Version 3 [IESO comments]

This confidential draft document is provided for discussion purposes only. It should not be construed as representing the position adopted by the Government of Ontario on any of the topics included or not included in this document. The notes included in this document are intended only to help facilitate a discussion of the topics to which they relate. Any potential legislation is subject to the approval of the Ontario Legislature.

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A proposal to create Legislation.

Ontario's Fair Hydro Plan Act, 2017, if enacted

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EXPLANATORY NOTE TO BE ADDED BY LEGISLATIVE COUNSEL TO ANY FINAL BILL PRIOR TO INTRODUCTION.

[Insert explanatory note.]

[Notes re this draft:
- all numbering of provisions may need to be re-done
- will need to check all definitions to ensure (1) that they are needed; and (2) that they work properly wherever the term is used in the Bill.
- additional consequential amendments likely required still
- overall organization of provisions still TBC (for now just trying to get all of the elements drafted and will reconsider architecture later)
- need to check consistency of various phrases (e.g. *during/for/in respect of* reference period; *owner of RA/IA vs. RA/IA owner; etc.)*]

Preamble
The Government of Ontario is committed to fostering the development of a clean, modern and reliable electricity system with a diverse supply mix. The Government is also committed to removing barriers to and promoting opportunities for renewable and clean energy projects.[1]

The Government of Ontario has established a regulatory framework related to the generation and sale of electricity, which has promoted and continues to promote significant investment to enable phasing out of coal fired generation, modernizing <u>sites and facilities for the generation of electrical energy and the production therefrom for Ontario,</u>[2] and conservation and demand management. **[NTD: small point, but there are two IESO procurement contracts for hydro facilities located in Quebec but that are connected to and supply energy to Ontario.]**

[1] Note: please see the preamble of the *Green Energy Act, 2009*.

[2] Note: please see clause 92A (4) (b) of the Constitution, 1867: "des emplacements et des installations de la province destinés à la production d'énergie électrique, ainsi que de cette production meme".

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The Government of Ontario is committed to ensuring that the costs of these investments, and the raising of money to fund the investments,[3] are allocated fairly among present and future generations of consumers.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

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[3] Note: please see opening flush of s. 92A (4) of the Constitution Act, 1867

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PART I
GENERAL

Interpretation
Definitions

1xx. (1) In this Act,

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

"clean energy adjustment" means the amount determined under section 10xx; ("French")
[Note - will need to check throughout the draft that references to CEA are clear as to whether it's the total CEA in respect of a reference period vs. the portion payable by a specified consumer.]

"clean energy benefits" means, in respect of a reference period, the value of the benefits determined to be derived by the specified consumers during the reference period as a result of the clean energy initiative, including as a result of past, present and expected future incurrences of clean energy costs; ("French")

"clean energy costs" means, in respect of a reference period, the value of the costs allocated to specified consumers during the reference period as a result of the clean energy initiative, including as a result of past, present and expected costs incurred in respect of,

(a) the estimated amounts to be paid by the IESO referred to in section 25.33 of the *Electricity Act, 1998* or any provision that is the successor to that provision, which relate to, [NTD: if the intent is to reference the costs associated with the following procurement contracts, and payments under section 78.5 of the OEB Act, we would suggest that the highlighted language above is unnecessary. The IESO does not incur costs under section 25.33.]

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a. procurement contracts for:

a. renewable energy generation or capacity,

b. conservation and demand management, including storage, [NTD: should storage be included as CDM, or as a separate item? Is intent to include only storage procured by OPA as procurement contract, or also storage procured by IESO under market rules?]

c. energy efficiency,

d. natural gas generation and capacity, ~~excluding such contracts as may be prescribed~~, or [NTD: if these are the only "procurement contracts" do not need to exclude 78.2 since OEFC contracts would by definition not be included.]

b. payments made or expected to be made under section 78.5 of the *Ontario Energy Board Act, 1998*, and

(b) such other estimated costs as may be prescribed; ("French")

"clean energy initiative" means the policies of the Government of Ontario related to,

(a) fostering the growth of and investment in clean and renewable energy sources and technologies,

(b) removing barriers to and promoting opportunities for clean and renewable energy sources and technologies, and

(c) promoting conservation and demand management; ("French")

"electricity vendor"[4] means a licensed distributor, a licensed retailer or such other person as may be prescribed, and shall include the IESO to the extent that ~~it~~the IESO directly invoices a specified consumer; ("French")

"fair adjustment" means the rate payable for electricity in accordance with Part II; ("French") [NTD: isn't the fair adjustment the rate, not the act of creating the rate?]

