

Version 2

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A PROPOSAL TO CREATE REGULATION

made under the

ONTARIO FAIR HYDRO PLAN ACT, 2017

FAIR ADJUSTMENT UNDER PART II OF THE ACT

Interpretation

1. (1) In this Regulation,

“billing period” means a period of time in respect of which an invoice for electricity is issued by an electricity vendor, a specified consumer or a unit sub-meter provider providing unit sub-metering for a specified consumer;

“Ontario Consumer Price Index” means, for a 12-month period, the Consumer Price Index for Ontario (All-Items) as reported monthly by Statistics Canada under the authority of the *Statistics Act* (Canada), averaged over the 12-month period;

“rate of inflation” means the percentage change between,

- (a) the value of the Ontario Consumer Price Index for the 12-month period immediately preceding the 12-month period described in clause (b), and
- (b) the value of the Ontario Consumer Price Index for the 12-month period ending on February 28, 2018;

“Toronto Hydro” means Toronto Hydro-Electric System Limited;

“Total Invoice Amount A” means the total invoice amount described in subsection (2);

“Total Invoice Amount B” means the total invoice amount described in subsection (3);

“Total Invoice Amount C” means the total invoice amount described in subsection (4).

(2) Total Invoice Amount A consists of the following types of amounts that would be invoiced in respect of a billing period to a hypothetical regulated rate consumer who meets the criteria set out in section 2:

[OLC Note: Total Invoice Amount A is the one determined at the “comparison rates” under 7 (3) of the Act, which is the benchmark for the 25 % reduction.]

1. The commodity price of the electricity, as determined under the comparison rates described in subsection 7 (3) of the Act.
2. The rates and charges as of May 1, 2017 as set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*, except for the rates and charges related to any rural or remote rate protection compensation required under subsection 79 (4) of the *Ontario Energy Board Act, 1998* or any compensation required under subsection 79.2 (10) of that Act.
3. The rates and charges as of April 30, 2017 as set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*, related to any rural or remote rate protection compensation required under subsection 79 (4) of the *Ontario Energy Board Act, 1998* or any compensation required under subsection 79.2 (10) of that Act.
4. The amount of any harmonized sales tax payable by the consumer under Part IX of the *Excise Tax Act* (Canada) in respect of the amounts mentioned in subparagraphs i, ii and iii.

(3) Total Invoice Amount B consists of the following types of amounts that would be invoiced in respect of a billing period to a hypothetical regulated rate consumer who meets the criteria set out in section 2:

[OLC Note: Total Invoice Amount B is the one that must ultimately equal a 25 % reduction from Total Invoice Amount A.]

1. The commodity price of the electricity, as determined under the rates determined in accordance with subsection 3 (1).
2. The rates and charges as of May 1, 2017 as set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*, except for the rates and charges related to any rural or remote rate protection compensation required under subsection 79 (4) of the *Ontario Energy Board Act, 1998*.
3. The rates and charges as of July 1, 2017 as set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*, related to any rural or remote rate protection compensation required under subsection 79 (4) of the *Ontario Energy Board Act, 1998*.

4. The amount of any harmonized sales tax payable by the consumer under Part IX of the *Excise Tax Act* (Canada) in respect of the amounts mentioned in subparagraphs i, ii and iii.

(4) Total Invoice Amount C consists of the following types of amounts that would be invoiced in respect of a billing period to a hypothetical regulated rate consumer who meets the criteria set out in section 2:

[OLC Note: Total Invoice Amount C is the one that must achieve an incremental increase to Total Invoice Amount B as a result of inflation.]

1. The commodity price of the electricity, as determined under the rates determined in accordance with subsection 5 (2).
2. The rates and charges as of May 1, 2018 as set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*.
3. The amount of any harmonized sales tax payable by the consumer under Part IX of the *Excise Tax Act* (Canada) in respect of the amounts mentioned in paragraphs 1 and 2.

