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Proposed Bill 132 Draft Motions
Proposed Draft Government Motions

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Proposed Draft Bill 132 Motions

Motion 1

Schedule 1 to the Bill, subsection 1 (1)

The following definition would be added:

“readjustment amount” means, in respect of a reference period, the amount, if any, by which the fair allocation amount in respect of the reference period exceeds or would exceed the sum of the following amounts after eliminating any duplication between the two amounts:

1. The clean energy costs allocated to specified consumers in respect of the reference period as a result of a determination of the Board in respect of the reference period under section 9 or 11.
2. The finance amount in respect of the reference period or, if the finance amount has not been determined, the estimated finance amount in respect of the reference period; (“French”)

Proposed Draft Bill 132 Motions

Motion 2

Schedule 1 to the Bill, section 7

Section 7 would be struck out and the following substituted:

Regulated rate consumers, first adjustments

7. (1) Despite any order under subsection 78 (3.1) of the *Ontario Energy Board Act, 1998* and despite section 79.16 of that Act, the electricity rates payable by regulated rate consumers for the period beginning on July 1, 2017 and ending on April 30, 2018 are the rates determined by the Board under this section and in accordance with the prescribed methodology.

Determination by Board

(2) The rates mentioned in subsection (1) must be the rates that would result in a hypothetical regulated rate consumer who meets the prescribed criteria being invoiced an amount, consisting of such types of amounts as may be prescribed, that is 25 per cent less than the ~~an~~ amount which is,

(a) consisting of such types of amounts as may be prescribed, that the consumer would have been invoiced under the prescribed rates, and

(a)(b) determined by the Board solely using the method prescribed by the regulations made under clause 79.16(1)(b) of the *Ontario Energy Board Act, 1998*, without taking into account any forecasted impact of any other provisions of this Act.

Commented [JPR1]: This portion may be moved to the regulations. Let us know of any concerns or objections to that approach.

Proposed Draft Bill 132 Motions

Motion 3

Schedule 1 to the Bill, section 8

Section 8 would be struck out and the following substituted:

Other specified consumers, first adjustments

8. For the period beginning on July 1, 2017 and ending on April 30, 2018, the adjustments made under section 25.33 of the *Electricity Act, 1998* shall, with respect to specified consumers who are not regulated rate consumers, be further adjusted in accordance with the regulations by electricity vendors and subject to determinations made by the Board in accordance with the regulations.

Proposed Draft Bill 132 Motions

Motion 4

Schedule 1 to the Bill, section 11

Section 11 would be struck out and the following substituted:

Subsequent adjustments

11. (1) Despite clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998* and subject to subsection (2), the Lieutenant Governor in Council may prescribe methodologies to be applied by the Board and electricity vendors after April 30, 2018 for the purpose of determining,

- (a) electricity rates for regulated rate consumers; or
- (b) adjustments to be applied by electricity vendors to the adjustments made under section 25.33 of the *Electricity Act, 1998* in respect of specified consumers who are not regulated rate consumers.

Regulations

(2) The Lieutenant Governor in Council shall have regard to the following in making the regulations:

- 1. The purposes of this Act.
- 2. The clean energy costs borne by specified consumers over time.
- 3. Such other matters as may be prescribed.

Same

- (3) The regulations may prescribe,
 - (a) different methodologies for different prescribed classes of consumers and in respect of different periods of time; and
 - (b) different adjustments to be made in respect of prescribed classes of specified consumers who are not regulated rate consumers.

Proposed Draft Bill 132 Motions

Motion 5

Schedule 1 to the Bill, subsections 12 (2) and (3)

Subsection 12 (2) would be struck out and the following substituted:

Regulated rate consumer

(2) In the case of a specified consumer who is a regulated rate consumer, if an invoice for the electricity is issued to the person by the specified consumer or a unit sub-meter provider providing unit sub-metering for the specified consumer, the rates payable for the electricity by the person who is liable to pay the invoice shall be determined in accordance with the regulations.

Other specified consumer

(3) In the case of a specified consumer who is not a regulated rate consumer, if an invoice for the electricity is issued to the person by the specified consumer or a unit sub-meter provider providing unit sub-metering for the specified consumer, the specified consumer and every unit sub-meter provider providing unit sub-metering for the specified consumer shall ensure that the ~~rates or the costs, as the case may be, payable by the person, reflect the rates or the costs payable by the specified consumer receives a credit, determined in accordance with the regulations, in respect of the amount otherwise payable by the person for the electricity.~~

Commented [JPR2]: This detail may be moved to the regulations. Please let us know of any concerns or objections to that approach.

[ntd: The rates or costs payable by the "person" (e.g. end-user or real consumer) should reflect the rates or costs payable by the specified consumer or that consumer's USMP billing the person.]

Proposed Draft Bill 132 Motions

Motion 6

Schedule 1 to the Bill, subsection 13 (2)

Subsection 13 (2) would be struck out and the following substituted:

Same

(2) For greater certainty, subsection (1) applies regardless of whether any estimate, projection or other input used in calculating the clean energy adjustment was erroneous or out of date at the time of the calculation and regardless of whether ~~the clean energy adjustment~~ any of those estimates, projections or other inputs is subsequently amended, updated or corrected.

Proposed Draft Bill 132 Motions

Motion 7

Schedule 1 to the Bill, subsection 18 (1)

Subsection 18 (1) would be amended by adding “Subject to subsection (2)” at the beginning.

[ntd: Motion 7 to be combined with Motion 8 for a complete section 18 with (1) and (2) together]

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Proposed Draft Bill 132 Motions

Motion 8

Schedule 1 to the Bill, subsection 18 (2)

Section 18 would be amended by adding the following subsection:

Same

(2) If Ontario Power Generation Inc. is unable or unwilling to act as the Financial Services Manager, the Minister may appoint a different Financial Services Manager in accordance with the regulations.

