize that this will be highly dependent on the size of the GA deferral attempted. MAG is confident that the initial fair adjustment for 2017-18 is achievable and justifiable, but that this risk increases in the proceeding four years, and may impact the ability to fulfill the commitment to keep rate increase in line with CPI by this mechanism.

In addition, the structure of the GA refinancing means that the infrastructure included as part of the clean energy adjustment (i.e. amortized over 30 instead of 20 years) will need to be in service over the entire 30 year amortization period or provide benefits to the system in some way over the whole period. In practice this may mean that the government will have limited ability to alter the generation mixture included under the clean energy costs, including natural gas generation facilities, which may at some point be seen as inconsistent with the province's commitments to reduce greenhouse gasses. This risk has been mitigated in the bill, by allowing for prescribed natural gas generation contracts to be excluded from the clean energy costs calculation. Consideration to this dynamic will be needed as the ministry brings forward the Province's next LTEP and embedded initiatives such as Market Renewal.

Fiscal Pressure

This proposal aligns with the 2017 Budget fiscal plan, but involves significant ongoing risks. Parts of the proposal do not include a scheduled review period or an end date, resulting in an ongoing fiscal pressure, which may increase in the out years, and could only be removed by a legislative amendment.

The cost projections in this proposal are highly sensitive to interest rates and other assumptions:

- The proposal assumes GA refinancing does not have a fiscal impact because the associated legal authority and accounting treatment requirements are met. If the costs of GA refinancing were accounted for as an expense to the fiscal plan, the fiscal impact would be significant ($2.5B in 2017-18 [TBC], and escalating annually; See Table 1).
- The term and timing of the GA refinancing are highly dependent on the IESO's forecast of GA costs and actual interest rates.

The extent of fiscal pressures is also dependent on other factors (i.e., OAG could qualify Ontario's books or issue an adverse opinion). Due to the complexity and size of the proposal, the government has commissioned external opinions on the legal, fiscal, and accounting requirements. Energy's advisor and IESO auditor, KPMG, has provided an accounting opinion that the principles of the structure are sound, and this opinion can be released publicly when desired [TBC]. This opinion may not change the likelihood of a contrary opinion by the OAG, but does provide a tool for government to point to in justifying its decisions.

There is also a risk that credit rating agencies and the market may take an alternate view as to the size of the GA deferral that is possible before becoming unconstitutional. If the fair adjustment and fair allocation amount exceeds this analysis, it may increase the perceived risk of the investment asset and therefore its financeability/saleability, which would result in reduced market uptake and reduce the amount of near term rate reduction that would be achievable under this mechanism. This is why the increases in electricity rates between May 2018 and April 2022 are to be set by regulation as opposed to legislating that they increase by CPI. It may not be possible to legally hold the rate reductions to increase by CPI, and if the government wanted to hold to this commitment, the difference would need to come out of the tax base, which has not been forecasted nor included in the fiscal plan. Each percentage point of reduction that the structure cannot provide would result in an approximate $150M [TBC] cost to the tax base annually.

Further, if the IESO is not able to sell the regulatory asset (i.e., the OPG SPV is unable to get financing to purchase it), then the IESO would require financing from an alternative source. The IESO has requested a backstop credit facility from the OFA. This would be associated with a fiscal impact risk.

There may be also some criticism that additional fiscal pressure and risk is being taken to benefit some customers that are not in as much need of rate relief as others (i.e., those that own second homes or cottages).

Legislative Officers

The Ontario Auditor General (OAG) has expressed views on rate regulated accounting, which will likely be raised again upon the announcement of this suite of initiatives. The OAG was provided copies of the Cabinet Submission seeking policy approval for Ontario's Fair Hydro Plan and has been briefed by officials from the Ministry of Energy. The OAG will have opportunities to publicly state her views through the Public Accounts committee in the summer of 2018 and in her pre-election report.

The Financial Accountability Officer (FAO) has not been consulted on this proposal and is expected to have an opinion on how this proposal may impact the state of the province's finances.

