Ontario	**TREASURY BOARD / MANAGEMENT BOARD OF CABINET REQUEST ASSESSMENT NOTE**

Ministry:	Energy & Finance
Meeting Date:	September 26, 2017
Agenda Class:	Discussion (In-Camera)
Last reviewed by: ENERGY TB/MBC May 9, 2017	**Tracking to:** Fast Track Cabinet (September 27, 2017)

SUBMISSION TITLE:	Change of Law Protection Agreement (Supports Ontario's Fair Hydro Plan implementation)

I. DECISION BEFORE THE BOARD

Approve the Ministries plan for implementing provisions within the *ntario Fair Hydro Plan Act, 2017* (FHPA) to provide protection and assurance arrangements in respect of debts, obligations, securities or undertakings associated with investment interests acquired by entities established by Ontario Power Generation Inc.

II. RECOMMENDATIONS

Approve the plan for implementing provisions of the *Fair Hydro Plan Act, 2017* (FHPA) to provide protection and assurance arrangements in respect of debts, obligations, securities or undertakings associated with investment interests acquired by entities established by Ontario Power Generation Inc (OPG). – Under certain circumstances, the Province would pay when due amounts in respect of the obligations of the Financing Entity (Established by OPG)	*Approve*
Authorize that the Minister of Finance and Minister of Energy provide a protection agreement, to be authorized by Order in Council under the *Fair Hydro Plan Act, 2017(FHPA).* – In respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities substantially reflecting the terms set out in the Provincial Protection and Assurances Indicative Term Sheet and subject to such revisions that the two Ministers acting together may determine	*Authorize*
Recommend that Cabinet approve an Order in Council (OIC), in accordance with section 5 of the *Fair Hydro Plan Act, 2017 (FHPA)* that authorizes the Minister of Finance and the Minister of Energy, acting together on behalf of the Province, – To agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest; and – To determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity.	*Recommend*

Commented [ESP1]: This item is not up for approval per the TB Sub.

III. FINANCIAL SUMMARY

$ Millions	**2017-18**	**2018-19**	**2019-20**
Initiative cost requested	0.0	0.0	0.0
Initiative cost recommended	0.0	0.0	0.0
Recommended program base	0.0	0.0	0.0

Offset Recommended	0.0	0.0	0.0
Total Fiscal Impact	0.0	0.0	0.0

IV. Key Comments and Considerations

Under the *Fair Hydro Plan Act, 2017*, (FHPA), which enables Global Adjustments (GA) Refinancing, the Independent Electricity System Operator (IESO) will have a funding gap resulting from the reduction in amounts collected. The legislation enables IESO to record the under-collection of GA in a variance account, and deems this under-collected amount to be a "Regulatory Asset".

The OFHPA provides for IESO to sell all or a portion of the Regulatory Asset (i.e., to sell the right to recover those deferred amounts from specified consumers in the future). Under the FHPA, a Financing Entity (i.e., an entity established or caused to be established by OPG as the Financial Services Manager under the FHPA) will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the ratepayers.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly the Province) from the capital markets.

OPG's financial advisors have indicated that without adequate protection against legislative and judicial risk, the debt would not be financeable. OPG, therefore, has advised that the Government of Ontario provide a protection agreement to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would pay the funding obligations of the Financing Entity.

- Providing this through Provincial assurance and guarantee provisions was recommended in a May 2017 TB/MBC item reviewing proposed FHPA.

What would trigger the protection agreement?

Ontario Financing Authority (OFA), the Ministry of Finance and external advisors – consistent with OPG advice – recommend limiting activation of the protection agreement to the following circumstances (Appendix C provides the non-binding term sheet):

- Actions of the Legislative Assembly that undermine the financing arrangement, i.e., repeal or amendment of the FHPA or new legislation that adversely affects the ability of an OPG Financing Entity to receive amounts relating to its investments interest so that it can pay its funding obligations
- A court decision that declares the ability of an OPG Financing Entity to receive amounts on its investment interest so it can pay its funding obligations to be invalid or *ultra vires*; and
- A change in the organization or structure of the IESO or Ontario's electricity market undertaken at the initiative of the Province or an entity controlled by the Province that adversely affects the ability of an OPG Financing Entity to receive amounts relating to its investment interest so that it can pay its funding obligations.