4 Note - this is similar to the definition of "electricity vendor" in the Ontario Rebate for Electricity Consumers Act, 2016

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"Financial Services Manager" means Ontario Power Generation Inc. [or such other person or entity as may be appointed as the Financial Services Manager by the Minister under section **]; ("French")

"Financing Plan" means the plan prepared under section X, as amended from time to time in accordance with this Act; ("French")

"funding obligation" means a payment obligation incurred by or on behalf of an investment asset owner under section x in connection with the transfer of a regulatory asset or the refinancing of an existing funding obligation; ("French")

"IESO" means the Independent Electricity System Operator continued under Part II of the *Electricity Act, 1998*; ("SIERE")

"IESO funding shortfall" means the amount determined under section 20xx; ("French") **[NTD: The funding shortfall is the amount IESO records in the variance account monthly. Monthly recording of shortfall is consistent with section 20xx. We suggest this definition does not need to reference a time period.]**

"investment asset" means the investment asset created as described in section 22xx; ("French")

"investment asset owner" means a financing entity that acquires an investment interest in the investment asset; ("French")

"investment interest" means an ownership interest in the investment asset, and, in the case of a transfer of an interest in an investment asset, the rights and benefits specified in the agreement under which the interest in the investment interest is transferred;

"invoice amount" means the amount, determined in accordance with subsections (2.1) and (2.2) and the regulations, that is payable by a specified consumer for the provision of electricity in Ontario during a period of time specified on an invoice issued by an electricity vendor; ("French")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("French")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("French")

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"Minister" means the Minister of Energy or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; ("ministre")

"prescribed" means prescribed by the regulations; ("prescrit")

"procurement contract" has the meaning provided in the *Electricity Act, 1998*;

"reference period" means,

(a) the period beginning on May 1, 2017 and ending on October 31, 2017,

(b) every six-month period following the period mentioned in clause (a) or such shorter period as may be set out in the Fair Allocation Plan; ("French")

"refinancing" means a repayment or repurchase of a funding obligation for cancellation by or on behalf of an investment asset owner by applying the net proceeds obtained by the owner incurring one or more other funding obligations; ("French")

"regulation" means a regulation made under this Act; ("règlement")

"regulatory asset" means the right established under section X to recover the amount recorded in the variance account; ("French")

"representative consumer" means a consumer who meets the criteria set out in subsection (3); ("French")

"specified consumer" means,

(a) a person who has an account with an electricity vendor for the supply of electricity, receives an invoice in respect of the account and meets the criteria set out in subsection (2); or

(b) such other person as may be prescribed; ("French")

"Toronto Hydro" means Toronto Hydro-Electric System Limited; ("French")

~~1.~~ "transfer" means (i) in relation to the regulatory asset, or any portion thereof, any act of IESO which states that it is a "transfer" of all or any portion of the regulatory asset for purposes of this Act or any other act of the IESO by which the IESO purports to dispose of its interest in all or any portion of the regulatory asset and (ii) in relation to an investment asset or any investment interest, any assignment, conveyance, disposition or sale thereof, and, in each case,

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transferred shall have a corresponding meaning; (“French”) **[NTD: For a number of reasons it is difficult to treat the transaction between the IESO and the Financing Trust as a transaction which is in law a transfer, sale or assignment. We think that the best way of proceeding is for the Act to state specifically that upon any “transfer”, the IESO has no further rights in the Regulatory Asset, or portion thereof transferred and the Investment Asset Owner acquires the corresponding Investment Interest free of any adverse claim. Since, in both cases, these rights are a creature of statute, it is hard to see how such a stipulation could realistically be challenged. However, in order to avoid circularity, the term “transfer” needs to be defined more broadly so that it is not dependent upon there being a transfer at common law.]**

“variance account” means the variance account established under section 20.1xx.

Specified consumers

(2) For the purposes of clause (a) of the definition of “specified consumer” in subsection (1), the person must meet any one of the following criteria:

1. The person has a demand for electricity of 50 kilowatts or less, or such other amount as may be prescribed.

2. The person annually uses not more than 250,000 kilowatt hours of electricity, or such other amount as may be prescribed.

3. The person carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993* and either holds a valid registration number assigned under that Act or the has had the obligation to file a farming business registration form waived pursuant to an order made under subsection 22 (6) of that Act.