OPG Mechanism:

There are several risks associated with the proposed OPG mechanism:

- Accountability
    - Bill attempts to balance the independence of the OPG trust with regulatory oversight and the market's need for certainty in recovering the GA financing that it provides.
    - Accountability to the government or the public, amount of government control of the entity, including future rate increases.
- New structure
    - The Structure is complex and involves:
        - IESO as originator of the regulated asset and responsible for flow of funds;
        - OEB as regulator of the new mechanism;
        - OPG responsible for financing and managing the mechanism; and
        - The Province providing ongoing equity capital infusions to OPG and backstop.
    - The addition of financial agency to the current operational obligations of OPG is not the current expertise of OPG. However, OPG has experience managing large financial assets and liabilities through the jointly managed Ontario Nuclear Funds as well as its own pension fund. In addition, this new role could possibly dilute OPG's focus on current high priority responsibilities (i.e., electricity generation and nuclear refurbishment).
    - This financing structure would be unique to Canada – uniqueness reduces likelihood of all risks being known/mitigated. Highly specialized expertise would be required.

  - There is a risk that at the next opportunity to review the OPG compensation framework, they make the case that there is no national comparator for this aspect of their work and they should therefore receive further exemptions from the rules (OPG nuclear executives do not need to find national comparators for compensation determination).
  - It is unknown what the magnitude of transaction, administrative, and consultant costs that OPG would incur would be. OEB would review OPG's cost as the Financial Services Manager to ensure all are appropriate and can be recovered from the rate base.
- Debt
  - Opportunity for significant shifting of the Ontario's electricity sector over the lifespan of the repayment (30 years). Through sector/policy/government position shifting, possibility of new entity/structure abandoning debt and Ontario having to take a write down.
  - Risk transfer / portion of debt that Ontario would be responsible for would be the higher risk portion.
  - Repayment plan and impact on rate payers highly dependent on interest rates
- The public could claim that the government is simply putting off a problem and making it worse for future generations. The complexity of the structure may be seen as government attempting to cover up its actions.

Program Design and Implementation

The proposal relies heavily on LDCs as a partner for implementation. Many of these changes will need to take place simultaneously and amongst the 70 LDCs in Ontario there is variety in size, efficiency and ability to implement change.

- Program design will require an evaluation of whether the existing programs are effective and achieving their outcomes (e.g. the OESP has a current uptake of 30% and program changes are proposed in advance of an increased effort to reach 100% uptake)
- The OESP matrix no longer follows the Low Income Measure (LIM) which creates inconsistencies between how programs are applied and may put pressure other provincial programs to increase funding amounts.

Benefits for all Consumer Classes

Ontario's Fair Hydro Plan includes some benefits for all consumer classes as well as targeted benefits to those with the greatest need. It is likely that the government will be criticized for providing benefits to those who may not be in need (e.g., wealthy cottage communities, etc.).

Connection to the Province's Next Long-Term Energy Plan

Ontario produces and publishes a Long-Term Energy Plan (LTEP) every three to four years, with the next LTEP scheduled for release in the summer of 2017. LTEP principles that will guide decision-making are affordability, reliability, clean energy, community and Indigenous engagement, and conservation. Through extensive consultation with the public, stakeholders and Indigenous partners through the fall of 2016, the Ministry has identified key priorities, and, Ontario's Fair Hydro Plan combined with new policy or program announcements in the LTEP, will provide the comprehensive future planning perspective for Ontario's energy sector.

Stakeholder Considerations:

General public (including residential and small businesses) – Likely support a proposal that is projected to provide up to 25% in rate relief (including the 8% announced in 2016) and other targeted relief for vulnerable Ontarians, but likely to question the longer term implications. Some individuals and organizations will perceive the GA smoothing as unduly burdening future generations. Ability of the public to understand current and recent changes will heavily depend on government communications.

Large Industrial and Commercial Consumers – Will continue to be concerned with the impact of cap and trade on electricity prices and the commitment in the Climate Change Action Plan to use GGRA funds to "keep electricity rate affordable". Will likely respond positively to the recent changes to expand ICI eligibility to some manufacturing and greenhouse Class B customers, but may be more neutral on the remainder of the initiatives.