….the third bullet isn't change of Law related?…

Commented [AS2]: May or may not be the result of a change of law.

Financial:

If the protection agreement is provided, the Province takes on a contingent liability. The amount of the liability would increase over the duration of Ontario's Fair Hydro Plan (OFHP) and peak at approximately $20B of debt (final cost forecasts TBC), including principal and accumulated interest.

Commented [HS(3]: This is inconsistent with the Aug 31 Submission

Thought the estimated debt # was lower?

- In the event the protection agreement is triggered, the Province's net debt would be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time.
- The Province's interest payments will also increase by the debt interest servicing of the debt

payment obligations it will be required to make under the protection agreement. In addition there may be additional payments on derivatives agreements and for service providers that the Province will be required to make.

Financial (Risk) – In the event the protection agreement is triggered:

The Province would be required to pay principal and interest on debt issued by the Financing Entity and other obligations of the Financing Entity as they come due (without acceleration). The Province may also be required to pay other obligations which may include payments under derivatives agreements and to service providers. This would likely have implications for the Province's fiscal plan and appropriation requirements.

- The Province's net debt would be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time.
- The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations it will be required to make under the protection agreement. The worst case scenario would be the Province assuming the debt at its peak at which point interest on debt (IOD) expense could increase between $0.8B and $1.3B per annum (final cost forecasts TBC), depending on the interest rate at which the Financing Entity will be able to borrow at.
- In addition there may be additional payments on derivatives agreements and for service providers that the Province will be required to make.

The protection agreement would continue until all guaranteed obligations of the Financing Entity are fully discharged. In addition, the Province would have the option to directly replace the OPG Financing Entity with respect to its outstanding rights obligations and liabilities, but if the Province decided to do so additional authority would be required.

The Ministries indicate that if the protection agreement is triggered, and the Province becomes responsible for the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the OFHPA continue in some form, or not.

- For example if the payment streams from ratepayers via the collection of the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if the OFHPA is repealed or is determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used.
- Debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

Name of analyst:	James Strang	**Phone number:**	416-325-2071
Date:	September 18, 2017	**Log number:**	
Branch / Division:	GGPR / PEMD / Treasury Board Secretariat		

APPENDIX A: PROPOSED MINUTE (UNDER DEVELOPMENT)

Approve the Ministries plan for implementing provisions of the *Fair Hydro Plan Act, 2017* to provide protection and assurance arrangements in respect of debts, obligations, securities or undertakings associated with investment interests acquired by entities established by Ontario Power Generation Inc. In particular, that under certain circumstances the Province would pay when due amounts in respect of the obligations of the Financing Entity (Established by OPG).

In this regard,

i) Authorize that the Minister of Finance and Minister of Energy provide a protection agreement, to be authorized by Order in Council under the *Fair Hydro Plan Act, 2017* in respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities substantially reflecting the terms set out non-binding term sheet – Provincial Protection and Assurances Indicative Term Sheet including in the TB/MBC Submission, (… minuting an attachment?…or include key parameters in minute only, given request for the subject to revisions provision…) and subject to such revisions that the two ministers acting together may determine;

Commented [AS4]: Recommend referring to the attachment rather than key parameters (limit potential revisions to the term sheet)

ii) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the FHPA, that authorizes the Minister of Finance and the Minister of Energy, acting together on behalf of the Province,

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

APPENDIX B: FINANCIAL TABLES

FINANCIAL IMPACTS: CHANGES TO EXPENSE AND REVENUE		Fiscal Plan Basis			TABLE B1 Appropriations Basis
$ Millions		**2017-18**	**2018-19**	**2019-20**	**2017-18**
Initiative cost recommended					
Expense changes:					
	Oper				
Expense Offset:					
	Oper				
	Oper				
Total Fiscal Impact		0.0000	0.0000	0.0000	**0.0000**

APPENDIX C: EXCERPT FROM *FAIR HYDRO PLAN ACT, 2017*

Protection and assurances

Prohibition

5 (1) No action or omission by the Board, the Minister or the Crown shall be effective to reduce, impair, postpone or terminate the obligations of specified consumers to pay amounts in respect of the clean energy adjustment or to impair or postpone the invoicing, collection or remittance of the clean energy adjustment.