4. The person’s account with the electricity vendor relates to,

    i. a dwelling,

    ii. a property within the meaning of the *Condominium Act, 1998*,

    iii. a residential complex within the meaning of subsection 2 (1) of the *Residential Tenancies Act, 2006*, without regard to section 5 of that Act, or

    iv. a property that includes one or more housing units and that is owned or leased by a co-operative within the meaning of the *Co-operative Corporations Act*.

5. The person satisfies such [other / additional?] criteria as may be prescribed.

Invoice amount

(2.1) Subject to subsection (2.2) and the regulations, the invoice amount for a specified consumer includes the following amounts:

1. In circumstances where the electricity is provided by a licensed distributor or a licensed retailer, the following:

   i. The commodity price of the electricity used during the invoice period.

   ii. The rates and charges set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*.

   iii. Any adjustment on the invoice required under section 25.33 of the *Electricity Act, 1998*.

   iv. The amount of any harmonized sales tax payable [by the consumer?] under Part IX of the *Excise Tax Act* (Canada);

   v. Any other amounts as may be prescribed.

2. In circumstances where the electricity is provided by the IESO, such amounts as may be prescribed. ("French")

Same, exclusions

(2.2) Except as otherwise prescribed by the regulations, the invoice amount does not include any of the following amounts:

1. The balance of any amounts carried forward from previous invoices.

2. Penalties or interest.

3. Charges that do not relate to the use of electricity.

4. Any of the following charges that may be set out in an order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*:

   i. A fixed monthly service charge payable by a generation facility within the meaning of section 56 of the *Ontario Energy Board Act, 1998* and classified as "microFIT".

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ii. A charge labelled as a "specific service charge" or "retail service charge".

iii. A rate rider.

5. Any other prescribed amounts.

Representative consumer

(3) For the purposes of the definition of "representative consumer" in subsection (1), the consumer,

(a) purchases electricity directly from Toronto Hydro;

(b) has an account with Toronto Hydro that falls within a residential-rate classification as specified in a rate order made by the Board under section 78 of the *Ontario Energy Board Act, 1998*;

(c) is invoiced by Toronto Hydro on a monthly basis;

(d) is not invoiced by Toronto Hydro for electricity on an equal monthly payment plan or an equal billing plan; and

(e) uses, on average, 750 kilowatt hours of electricity each month [NTD: is it necessary to make assumptions ~~based on~~relative to time of use~~?~~, since that will determine the dollar amount paid by that customer].

Transfer

(4) For greater certainty, a transfer of the regulatory asset or a portion of the regulatory asset includes any act of the IESO by which the IESO purports to dispose of all or any part of its interest in the regulatory asset. [NTD: section may not be necessary with proposed revised definition of "transfer"]

Effect of invalidity, etc.[5]

2xx. (1) For greater certainty, all of the provisions of this Act remain in full force and effect, even if some provisions are held to be invalid, the intention of the Legislature being to give separate and independent effect to the extent of its powers to every provision contained in this Act.

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[5] Note: this is from the *Climate Change Mitigation and Low-carbon Economy Act, 2016*

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Same, funding obligation

(2) The fact that any provision of this Act is held to be invalid or ceases to be in effect for any reason does not affect a funding obligation that was incurred under this Act before the day that the provision was held to be invalid or ceased to be in effect.

Purpose

3xx. (1) The purposes of this Act are,[6]

(a) to ensure that clean energy costs are fairly allocated among specified consumers over time and that the process by which the Province raises money to fund the costs reflects the fair allocation; and

(b) to recognize that clean energy benefits that have accrued and that will accrue over time will continue to benefit present and future electricity consumers in the Province.

Crown bound

4xx. This Act binds the Crown.

Protection and assurances
Prohibition

5xx. (1) The Crown shall not do anything that would,

(a) hinder, delay, impair or prejudice the charging, collection or remittance of the clean energy adjustment;

(b) except as expressly permitted by this Act, reduce the amount of the clean energy adjustment; or **[NTD: the clean energy adjustment is allocated and collected rateably]**

(c) adversely affect an investment asset or a funding obligation.

Clarification with respect to regulations

(2) For greater certainty, the things prohibited under subsection (1) include the making or approving of a regulation under this Act.

Agreements for compensation

(3) The Minister may, 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,

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[6] Note: Please see the *Electricity Act, 1998* for much of the wording proposed in this section.

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including agreements regarding financial commitments, financial arrangements, indemnities or similar transactions.