The impact of cap and trade has been added to electricity bills as of January 2017. Class B consumers have raised concerns about the cost of electricity and its impact on their business competitiveness. Although Class A electricity consumers have access to ICI, they are also concerned about the impact of cap and trade on their electricity costs. They are expecting that GGRA funds will be used to mitigate their costs. There is an expectation government is going to take specific action to mitigate their increases due to Cap & Trade, and given the initiatives proposed in this submission, there is no plan to provide further relief through the Greenhouse Gas Reduction Account. **Note:** Funding electricity support programs through the tax-base rather than the rate base will provide some saving to both Class A and B consumers.

Tenants – Likely to support any future price mitigation measures that directly benefit them; likely to react negatively if no mitigation measures target them.

Northern communities – Likely to support the targeted RRRP delivery relief.

Indigenous communities – First Nation members who live on reserves are likely to support the proposal because of the targeted delivery relief. Other Indigenous communities (i.e., Métis, non-status, First Nations without reserve land bases) are likely to react negatively at being excluded from the delivery charge relief.

eNGOs – May react negatively towards any price relief that is not directly tied to energy conservation. May criticize the inclusion of natural gas electricity generation as part of the "Clean Energy Adjustment."

Solar PV sector – May react negatively to price relief as it can be seen to undercut the affordability of distributed renewable generation assets such as solar PV, and undermines the economic arguments behind net metering.

LDCs – Have expressed the need for an additional tool to provide assistance to their customers who are having difficulty with their electricity bills.

Delivery:

If passed, the legislation will enable the price mitigation measures to begin to take effect on July 1, 2017. The 2017 LTEP will be released to the public in the summer 2017 [TBC] and would reinforce/integrate with Ontario's Fair Hydro Plan. Regulations are required under the major components of the legislation in order to fully implement the initiative and clarify program details.

1. **Refinancing Global Adjustment assets in order to defer ratepayer costs / Mechanism to defer GA costs**

Consumers will see an immediate reduction of their electricity bills as of July 1, 2017. The establishment of the regulatory asset and purchase by OPG is expected to take three to six months to implement following the introduction of enabling legislation. The IESO has requested a credit facility from the OFA to provide an interim source of financing.

The bill includes a transition provision in circumstances where for technical or operational reasons invoices cannot be adapted in time for the issuance of the first invoices under the program. In these cases, adaptation of invoices must be implemented by August 1, 2017 followed by a subsequent lump sum credit to the consumer once the invoice is adapted.

2. **Enhancing Social and Conservation Programs**

OESP Enhancements

Changes to regulation will be required to establish and define the parameters for the proposed changes. The financial flow-through mechanism would likely be modeled after processes used for the OREC (8% rebate). The amendments made in this bill allow for a transition period where the program continues to draw on the existing IESO variance account until the account can no longer maintain the program. IESO is required to notify the Ministry of Energy when it expects the variance account to be depleted (likely sometime in the fall). At this time

The proposed changes will take time to implement as they would require changes to the central system and the LDCs' billing systems. The OEB and their central service provider will need to work with LDCs, MOF, and the CRA on the changes to this program (delivery mechanism, funding source, application system, eligibility).

RRRP Enhancement

Regulations would be required to establish the details of the program. OEB estimates that the implementation would take at least six months after finalizing regulations. For this reason it is possible that for technical reasons not all LDCs will be able to implement the changes required under the program in time for the July 1 effective date. In these cases, the bill dictates that, once the changes have been made (required by October 1, 2017 at the latest), the LDC would provide a lump sum credit to customers that would otherwise have been eligible for benefits under the program starting July 1st which will put an immediate pressure on the OEB and LDCs as implementation is required no later than October 1, 2017. A mechanism will need to be created to ensure that all parties are aligned in the yearly forecasting and costing of the program.

On-Reserve First Nations Delivery Credit

The OEB would need to work with the LDCs to identify the eligible on-reserve consumers. A communications plan could include public release of the OEB report and a commitment to working with the LDCs on implementation details.

It is possible that for technical reasons not all LDCs will be able to implement the changes required under the program in time for the July 1 effective date. In these cases, the bill dictates that, once the changes have been made (required by October 1, 2017 at the latest), the LDC would provide a lump sum credit to customers that would otherwise have been eligible for benefits under the program starting July 1st.