(5) The following types of amounts shall be excluded from Total Invoice Amount A, Total Invoice Amount B and Total Invoice Amount C:

1. The balance of any amounts carried forward from previous invoices in respect of previous invoice periods.
2. Penalties or interest.
3. Charges that do not relate to the consumption of electricity.
4. Any of the following charges that may be set out in the applicable rate 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”.
 - ii. A charge labelled as a “specific service charge” or “retail service charge”.

(6) The Board shall take into account any financial assistance under the *Ontario Rebate for Energy Consumers Act, 2016* when determining Total Invoice Amount B and Total Invoice Amount C but shall not do so when determining Total Invoice Amount A.

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Hypothetical regulated rate consumer

2. For the purposes of subsection 7 (2) of the Act, a hypothetical regulated rate consumer meets the following criteria:

1. The consumer purchases electricity directly from Toronto Hydro.
2. The consumer has an account with Toronto Hydro that falls within the residential-service rate classification as specified in a rate order made by the Board under section 78 of the *Ontario Energy Board Act, 1998*.
3. The consumer's billing period is one month.
4. The consumer is not invoiced by Toronto Hydro for electricity on an equal monthly payment plan, an equal billing plan or a net metered basis.
5. The consumer is not a rate-assisted consumer within the meaning of section 79.2 of the *Ontario Energy Board Act, 1998*.
6. The consumer uses 750 kilowatt hours of electricity in each billing period.
7. The consumer's time-of-use consumption profile in each billing period is described as follows:
 - i. 65 per cent of the consumer's usage occurs during off-peak periods associated with the regulated price referred to as $RPEM_{OFF}$ in section 3.4 of the "Standard Supply Service Code for Electricity Distributors" issued by the Board.
 - ii. 17 per cent of the consumer's usage occurs during mid-peak periods associated with the regulated price referred to as $RPEM_{MID}$ in section 3.4 of the "Standard Supply Service Code for Electricity Distributors" issued by the Board.
 - iii. 18 per cent of the consumer's usage occurs during on-peak periods associated with the regulated price referred to as $RPEM_{ON}$ in section 3.4 of the "Standard Supply Service Code for Electricity Distributors" issued by the Board.

Regulated rate consumers, first fair adjustment under s. 7 of the Act

3. (1) The Board shall determine the rates that would, when applied for the purposes of determining the commodity price of the electricity included in Total Invoice Amount B, result in Total Invoice Amount B being 25 per cent less than Total Invoice Amount A.

Other specified consumers, first fair adjustment under s. 8 of the Act

4. (1) For the purposes of section 8 of the Act, the Board shall determine a dollar per megawatt hour amount that represents the difference between the following:

1. The comparison rates described in subsection 7 (3) of the Act.
2. The rates determined by the Board under subsection 3 (1).

(2) The adjustment to be applied by electricity vendors in respect of each billing period with respect to specified consumers who are not regulated rate consumers shall be determined as follows:

1. The electricity vendor shall multiply the dollar per megawatt hour amount determined by the Board under subsection (1) by the total volume of electricity consumed by the specified consumer during the billing period.
2. The electricity vendor shall deduct the amount determined under paragraph 1 from the amount otherwise payable by the specified consumer in respect of the billing period for adjustments made under section 25.33 of the *Electricity Act, 1998*.

(3) For the purposes of paragraph 1 of subsection (2), the total volume of electricity consumed by a specified consumer in a billing period shall be,

- (a) in the case of a specified consumer that is a market participant as defined in the *Electricity Act, 1998*, the net volume of electricity withdrawn from the IESO-controlled grid by the specified consumer during the billing period, as determined in accordance with the market rules made under section 32 of the *Electricity Act, 1998*; and
- (b) in any other case, the volume of electricity distributed to the specified consumer during the billing period by the electricity vendor, adjusted for losses as defined in and in accordance with the Retail Settlement Code, issued by the Board under the *Ontario Energy Board Act, 1998*.