PART II
FAIR ADJUSTMENT

Fair adjustment, May 1, 2017 to April 30, 2018
Definition

6xx. (1) In this section,

"average baseline invoice amount" means the ~~average~~ monthly invoice amount that would be payable by a representative consumer under the average baseline rate; ("French")

"average baseline rate" means the average rate [NTD: or rates, to reflect time of use?] that would be payable effective May 1, 2017 by the class of consumers prescribed by the regulations under the *Ontario Energy Board Act, 1998* for the purposes of subsection 79.16 (1) of that Act, as determined by the Board by applying the method prescribed by the regulations under clause 79.16 (1) (b) of that Act; ("French")

"sub-meter customer" means a person who is supplied electricity by a specified consumer, if an invoice for the electricity is issued to the person by the specified consumer, by an agent of the specified consumer or by a unit sub-meter provider providing unit sub-metering for the specified consumer; ("French")

Rate determination

(2) Subject to subsection (3), to more fairly recognize clean energy benefits and allocate the clean energy costs among present and future generations of specified consumers, the rate **[NTD: rate or rates?]** for electricity payable by a specified consumer for the period beginning on May 1, 2017 and ending on April 30, 2018 is the average rate [NTD: or rates, to reflect time of use?] that would be payable by a representative consumer in order for the representative consumer to receive a monthly invoice amount that is 25 per cent less than the average baseline invoice amount. **[NTD: if the rate determined by regulation is different from the rate OEB just set for May 1, will consumers receive a rebate for the difference? Do there need to be provisions addressing this? How does the above align with subsection (4)(b) below?]**

Sub-meter customers

(3) A specified consumer who provides electricity to a sub-meter customer and any unit sub-meter provider who provides unit sub-metering for the specified consumer shall ensure that the rate payable by each sub-meter customer is the rate determined under subsection (2).

Determining rate

(4) The rate mentioned in subsection (2) shall be,

(a) determined by the Board within seven business days after this section receives Royal Assent; and

(b) effective as of the first day of the calendar month immediately following the determination.

Transition

(5) If, for technical or operational reasons, an electricity vendor, specified consumer or unit sub-meter provider is unable to adapt its invoices to comply with this section by the time it issues its first invoice for electricity consumed on or after May 1, 2017,

(a) the electricity vendor, specified consumer or unit sub-meter provider shall adapt its invoices as soon as possible and, in any event, no later than [August 1, 2017]; and

(b) the electricity vendor, specified consumer or unit sub-meter provider shall ensure that any specified consumer or sub-meter customer invoiced at a rate higher than the applicable rate receives the difference between the rate shown on their invoice and the applicable rate as a lump sum credit on the first invoice issued after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Fair adjustment, May 1, 2018 to April 30, 2022

7xx. The Lieutenant Governor in Council may, [to more fairly measure and allocate the clean energy costs and clean energy benefits among present and future generations of specified consumers,] make regulations prescribing the rate **[NTD: will regulations prescribe the rate, or the criteria to be applied by the Board in setting the rate? It is important for the establishment of a regulatory asset that the Board establishes the rate that results in the variance. The Board will also need to determine what RPP/price would have been without these provisions.Need corresponding section to s 6xx(4)]** for electricity payable by specified consumers and sub-meter customers during the period beginning on May 1, 2018 and ending on April 30, 2022.

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PART III
CLEAN ENERGY ADJUSTMENT

Specified consumers to pay clean energy adjustment

8xx. (1) Upon receipt of an invoice that includes a clean energy adjustment, a specified consumer shall pay the clean energy adjustment to the electricity vendor, as agent of the investment asset owners, in accordance with ~~such~~the terms of payment ~~as may be~~ specified in the invoice, which may include terms relating to late payment fees and interest charges.

Same

(2) For greater certainty, subsection (1) applies regardless of,

(a) whether the clean energy adjustment is inconsistent with the fair allocation calculation made by the Financial Services Manager under Part IV applicable at the time when the payment is due; and [NTD: the Fair Allocation Plan is not called for in the Bill now. Note there are still a few references to Fair Allocation Plan in the Bill, which we assume will be changed in the next iteration if the current approach of not using a FAP remains.]

(b) whether the clean energy adjustment relates to funding obligations that were incurred in a manner that was inconsistent with the Financing Plan.

Indebtedness of specified consumer

(4) An unpaid clean energy adjustment that is required to be paid by a specified consumer under this section constitutes indebtedness of the consumer to each investment asset owner in respect of each owner's respective interest in the investment asset.

Same

(5) The indebtedness mentioned in subsection (4) is a single and separate debt obligation owed by the specified consumer and may be enforced independently from any other payment obligation or indebtedness owing by the specified consumer under the invoice or otherwise.