Agreements

(2) The Minister and the Minister of Finance may together, with the approval of the Lieutenant Governor in Council, enter into agreements on behalf of the Province of Ontario with any person in respect of this Act, including agreements regarding the performance of the IESO or electricity vendors under this Act or related transactions.

Guarantee, indemnification

(3) The Lieutenant Governor in Council may by order,

(a) authorize the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and

(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

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

(c) specify a maximum liability for the guarantee or indemnity.

APPENDIX D: NON-BINDING TERM SHEET

Commented [AS5]: Update to Sep 18 version

APPENDIX

Provincial Protections and Assurances

Indicative Term Sheet

Ontario Fair Hydro Plan Act, 2017

*This indicative term sheet (the "**Term Sheet**") relates to transactions contemplated to be undertaken under the Ontario Fair Hydro Plan Act, 2017 (the "**Act**") and the regulations made thereunder (the "**Regulation**"). This Term Sheet is to be held confidential. Unless otherwise specified, defined terms used herein have the meanings ascribed to them in the Act. The provincial protection and assurance arrangements contemplated in this Term Sheet will include such terms and conditions as the Minister of Energy and the Minister of Finance determine to be appropriate. This Term Sheet is not intended to create any obligations or be binding on the parties.*

Change of Law Protection Agreement:	A Change of Law Protection Agreement will be among the Obligor, a Financing Entity and an Indenture Trustee, acting for and on behalf of the Beneficiaries in accordance with a Trust Indenture.
Obligor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Indenture Trustee:	An indenture trustee, acting for itself and on behalf of other persons entitled under an applicable Trust Indenture.
Beneficiaries:	The Indenture Trustee, acting for itself and on behalf of other persons entitled under Specified Claims.
Specified Claims:	Payment obligations of the Financing Entity that are secured under the Trust Indenture and that are approved as contemplated below under Obligor Approval.
Protection Events:	Any of the following would constitute a Protection Event: (A) (1) the Legislature repeals (and does not replace on an equivalent basis) or amends the Act or any portion thereof; (2) the Legislature enacts or amends any other statute; (3) the Lieutenant Governor in Council repeals (and does not replace on an equivalent basis) the General Regulation made under the Act or any portion thereof; or (4) the Lieutenant Governor in Council, a minister of the Crown, an official of the government or a board or commission all the members of which are appointed by the Lieutenant Governor in Council

	makes or amends any "regulation" (as defined in Part III of the *Legislation Act, 2006*), in each case, that materially and adversely affects (a) the ability of the Financing Entity to receive amounts on its investment interest so that it can pay Specified Claims, or (b) the Change of Law Protection Agreement or any of the agreements under which Specified Claims arise, other than if the Indenture Trustee has confirmed in writing that the affect under such agreements is otherwise acceptable; or (B) a court of competent jurisdiction in a final and non-appealable judgement determines that all or a portion of the Act or the Regulation is *ultra vires* in a way that materially and adversely affects the ability of the Financing Entity to receive amounts on its investment interest so that it can pay Specified Claims.
Obligation to Pay Specified Claims:	Upon the occurrence of a Protection Event, the Indenture Trustee will have the right to require the Obligor to pay the Specified Claims owing by the Financing Entity when they become due and payable (without acceleration). The exercise of such right by the Indenture Trustee in accordance with the Trust Indenture shall constitute the only remedy available under the Change of Law Protection Agreement. Under no circumstances shall the Obligor be obligated to pay or indemnify a Beneficiary for consequential, special or punitive damages, or for economic loss or loss of profits.
Subrogation:	Upon paying a Specified Claim to a Beneficiary, the Obligor as guarantor shall have rights of subrogation, including becoming entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Specified Claim, including the security interest in each related investment interest and related property of the Financing Entity and the obligations of the Financing Entity owing under the agreements under which the Specified Claim arises. The Financing Entity may not change or consent to any change in such rights and interests without the Obligor's prior written consent.