Once available, the rebate would appear on customer's electricity bills as a reduction in, or credit for, their delivery line.

There is a risk that either non-status Indigenous communities without reserves or Metis could challenge the program on the grounds that it discriminates against them contrary to section 15 of the Charter. This risk is mitigated by the ameliorative purpose of the program and because targeting First Nations communities for a reserve-based program corresponds to the distinct circumstances of reserve-based communities, relative to other Indigenous communities. A genuinely ameliorative program that targets some people but excludes others is shielded from a section 15 challenge if it serves or advances the ameliorative goal.

Linkages:

Long-Term Energy Plan (LTEP) – Ontario is preparing to release a new LTEP in summer-fall 2017. These plans identify needs for investments over the shorter term, while broadly mapping out the direction of the sector over a 20 year timeframe. The LTEP will balance the principles of affordability, reliability, clean energy, community and Indigenous engagement, as well as conservation and demand management.

Electricity Rate Mitigation Initiatives – The Ontario Rebate for Electricity for Electricity Consumers Act, 2016, (ORECA) put in place an 8% rebate for residential, small business customers and farms beginning January 1, 2017.

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. OCEB was also put in place following the implementation of the Harmonised Sales Tax (HST). Unlike the previous provincial Retail Sales Tax (RST), the HST (and GST) included electricity in the taxable base. OCEB expired on December 31, 2015.

<u>Debt Retirement Charge</u> – On January 1, 2016 the government ended the electricity Debt Retirement Charge (DRC) on residential users earlier than planned, and put in place the low-income targeted OESP, effective 2016. For all other consumers the DRC is was removed by April 2018.

<u>Industrial Conservation Initiative</u> – Ministry of Energy program implemented in January 2011 to help large industrial consumers reduce their electricity costs by reducing electricity consumption in peak periods. As part of the Fair Hydro Plan, ICI eligibility was recently expanded to allow for the participation of the manufacturing and greenhouse sectors with an average month peak demand greater than 500 kilowatts (kW) and less than or equal to 1 megawatt (MW). ICI benefits all electricity consumers by decreasing the need for costly peaking generation over the long term.

<u>Affordability Fund</u> – approved as part of Ontario's Fair Hydro Plan, and under development, the Affordability Fund is intended to expand access to conservation funding to targeted consumers that do not currently qualify as low-income for the purposes of the Home Assistance Program (HAP).

<u>Ontario's Climate Change Action Plan (CCAP)</u> – 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. This commitment to residential consumers was exceeded by the January 2017 8% rebate.

The commitment to mitigate the cap and trade impact on electricity costs for commercial and industrial consumers (i.e., Class A and B) has not been fully addressed, though the two recent expansions to the ICI provides for significant potential savings. **Note:** Funding electricity support programs through the tax-base rather than the rate base will also provide saving to Class A and B consumers.

The CCAP committed to a new Climate Change agency that would act as one window for the delivery of climate change-related programs. The Green Ontario Fund (GreenON)- is tasked to develop programs and services designed to:

- Reduce greenhouse gas emissions from housing from buildings and the production of goods; and
- Increase uptake and overcome market barriers of low-carbon technologies and processes.

The CCAP committed that the government consult on and develop options to mitigate the impact of carbon pricing and resulting increased utility costs on residential tenants. The mitigation is proposed because tenants do not usually have the opportunity to make changes to their building envelope (e.g. windows, insulation) or major appliances that would allow them to address utility costs themselves. On April 24, 2017, the government introduced the Rental Fairness Act, 2017 which, if passed, would remove above-guideline rent increases for utilities, to protect tenants from carbon costs and encourage landlords to make their buildings more energy efficient.

Proposed Cabinet Minute

Approval of draft bill for introduction

Cabinet approved version XX-XX of this draft legislation for introduction, subject to the following:

1. The Office of Legislative Counsel is authorized to prepare a French version and to make minor adjustments to the English version, for the purpose of ensuring consistency between the two versions and making other improvements or correcting mistakes discovered in the translation process.