Irrevocability of clean energy adjustment

9xx. (1) The amount of the clean energy adjustment shown on an invoice issued to a specified consumer under this Act is determinative of the amount of the consumer's indebtedness created by the adjustment and is irrevocable upon invoicing the consumer and may not be set off or by passed.

Exception

(2) Subsection (1) does not apply to the extent that there is a calculation error by the electricity vendor.

Determination of clean energy adjustment

10xx. (1) The clean energy adjustment payable by all specified consumers in respect of a reference period shall, and as prescribed, be determined as follows:

1. The Financial Services Manager shall estimate the finance amount for the reference period in accordance with Schedule 1 and such additional rules as may be prescribed.

2. The Financial Services Manager shall calculate the true up amount for the reference period, as determined in accordance with the prescribed method~~, to the estimated finance amount calculated under paragraph 1.~~. **[NTD: the true up amount may be either positive or negative.]**

3. The Financial Services Manager shall, not less than ~~xx~~ days prior to the applicable Reference Period, inform the Board of the estimated finance amount and the true up amount.

Rate determination

(2) The Board will determine the rate at which specified consumers are invoiced to recover the clean energy adjustment in respect of the reference period in accordance with the regulations.

True up amount

(3) For the purposes of paragraph 2 of subsection (1), the Lieutenant Governor in Council may make regulations prescribing the method for determining the true up amount, having regard to the following principles:

1. The true up amount should serve to ensure that the collection of the clean energy adjustment is sufficient to pay the estimated finance amount when it is due.

2. The method for determining the true up amount should take into account,

   i. aggregate differences between amounts billed and amounts collected due to various factors, including applicable taxes, consumer defaults and delays, billing lags and write-offs,

   ii. aggregate variations in billings due to variations in electricity consumption, and

   iii. the variations between the estimated finance amount for a reference period and the actual finance amount for that period.

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IESO to issue remittance notice to electricity vendors

11xx. [NTD: the IESO does not believe IESO needs to issue an invoice or statement to electricity vendors. The IESO will not know the amount to be invoiced and electricity vendors have an obligation under 12xx to remit amounts collected to the IESO which in turn the IESO collects and remits to the investment asset owner. The investment asset owner will then record the variance between the clean energy adjustment determined in 10xx(1) and the amount remitted by the IESO which will then be factored into the true up.]

IESO to collect

(2) The IESO shall, as an agent of the investment asset owners, collect the clean energy adjustment paid to it by electricity vendors [in accordance with the regulations and the monthly settlement process set out in the market rules made under section 32 of the *Electricity Act, 1998]*. **[NTD: the IESO's obligation will be to collect and remit from electricity vendors what is paid. We understand from prior discussions the obligation is not to collect everything that is invoiced by electricity vendors (other than IESO). Any underpayment will be recorded in a variance by the investment asset owner/financial services manager and recovered in a future reference period.]**

Collection account

(3) All of the following amounts received by the IESO shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (5), be deposited promptly into an account established for the purposes of receiving those amounts:

1. Amounts described in subsection 12 (4).

2. Payments made by specified consumers directly to the IESO as electricity vendor under subsection 8 (1).

Same, held in trust

(4) All amounts received by the IESO in respect of the clean energy adjustment shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (6), be held in trust by the IESO for the investment asset owners. **[NTD: see sections with security interest language.]**

IESO to remit

(5) The IESO shall remit the amounts received by it in respect of the clean energy adjustment to or for the benefit of the investment asset owners in accordance with the regulations.

Electricity vendor to invoice specified consumers

12xx. (1) Each electricity vendor shall issue an invoice to each specified consumer with an account with such electricity vendor for the amount payable by such consumer in respect of the clean energy adjustment, determined by applying the rate set by the Board under section 10xx(2) and as further prescribed.

Electricity vendor to collect

(2) Each electricity vendor shall, as an agent of the investment asset owners, collect the clean energy adjustment paid by specified consumers [in accordance with the regulations/. **[NTD: deletion to be consistent with 8xx(1). LDCs do not collect from consumers in accordance with market rules. LDC collection is governed by Board codes.]**

Pro rating of payments

(3) If an electricity vendor receives a payment made by or on behalf of a specified consumer in respect of amounts payable under one or more invoices and the amount paid is less than the total amount payable, the electricity vendor shall allocate the payment on a pro rata basis to the clean energy adjustment and other amounts payable under the relevant invoices in respect of electricity charges for the same invoice period.