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Proposed Draft Bill 132 Motions

Motion 9

Schedule 1 to the Bill, section 20

Section 20 would be struck out and the following substituted:

Minister to calculate fair allocation amount

20. (1) Before the first funding obligation is incurred, the Minister shall calculate a fair allocation amount in respect of each reference period as follows:

1. Subject to subsection (2), determine, in accordance with the steps set out in the regulations and by applying such method as the Minister considers appropriate, the estimated clean energy costs and financing costs to be allocated to specified consumers in respect of the reference period.
2. Determine the estimated clean energy costs that would have been payable, in the absence of this Act, by specified consumers in respect of the reference period.
3. Determine the amount, if any, by which the determination under paragraph 1 exceeds the determination under paragraph 2.
4. Calculate the sum of the amount determined under paragraph 3 and such other amounts as may be prescribed.

Part II adjustments

(2) If the Board has made a determination under section 9 or 11 in respect of the reference period or in respect of a prior reference period and, as a result of the determination, the prescribed circumstances arise, the Minister shall take the prescribed steps to make the prescribed adjustments to the determination made under paragraph 1 of subsection (1).

Principles, assumptions

(3) In calculating a fair allocation amount, the Minister shall :

~~(a) have regard to the purposes of this Act and such other principles as may be prescribed;~~
and

~~(b) make such assumptions as the Minister considers to be reasonable regarding,~~

~~(i) the time value of money, the rate of inflation and the expected financing costs, for the purpose of equating nominal amounts over time,~~

~~(ii) the expected number of specified consumers in respect of each reference period;~~

~~(iii) the expected electricity consumption rates in respect of each reference period, and~~

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~~(iv)~~ such other matters as may be prescribed.

Recalculation

(4) The calculation of a fair allocation amount under this Part may be changed by such person as may be prescribed, subject to the following requirements:

1. The prescribed person shall comply with such requirements as may be prescribed.
2. Subsections (1), (2) and (3) apply to the new calculation, with necessary modifications, as if that person were the Minister.

Same

(5) No change under subsection (4) shall affect any clean energy adjustment that arises as a result of a funding obligation that has been incurred before the change.

Information

(6) The Minister, the IESO, the Financial Services Manager, the Board and electricity vendors shall provide such information as may be prescribed in accordance with the regulations for the purposes of facilitating a change under subsection (4).

Proposed Draft Bill 132 Motions

Motion 10

Schedule 1 to the Bill, subsection 21 (1)

Subsection 21 (1) would be amended by striking out “for the purposes of acquiring and financing an investment asset” and substituting “for the purposes of a financing entity acquiring and financing an investment interest”.

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Proposed Draft Bill 132 Motions

Motion 11

Schedule 1 to the Bill, paragraph 1 of subsection 21 (3)

Paragraph 1 of subsection 21 (3) would be amended by striking out “to reflect determinations of the Board under Part II in respect of the reference period” at the end and substituting “by the amount of any readjustment amount in respect of the reference period”.

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Proposed Draft Bill 132 Motions

Motion 12

Schedule 1 to the Bill, subsection 21 (4)

Subsection 21 (4) would be amended by striking out clauses (a) and (b) and substituting the following:

- (a) the amounts are payable in respect of a reference period in respect of which the Board has not made any determinations under Part II that resulted in a readjustment amount; or
- (b) if the Board has made a determination under Part II in respect of the reference period that resulted in a readjustment amount, the amounts payable in respect of the clean energy adjustment in respect of the reference period do not exceed the fair allocation amount in respect of the reference period after subtracting the readjustment amount.

Proposed Draft Bill 132 Motions

Motion 13

Schedule 1 to the Bill, subsection 21 (6)

Subsection 21 (6) would be amended by adding “but no such amendment shall affect any clean energy adjustment that has already been determined under section 15 or any funding obligations that have already been incurred before the amendment” at the end.

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Proposed Draft Bill 132 Motions

Motion 14

Schedule 1 to the Bill, subsection 22 (3)

Subsection 22(3) would be struck out and the following substituted:

Prohibition

(3) ~~Neither the Financial Services Manager nor a financing entity shall not provide~~ for funding obligations to be incurred with any recourse to any assets of an electricity vendor, the Board, Ontario Power Generation Inc., the Province or the Lieutenant Governor in Council, except to the extent that any of these persons or entities may be liable to perform obligations or duties arising under this Act or under the express terms of a funding obligation or other agreement.

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Proposed Draft Bill 132 Motions

Motion 15

Schedule 1 to the Bill, section 40.1

The following section would be added:

Compliance and restraining orders

Application to court

40.1 (1) On the application of an investment asset owner, the Superior Court of Justice may make an order,

- (a) directing an electricity vendor, the IESO or the Financial Services Manager to comply with this Act or the regulations;
- (b) restraining an electricity vendor, the IESO or the Financial Services Manager from acting in breach of this Act or the regulations; or
- (c) ~~directing for compensation by an electricity vendor, the IESO or the Financial Services Manager to provide compensation to the investment interest owner.~~

Same

(2) An application under subsection (1) may be made by an investment asset owner in addition to exercising any other right of the investment interest owner.

Proposed Draft Bill 132 Motions

Motion 16

Schedule 1 to the Bill, paragraph 7 of subsection 41 (1)

Paragraph 7 of subsection 41 (1) would be amended by striking out “a breach under section 29” and substituting “the failure of any person or entity to ~~comply with this Act give effect to the rights and interests provided for under section 29~~”.

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