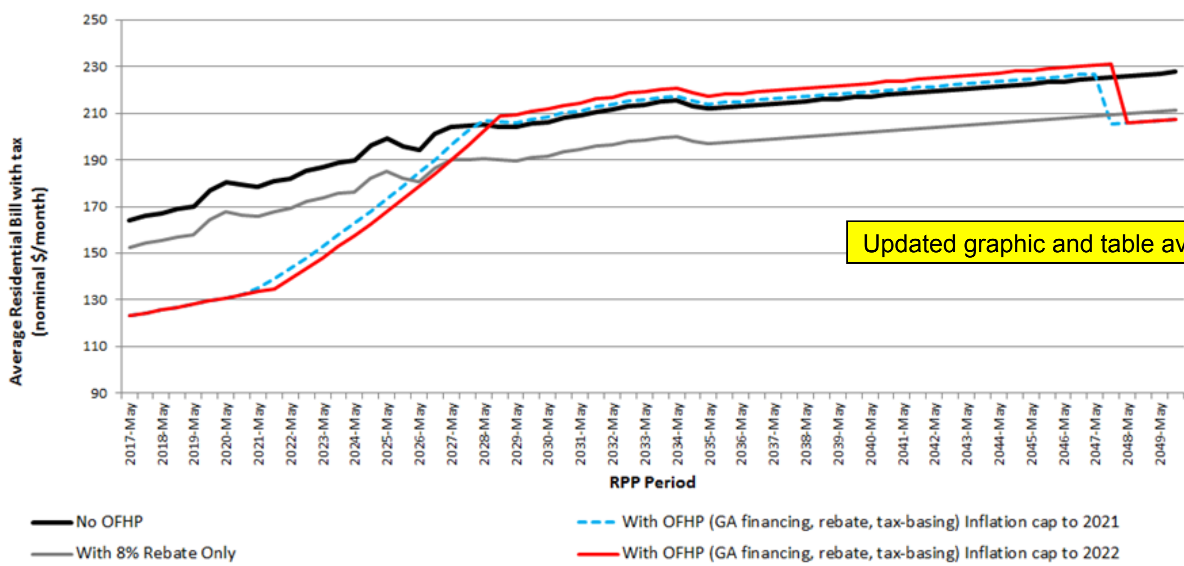
Optional Replacement:	At any time following the exercise by the Indenture Trustee of its right to require the Obligor to pay Specified Claims when due and payable, the Obligor shall be entitled (but not obligated) to replace the Financing Entity as obligor and debtor and directly assume all of the Financing Entity's outstanding obligations and liabilities. The Financing Entity (including through the Financial Services Manager) will ensure that any obligation and liabilities undertaken or assumed by it will by their terms permit such a replacement and assumption (or, if applicable, satisfaction and termination) by the Obligor without additional cost or penalty and without any requirement for further consent, approval or agreement.
Term:	The Change of Law Protection Agreement will continue for as long as any Specified Claim remains outstanding.
Obligor Approval:	The Change of Law Protection Agreement will become effective in respect of a Specified Claim (including any modification) only after the Obligor has confirmed in writing that the Change of Law Protection Agreement applies to such Specified Claim. The Change of Law Protection Agreement will annex the applicable forms of program and series documents under which obligations of the Financing Entity may arise (e.g., including the form of trust indenture and series supplemental indenture) and set out the terms and conditions and process for obtaining the Obligor's approval and confirmation that the Change of Law Protection Agreement will apply to Specified Claims. Such approval may be made conditional on such matters as may be specified by the Obligor, including a maximum amount applicable to Specified Claims. The Province's approval of the form of any IESO/Financing Entity transfer agreement and any amendments will also be required.
FIPPA:	The Change of Law Protection Agreement will acknowledge that the Obligor will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Obligor, or any agent or representative of the Obligor in connection with the Change of Law Protection Agreement, may be subject to disclosure in accordance with the act or as otherwise required by law.
Representations and Warranties:	To be determined by the Minister of Finance and Minister of Energy in negotiation with the Financing Entity.
Confidentiality Obligations:	To be determined based on what would be customary and appropriate for similar types of arrangements and is acceptable to the Obligor and the Financing Entity.
Governing Law:	Province of Ontario.