Held in trust

(4) All of the following amounts received by an electricity vendor shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (5), be held in trust for the investment asset owners or a secured party to whom a security interest in an investment interest is granted under this Act:

1. Payments received from or on behalf of specified consumers under subsection 8 (1).

2. Portions of payments received from or on behalf of specified consumers under subsection 8 (1) that are allocated to the clean energy adjustment under subsection (3).

3. Any proceeds arising from the exercise and enforcement of any rights and interests under or in respect of the investment asset.

Remittance to IESO

(5) Each electricity vendor shall remit amounts described in subsection (5) to the IESO for the benefit of the investment asset owners or secured parties in accordance with the

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regulations. **[NTD: deletion to be consistent to our proposed change to the definition of electricity vendor.]**

Regulations

(6) If an electricity vendor fails, in the manner described in the regulations, to comply with the requirements of this section, the electricity vendor shall take such steps as the regulations may prescribe.

PART IV
IMPLEMENTATION

FINANCIAL SERVICES MANAGER

Appointment

13xx. (1) [Note: To be elaborated.]

Termination

(2) The Minister may by written order terminate the appointment of an appointee as the Financial Services Manager if,

(a) the Minister has advised the appointee that the Financing Plan is either inconsistent with or is being implemented in a manner that is inconsistent with the principles set out in section x;

(b) the appointee has been afforded a reasonable opportunity to consider and address the inconsistency; and

(c) the appointee is unwilling or unable to address the inconsistency to the satisfaction of the Minister.

Replacement

(3) Upon terminating an appointment, the Minister may, in accordance with the regulations, appoint a new person or entity as the Financial Services Manager.

Duties and powers

14xx. (1) The Financial Services Manager shall perform the duties assigned to it under this Act and may administer the investment asset on behalf of the investment asset owner.

Same

(2) The administration of the investment asset may include the following:

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1. Providing information, in accordance with the regulations, to the Board in respect of funding obligations and the determination of the clean energy adjustment in accordance with section XX.

2. Providing information to electricity vendors, including the IESO, in respect of obligations under Part III.

3. Such other matters as may be prescribed.

Review of costs

(3) The Board shall review the administrative costs of the Financial Services Manager in accordance with the regulations.

FAIR ALLOCATION AMOUNT

Financial Services Manager to calculate fair allocation amount

15xx. (1) The Financial Services Manager shall calculate the fair allocation amount for the purposes of,

(a) fairly measuring and allocating the estimated clean energy costs and estimated clean energy benefits among the specified consumers in respect of each reference period; and

(b) aligning funding obligations that may be incurred during each reference period with the allocation of the estimated clean energy costs and estimated clean energy benefits across present and future generations of specified consumers.

Amount

(1.1) The fair allocation amount in respect of a reference period is the sum of the following amounts:

1. The amount, if any, by which the estimated [clean energy costs] [clean energy benefits] to be allocated to specified consumers in respect of the reference period exceeds the estimated amount of [the global adjustment] that would be borne by the specified consumers in respect of clean energy costs [in the absence of this Act].
2. An allocable portion of the value of any fair adjustment, determined in accordance with subsection (3).

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Principles

(2) In calculating the fair allocation amount [or in developing the fair allocation calculation?], subject to subsection (3), the Financial Services Manager shall have regard to the following principles:

1. Clean energy costs allocated to the specified consumers in respect of a reference period should be allocated in proportion to the clean energy benefits attributed to the specified consumers in respect of the reference period.

2. The clean energy benefits attributed to the specified consumers in respect of a reference period should be determined based on *[Insert principles]*.

3. The fair allocation calculation should include reasonable assumptions regarding the following:

   i. The time value of money or the rate of inflation, for the purpose of equating nominal amounts over time.

   ii. The expected number of specified consumers for each reference period.

   iii. The expected electricity consumption rates for each reference period.

Allocation of fair adjustment

(3) If, before the Financial Services Manager has calculated the fair allocation amount in respect of a reference period, a fair adjustment has been made under Part II in respect of the reference period, the calculation shall include a portion of the value of the fair adjustment in the fair allocation calculation for each future reference period.

Amendments to the fair allocation calculation

(4) The Financial Services Manager may amend the fair allocation calculation from time to time, as the Financial Services Manager considers appropriate, having regard to the requirements of this Act.

Submission of fair allocation to Minister

(5) The Financial Services Manager shall provide to the Minister the fair allocation calculation and any amendments to the fair allocation calculation.

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