> Overview
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> I conceive the General Regulation as providing for any prescribed criteria or methods, calculations and principles (in the commercial context), that must be provided to give the reader of the law the necessary detail to support the implementation of the legislation.
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> While the entire regulation is likely to be re-organized throughout the iterative drafting process, I see the sequencing of the steps in the transaction as follows (let me know where you disagree or where you find my explanation needs to be augmented):
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> 1. Minister to establish Fair Allocation Amount (the "Curve") per s.20 against which most if not all of the FSM's activities are to be [in general terms] based – e.g. see 21(3) 1"...reasonably align with Fair Allocation Amount...". Please provide your input to any principles to be prescribed here? [IESO comment: This seems to largely be a government policy issue and therefore the IESO does not have a view on additional principles.]
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> ~~1~~2. The Minister's Fair Adjustment [Allocation?] Amount is modified by the Fair Adjustments per ss. 6-8, 11 and 12). I think the Regulation to be made under Part II, along with the provisions of the Act itself, will inform the Fair ~~Adjustment~~ Allocation so I didn't' anticipate our General Regulation having to deal with these elements. Let me know if you agree. [IESO comment: We agree subject to this largely not being an IESO issue and better left to other entities to comment. Any need for provisions in a general regulation will likely arise as you get deeper into drafting of other regulations and the specifics of the mechanics.]
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> ~~1~~3. The FSM (OPG) then creates their initial Financing Plan (per s.21) and provides the plan to the Minister, but the Minister has no authority to amend, alter or revoke the plan. [IESO: no comments]
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> ~~1~~4. The FSM would commence incurring funding obligations (per s.21(1),
> 22(1), respecting the limitation provided for in s.21(4) but please
> see clause 21(4)(b) relating to prescribing a "limit" – any thoughts
> on how that limit should be set or the method for establishing? [IESO comment: we believe this is a government policy question and depends on whether there is a Clean Energy Adjustment in the initial years (to recover Financing Entity admin and interest costs). We understand from OPG that the dealers may have a position on this.] Is it
~~>~~ relevant for the next long while?)
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> Do you see any elements to be added to the regulation to support these events or transactions? [IESO comment: Specifically with respect to Sections 21 and 22, we do not have a view on additional elements to be added now. The key question to be answered now is whether the Financing Entity's admin costs and financing costs will be recovered in the near term through a Clean Energy Adjustment, or whether these costs will be funded by the IESO and included as part of the Regulatory Asset.]
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> 5~~1~~. S. 23 IESO Monthly Deferral: IESO begins experiencing a funding shortfall that stems from the difference between the amounts it must provide to generators/contract counter-parties, etc. per EA .25.33, and the amounts provided by distributors from consumers (due to RPP rates set to recapture less than the Global Adjustment liability calculation would provide for). [IESO comment: the difference in the amount needed to pay generators etc. that results in the IESO deferral is due to the rate to be established for specified consumers under Part II of the Bill, not just RPP consumers. We are sure you know this but want to be precise. Based on the way you have described this (i.e. difference between amounts IESO needs to pay versus amounts under collected due to the new rates) the RPP forecast variance would also be included in the IESO deferral and therefore become part of the Regulatory Asset. We also need to confirm whether the Financing Entity's admin and financing costs are included in deferral amount, or not.]

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> 1. Regs to capture and record as part of the RA the deferral referable
> to the period May 1, 2017 through day prior to RA of the Bill [IESO comment: Correct. Section 23(2) – regulation will need to prescribe that variance amount held by IESO on or after May 1, 2017 to be included as part of the IESO deferral. The variance account balance held by the IESO in May will relate to the RPP forecast variance and will not be due to the RPP rates set by the OEB effective May 1, 2017. If the variance held by IESO in May is not included in the IESO deferral, the IESO will need to carry the variance until at least May 1, 2021 since rates will not be set to permit recovery, as they would without Fair Adjustment.]
2. The section 24 variance account (established by the IESO and approved as to its establishment by the OEB) records the amounts of IESO monthly deferrals, as well as the other adjustments as may be prescribed – these form the basis of the regulatory asset (see s.25), specified portions of which are to be transferred under s.26. Just to begin with, do we have any information on the "other adjustments" to be prescribed (see para 24(1) 3) ? [IESO comment: We are not aware of a need right now.]