Appendix E: Profile Global Adjustment Smoothing for RPP – Eligible Only – May 2017 TB/MBC Submission

The following graphic and table shows the multi-year profile of the planned approach to GA Smoothing that was included with the May 2017 TB/MBC Submission. The table below supports the Ministries assessment that the potential contingent liability under the protection agreement over the duration of the OFHP would peak at an estimated $24M to $26B (subject to final cost forecasts TBC), including principal and interest.

Commented [HS(6]: Recommend that we don't include this reference.

Commented [ESP7]: These numbers and the table below are pending finalization of costs forecasts – this work is still ongoing with OPG.



Updated graphic and table available?

	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Average monthly bill with OFHP ($/month)	124	126	129	131	137	146	155	165	176	187	199	207	207	209	212	214
Year-over-year change (%)	n/a	2.01	2.01	2.01	4.25	6.44	6.44	6.44	6.44	6.44	6.44	3.61	0.08	1.20	1.29	1.14
Impact of GA financing and tax-basing ($/month)	-29.9	-30.0	-35.0	-34.4	-28.8	-24.0	-17.8	-14.2	-3.3	3.4	12.2	16.4	16.5	16.7	16.9	17.1
Total accumulated debt ($B)	2.5	5.2	8.2	11.6	14.7	17.5	19.9	22.0	23.5	24.1	24.2	23.7	23.1	22.5	21.8	21.0
Total change in accumulated debt ($B)	2.5	2.6	3.0	3.5	3.1	2.8	2.4	2.0	1.6	0.6	0.1	-0.5	-0.6	-0.6	-0.7	-0.8

	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048
Average monthly bill with OFHP ($/month)	216	216	214	215	216	217	219	220	221	222	223	224	225	226	216	206
Year-over-year change (%)	0.93	-0.04	-0.88	0.49	0.49	0.49	0.49	0.49	0.49	0.49	0.49	0.49	0.49	0.49	-4.37	-4.61
Impact of GA financing and tax-basing ($/month)	17.2	17.1	17.0	17.1	17.2	17.3	17.4	17.5	17.6	17.6	17.7	17.8	17.9	18.0	-3.9	-4.0
Total accumulated debt ($B)	20.1	19.2	18.3	17.2	16.1	14.9	13.7	12.3	10.9	9.3	7.7	5.9	4.1	2.1	0.0	0.0
Total change in accumulated debt ($B)	-0.8	-0.9	-1.0	-1.0	-1.1	-1.2	-1.3	-1.4	-1.4	-1.5	-1.6	-1.7	-1.9	-2.0	-2.1	0.0

Notes: Assumes 30 year financing period and a nominal interest rate of 5% (compounded monthly). Ratepayer GA payments increase annually beyond 2020 such that the average monthly residential electricity bill increases by 6.3% per year to a maximum of $2.2 billion above the true cost of GA in any given year to cap repayment charges at around 10% 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. Data shown above is by RPP period. Assumes RPP prices are adjusted in July 2021 instead of May 2021 to coincide with the end of the inflation cap. Fair allocation amounts subject to third party review.

Appendix F: Overview of Risks

Prepared by TBS staff, the following chart, as part of the May 2017 OFHP implementation update focused on the proposed legislation. It provides an overview of strategic (versus operational) risks to inform the approval/decision making process regarding the proposed legislation. Each part, GA Partial Refinancing & Electricity social programs, is a separate table.

The current submission, Provincial Protection Agreement, is reflected under the risk “Refinancing GA costs through an OPG SPV Trust may increase costs and/or require provincial funding” (page 16) as part of risk mitigating strategy.

Global Adjustment Partial Refinancing:

Objective: Provide immediate ratepayer relief by capping rate increases at Consumer Price Index (CPI) for four years and refinancing GA costs over a longer period of time. Develop and implement a financing structure that increases provincial borrowing, but has no impact on annual provincial surplus/deficit.