[OLC Note: Instructions said “as appropriate” but this would be an extremely vague standard without more details about what is meant. I’m wondering if you mean “in accordance with the Retail Settlement Code” (assuming that the RSC sets out some guidance on when it is appropriate to adjust for losses?)]

(4) For greater certainty, if the amount determined under paragraph 2 of subsection (2) in respect of a billing period is a negative amount, that amount shall be a credit for the specified consumer for that billing period.

Subsequent adjustments, regulated rate consumers, cl. 11 (1) (a) of the Act

5. (1) For the purpose of determining the electricity rates payable by regulated rate consumers for the period beginning on May 1, 2018 and ending on April 30, 2019, the Board shall,

- (a) if the rate of inflation is a negative amount, maintain electricity rates for regulated rate consumers at the rates determined under subsection 3 (1); or
- (b) in any other case, determine electricity rates for regulated rate consumers in accordance with subsection (2).

(2) For the purposes of clause (1) (b), the Board shall determine the rates that would, when applied for the purposes of determining the commodity price of the electricity included in Total Invoice Amount C, result in Total Invoice Amount C being greater than Total Invoice Amount B by the rate of inflation.

Subsequent adjustments, other specified consumers, cl. 11 (1) (b) of the Act

6. (1) For the purpose of determining adjustments to be applied in respect of specified consumers who are not regulated rate consumers for the period beginning on May 1, 2018 and ending on April 30, 2019, the Board shall determine a dollar per megawatt hour amount that represents the difference between the following:

- 1. The rates mentioned in subsection (4).
- 2. The rates determined by the Board under subsection 5 (1).

(2) The adjustment to be applied by electricity vendors in respect of each billing period for the period beginning on May 1, 2018 and ending on April 30, 2019 with respect to specified consumers who are not regulated rate consumers shall be determined as follows:

- 1. The electricity vendor shall multiply the dollar per megawatt hour amount determined by the Board under subsection (1) by the total volume of electricity consumed by the specified consumer during the billing period.
- 2. The electricity vendor shall deduct the amount determined under paragraph 1 from the amount otherwise payable by the specified consumer in respect of a billing period for adjustments made under section 25.33 of the *Electricity Act, 1998*.

(3) For the purposes of paragraph 1 of subsection (2), the total volume of the electricity consumed by a specified consumer in a billing period shall be,

- (a) in the case of a specified consumer that is a market participant as defined in the *Electricity Act, 1998*, the net volume of electricity withdrawn from the IESO-

controlled grid by the specified consumer during the billing period, as determined in accordance with the market rules made under section 32 of the *Electricity Act, 1998*; or

- (b) in any other case, the volume of electricity distributed to the specified consumer during the billing period by the electricity vendor, adjusted for losses as defined in and in accordance with the Retail Settlement Code issued by the Board under the *Ontario Energy Board Act, 1998*.

(4) The rates referred to in paragraph 1 of subsection (1) are the rates that would have been effective May 1, 2018 if they had been determined by the Board using the method prescribed by regulations made under clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998*, without taking into account any forecasted impact of any provision of the Act.

(5) If the amount determined under paragraph 2 of subsection (2) in respect of a billing period is a negative amount, that amount shall be a credit for the specified consumer in that billing period.

(6) In determining the rates mentioned in subsection (4), the Board shall take into account any financial assistance under the *Ontario Rebate for Electricity Consumers Act, 2016*.

Sub-metering

7. For the purposes of subsection 12 (2) of the Act, the amount payable for the electricity by the person who is liable to pay the invoice shall, in respect of each billing period, reflect the person's proportionate share of any determination of the Board under section 9 or 11 of the Act that applies to the invoice for electricity payable by the specified consumer.

Commencement

8. **This Regulation would come into force on the day it is filed with the Registrar of Regulations for Ontario.**