> 3. Per s.25(2) – The OEB to set rates payable by specified consumers to allow the IESO to recover the balance recorded in the s.24 variance account . We'll have to create criteria for the or methodology for the OEB to follow here as well. Do you see any elements that we should capture in the regulation to support these steps? [IESO comment: we assume this regulation would cover similar issues as in current O.Reg. 430/04 and would also address the time over which any amount is to be recovered. It is very important that any criteria does not create a subordination of the IESO's variance account to the Clean Energy Adjustment. This will create an accounting issue.]
> 4. Timing: The creation of the RA appears to be pretty immediate and occurs prior to any funding obligations being incurred by the FSM or is there a different sequence you see unfolding? [creation of reg asset is not connected to FSM or Fair Allocation Plan at all. It arises from creation of deferral and recording of variance in variance account.] I think others may have a much more sophisticated view about the steps that OPG as FSM is going to take immediately to fund the IESO monthly deferrals than do I, so if you could fill in any of the blanks for me on this (to the extent they'll form the basis of regulation drafting) that would be most appreciated.
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> 1. IESO transfers the specified portion of the RA (which turns into the Investment asset/ subsequent investment interests) to FSM per s.26 and any commercial agreement supporting the conclusive transfer. I am not certain that I see anything I can create in terms of supportive prescribe criteria or methodology for these steps, any input here? [not that we know of now. May be issues that arise when have more detailed discussions with OPG about transfer agreement.]
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> 1. FSM purchases investment interest per s. 28 (informed by the attributes provided for in s.29) (note the initial transfer creates the Investment Asset and on subsequent transfers, the value of the IA is added to by additional investment interests purchased by the FSM). The IA (which grows) resides in the SPV/Trust. (Section 29 (1) 2 refers to "other prescribed parties" – any thoughts on this at this time? [No.]
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> 1. FSM then incurs the funding obligations in accordance with the Financing Plans referred to in step 4 above. This is, I gather, the real securitization activity that will be supported primarily or almost entirely by commercial agreements. However, given our regulation-making authority (s.38), do you see anything that we should deal with in the General Regulation to support these steps? [No IESO view.]
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> 1. Recovery: Clean Energy Adjustments are dealt with in sections 13 through 17 and frankly I've got to spend a lot more time pouring over those provisions against my initial smatterings on the screen before posting any being able to pose coherent questions (hoping I've posed at least some in this email).
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> Timing: Assuming I have captured the sequence of steps in a manner which you generally agree with, I could benefit from some clarification around the timing around steps 1 through 4 versus the things that happen under steps 5 through 8.
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> General assistance with criteria / methods to be included in the general regulation: Having regard to sections 23 through 29, Do you see any specific requirements that we need to provide for in the regulations to further articulate the steps or methodologies to support these steps?
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> Definitions, etc: Foundational Concepts that I really need your help to flesh out:
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> * "Finance Amount"(in all its variants – estimated, actual and just plain old "finance amount") - Can you help me better understand how we want to use these terms and how they should be expressed in the regulation (e.g. either by just describing them in plain language and / or describing the series of transactions that you see occurring on a monthly basis (i) at the IESO level; (ii) between IESO and FSM/SPV or Trust. [determine if used. May not be.]
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> * “True-up Amount”: Would you provide me with some instruction as to how the regulations can describe this concept? Are the regulations to create a method for calculating the true-up amount and, if so, how do you see this calculation being expressed in a manner that supports, without duplicating, the legislation. See s.15(2) of the Bill which reads: [OPG issue]
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> Regulations re true up amount
> (2) The Lieutenant Governor in Council shall, in making regulations with respect to the determination of the true up amount, have regard to the following principles:
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> 1. The true up amount should serve to ensure that the collection of the clean energy adjustment is sufficient to pay the finance amount when it is due.
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> 2. The method for determining the true up amount should take into
> account historical and reasonably foreseeable,
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> i. differences between the estimated and actual finance amount for the
> applicable reference period,
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> ii. differences between amounts invoiced and amounts collected due to
> various factors, including applicable taxes, consumer defaults and
> delays, billing lags and write-offs, and
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> iii. variations in billings due to variations in electricity consumption.
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> Miscellaneous: What other things need to be in the proposed regulations?
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> For example, having regard to Article 6 of the April 14th/17 version of the Blakes Document, here are some things I was considering when reviewing the Blakes document at Article 6:
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> * Definitions: e.g. for true-up period (e.g. referring to the reference period prior to the current reference period)?
> * Semi annual review and adjustment of CEAs by FSM?
> * Inclusions of LDC-level shortfalls (do you mean line-losses? What is meant by this.
> * Exclusions of FE-level leakage (tax, litigation expense, losses):
> * Tie-in with “Period Finance Amount” concept.