Risk	Level of Risk	Risk Response
The determination of the appropriate legal and accounting treatment to be applied to the financing model may result in the costs of GA smoothing being allocated to the province.	**Risk Likelihood:** Possible **Risk Impact:** Critical **Time Scale:** 6 to 12 months **Rationale:** • The structure of the GA deferral was designed to result in an increase in provincial borrowing, no increase in net debt and no impact on surplus/deficit. • The proposal assumes GA refinancing does not have a fiscal impact because the legal authority and accounting treatments are met. • If a favourable legal and accounting treatment is not implemented, there could be a negative impact on the province’s fiscal plan up to $2.5B in 2017-18 and rising. • Rating agencies and investors in the Province’s debt may view all of the borrowing as an obligation of the Province, especially taking into account the nature of provincial guarantees, which could put pressure on the Province’s credit rating and overall borrowing capacity. • Proposed structure may result in a negative response from Ontario Auditor General (OAG) due to previous concerns regarding recognition of rate regulated assets and liabilities. The AG has already expressed concerns regarding the accounting treatment on the IESO’s books which could lead to a qualification of the Province’s consolidated financial statements. • Initial assessment of the accounting considerations suggests that the proposed model is in alignment with established accounting standards.	Risk can be mitigated by: • Commissioning external opinions on the legal, fiscal and accounting requirements, which could be used by the Province to justify structure of financial model and be utilized in discussions with the OAG. • Identify potential options to minimize the balance of rate regulated assets remaining on the IESO’s books at fiscal year-end.

Risk	Level of Risk	Risk Response
Uncertainty in the financial model due to dependence on assumptions that are subject to potential volatility may result in higher than anticipated future costs for rate payers and the province.	**Risk Likelihood:** Likely **Risk Impact:** Major **Time Scale:** More than 36 months **Rationale** • The financial model developed is a high level and aggregate model, which is built on independent forecasts. There are a large number of assumptions built into the model explicitly and implicitly (as a larger number of assumptions are embedded into the other forecasts that are used as inputs into the model). • The proposal financing structure will accrue total interest of about $26.2 billion, which is sensitive to many factors, including interest rate, natural gas and carbon prices, generation costs and demand levels.	Risk can be mitigated by: • Development of a risk-based outlook, based on an analysis of scenarios, to determine the financial impact of potential changes in variables used in the financial models. • Building permissive language in the legislation and regulations to allow for timely course correction mechanisms (i.e. higher payment amounts and/or rate increases) • Regulations to prescribe the methodology to be applied by the Ontario Energy Board (OEB) to determine electricity rates in response to potential deviation from forecasted financing plans.
A legal determination that the Province is spreading the costs of GA financing in order to lower the price in the short term by increasing the price in the long term may result in the GA charge characterized as a tax and deemed unconstitutional.	**Risk Likelihood:** Medium **Risk Impact:** High **Time Scale:** Long-Term (More than 36 months) **Rationale** • If characterized as a tax, the GA charge could be subject to legal challenge and struck down as unconstitutional, allowing consumers to recover their payments. • Likelihood dependent on 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. The bigger the reduction in charges to current consumers, the higher likelihood of the risk being realized. • Internal and external expertise have provided opinion that the proposed structure is constitutionally sound in the short-term (2017-18), but the likelihood of the risk increases in the proceeding four years, which will impact commitment to keep rate increase in line with CPI. • If annual increases in bills or the commodity prices are subject to caps, additional borrowing/provincial funding may be required.	Risk can be avoided by: • Imposition of a valid tax. • Change in policy (i.e. allow greater rate increases during the remainder of the rate mitigation phase and higher increases and payment amounts throughout rate increase and payment phase). • Use of public funds to ease pressure. Risk can be mitigated by: • Improve forecasting model and close monitoring of costs and changes in variables built into model. • Analyze the costs and benefits of the long lived assets (specifically usability beyond a 20 year period) to assist in determining a supportable GA deferral structure. • Draft legislation with built-in 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.

Risk	Level of Risk	Risk Response
Financing the costs of GA smoothing through OPG SPV/Trust and the volatility of interest rates may increase the cost of GA smoothing and/or require additional provincial funding.	**Risk Likelihood:** Possible **Risk Impact:** Moderate **Time Scale:** 12 to 24 months **Rationale** • The proposed structure will be reviewed by credit agencies to allow OPG to borrow in the open market. Depending on assessment, there may be an impact on interest rate for borrowing, the amount of equity/funding the province may need to provide and the requirement for a provincial guarantee. • As the OPG SPV/Trust will be borrowing in its own corporate capacity from the public markets, it will likely incur a higher interest cost compared to the Province's borrowing. • If the Trust can't raise the full funding requirements, additional cash injections would be required. If the borrowing cap of $28B is reached sooner than forecast, the province may have to provide incremental funding to float the program to 2047. • Beyond 2022, when steep increases are required, there will likely be additional pressure on the government to offset a part of the scheduled increases. • Risk that credit rating agencies may perceive OPG SPV/Trust's borrowing as debt supported by Province, impacting Province's ratings and cost of borrowing.	Risk can be avoided by: • Province providing a potential guarantee for the cost of borrowing – however, would redirect risk back to the Province and negate benefits of proposed financing structure. Risk can be mitigated by: • Equity injections from the province to support OPG as the owner and manager of GA refinancing and allow OPG to strengthen the capital structure of the Trust in order to secure financing at a reasonable cost. • Proposed legislation to enable GA refinancing has been draft with input from third-party financers. Provides a 'narrow' provincial guarantee and ensuring that debt holders have the right of action against a future government to recover the amount outstanding including interest, fees, expenses and any damages.

Risk	Level of Risk	Risk Response
The determination of the appropriate legal and accounting treatment to be applied to the financing model may result in the costs of GA Refinancing having a fiscal impact to the province.	**Risk Likelihood:** Possible **Risk Impact:** Critical **Time Scale:** 6 to 12 months **Rationale:** • The structure of the GA deferral was designed to result in an increase in provincial borrowing, no increase in net debt and no impact on surplus/deficit. • The proposal assumes GA refinancing does not have a fiscal impact because the legal authority and accounting treatments are met. • If a favourable legal and accounting treatment is not implemented, there would be a negative impact on the province's fiscal plan of up to $2.5B in 2017-18 and rising. • Rating agencies and investors in Province's debt may view all of the borrowing as an obligation of the Province, which could put pressure on the Province's credit rating and overall borrowing capacity. • The proposed structure may result in an opinion from the Ontario Auditor General (OAG) considering previous concerns regarding recognition of rate regulated assets and liabilities. The OAG may take this into account when the provincial books are audited. • An initial assessment of the accounting considerations suggests that the proposed model is in alignment with established accounting standards. Additional analysis is still required.	Risk can be mitigated by: • Commissioning external opinions on the legal, fiscal and accounting requirements, which could be used by the Province to support discussions of the financial model with the OAG.
Uncertainty in the financial model due to dependence on assumptions that are subject to potential volatility may result in higher than anticipated future costs for rate payers and the province.	**Risk Likelihood:** Likely **Risk Impact:** Major **Time Scale:** More than 36 months **Rationale** • The financial model developed is a high level and aggregate model, which is built on independent forecasts. There are a large number of assumptions built into the model explicitly and implicitly (as a larger number of assumptions are embedded into the other forecasts that are used as inputs into the model). • The proposal financing structure will accrue total interest of about $26.2 billion, which is sensitive to many factors, including interest rate, natural gas and carbon prices, generation costs and demand levels.	Risk can be mitigated by: • Development of a risk-based outlook, based on an analysis of scenarios, to determine the sensitivity and financial impact of potential changes in variables used in the financial models. • Building permissive language in the legislation and regulations to allow for timely course correction mechanisms (i.e. higher payment amounts and/or rate increases) • Regulations to prescribe the methodology to be applied by the Ontario Energy Board (OEB) to determine electricity rates in response to potential deviation from forecasted financing plans.

<table>
<tr><th>Risk</th><th>Level of Risk</th><th>Risk Response</th></tr>
<tr><td>A legal determination that the Province is spreading the costs of GA refinancing in order to lower the price in the short term by increasing the price in the long term may result in the GA charge characterized as a tax and deemed unconstitutional.</td><td>Risk Likelihood: Possible
Risk Impact: Major
Time Scale: Long-Term (More than 36 months)

Rationale
If characterized as a tax, the GA charge could be subject to legal challenge and struck down as unconstitutional, allowing consumers to recover their payments.
Likelihood dependent on 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. The bigger the reduction in charges to current consumers, the higher likelihood of the risk being realized.
Internal and external expertise have provided opinion that the proposed structure is constitutionally sound in the short-term (2017-18), but the likelihood of the risk increases in the proceeding four years, which will impact commitment to keep rate increase in line with CPI.
If annual increases in bills or the commodity prices are subject to caps, additional borrowing/provincial funding may be required.</td><td>Risk can be avoided by:
Imposition of a valid tax.
Change in policy (i.e. allow greater rate increases during the remainder of the rate mitigation phase and higher increases and payment amounts throughout rate increase and payment phase).
Use of public funds to ease pressure.
Risk can be mitigated by:
Improve forecasting model and ongoing monitoring of costs and changes in variables built into model.
Analysis of the costs and benefits of the long lived assets (specifically usability beyond a 20 year period) to assist in determining a supportable GA deferral structure.
Draft legislation with built-in 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.</td></tr>
</table>

Risk	Level of Risk	Risk Response
Refinancing GA costs through an OPG SPV Trust may increase costs and/or require provincial funding.	**Risk Likelihood:** Possible **Risk Impact:** Major **Time Scale:** 12 to 24 months **Rationale** • The proposed borrowing structure will be reviewed by credit agencies to allow OPG to borrow in the open market. Depending on assessment, there may be an impact on the interest rate for borrowing, the amount of equity / funding the province may need to provide and the requirement for a provincial guarantee. • As the OPG SPV/Trust will be borrowing in its own corporate capacity from the public markets, it will likely incur a higher interest cost compared to the Province's borrowing. • There is a risk that credit rating agencies may perceive OPG SPV/Trust's borrowing as debt supported by Province, impacting Province's own ratings and cost of borrowing. • If the Trust can't raise the full funding requirements, additional cash injections would be required. If the borrowing cap of $28B (in the March 1, 2017 Cabinet Submission) is reached sooner than forecast, the province may have to provide incremental funding to float the program to 2047. • Beyond 2022, when steep increases are required, there will likely be additional pressure on the province to offset a part of the scheduled increases. • Fiscal impacts will be subject to fluctuations in Ontario electricity demand, GA and interests rates in the medium-to long term. As well as if a protection agreement is called upon: ○ OPG, has advised that the Government of Ontario provide a change of law protection agreement to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would pay the funding obligations of the Financing Entity.	Risk can be mitigated by: • Providing a "provincial guarantee" for the cost of borrowing. • Drafting legislation to provide assurance to OPG and investors regarding the permanence of the GA refinancing framework and the authority of the legislation to pass the legislation; and enable the Province to guarantee borrowing of the trust in the event of a market disruption. • Specifics of a guarantee are dependent on the negotiation of agreements not yet initiated. Limiting triggers of a protection agreement to legislative (regulatory) changes and/or judicial decisions etc. • Equity injections from the province to support OPG as the owner and manager of GA refinancing and allow OPG to strengthen the capital structure of the Trust in order to secure financing at a reasonable cost.

Electricity social programs (Enhancing Electricity Support & Conservation Programs):

Objective: Shift funding of existing and new electricity support programs (RRRP, OESP, Affordability Fund, First Nations Credit) from rate to tax base.

Risk	Level of Risk	Risk Response

Uncertainty in forecasting due to exposure to changes and/or volatility (i.e. interest rates, electricity usage patterns, and distribution costs) may result in higher than anticipated fiscal impacts for the Province.	**Risk Likelihood:** Possible
	Risk Impact: Major
	Timescale: 12 to 24 months
	
	Rationale:
	• The energy sector is complex and a number of key assumptions used as inputs into forecasting model are variables/forecasts themselves, resulting in a high inherent risk that cost estimates are inaccurate.
	• Fiscal projection is highly dependent on factors which can fluctuate from year to year, including:
	  ○ electricity usage;
	  ○ distributions costs; and
	  ○ consumer consumption patterns that may change due to extreme weather or other factors.
	• Fiscal projection is subject to knowledge of future distribution costs and dependent on submission of cost of service applications by Hydro One and LDCs.
	  ○ Enhanced RRRP may create disincentives from the eligible LDCs towards productivity and performance improvements and/or cause ineligible LDC's to drive up distribution costs to gain access to program.
		Risk can be mitigated by:
		• Development of a risk-based outlook, based on an analysis of scenarios, to determine the sensitivity and financial impact of potential changes in variables used in the forecasting models.