PROPOSED AMENDMENTS TO
O. REG. 95/05 (RPP REGULATION):

[NTD: The proposed amendments are shown as tracked changes. Portions highlighted in yellow are "Notes to Draft"]

Definitions

1. In this Regulation,

[NTD: These are new definitions to be added to s. 1.]

"average monthly invoice amount" means the average monthly invoice amount during a specified period for,

1. the proxy consumer (TOU) in respect of the proxy consumer (TOU) account, or
2. the proxy consumer (two-tier) in respect of the proxy consumer (two-tier) account;

"base period" means the 12-month period that commences on May 1, 2016 and ends on April 30, 2017;

"bill reduction period" means the period that commences on May 1, 2017 and ends on April 30, 2018;

"bill smoothing period" means the period that commences on May 1, 2018 and ends on April 30, 2022;

"CPI" means the all items Consumer Price Index published for Ontario as published by Statistics Canada under the authority of the Statistics Act (Canada);

"cross-generational consumer" means a consumer described in subsection 4 (3);

[NTD: I understand that it would be helpful legally to use defined terms that reflect the cross-generational allocation of the GA costs that this GA mechanism is intended to achieve. Given that certain current GA costs will be allocated over a 30-year period (in total), it would not be misleading to say "cross-generational".]

"cross-generational recovery period" means the period that commences on May 1, 2022 and ends on April 30, 2047;

"invoice amount" means the sum of the amounts in respect of the following:

1. the commodity price of the electricity;
2. the rates and charges set out in the applicable rate order issued by the Board under subsection 78 (3) of the Act;

[NTD (for Energy Policy): My understanding is that paragraph 2 would include all of the following rates and charges, but this should be confirmed with the OEB:

- **service charge**
- **distribution volumetric rate**
- **retail transmission rate - network service rate**
- **retail transmission rate – line and transformation connection service rate**
- **wholesale market service rate**
- **RRRP charge**
- **OESP charge**
- **Standard supply service – administrative charge]**

3. any adjustment on the invoice required pursuant to section 25.33 of the *Electricity Act, 1998*;
4. the amount of any harmonized sales tax payable under Part IX of the *Excise Tax Act* (Canada);

but does not include any of the invoice amount exclusions:

"invoice amount exclusions" means amounts in respect of the following:

1. the balance of any amounts carried forward from previous invoices;
2. penalties and interest;
3. any charges that do not relate to the consumption of electricity;
4. the fixed monthly service charge payable by a generation facility, within the meaning of section 56 of the Act, that is classified as "microFIT" in a rate order issued by the Board under subsection 78 (3) of the Act;
5. charges labelled as "specific service charges" or "retail service charges" in the applicable rate order issued by the Board under subsection 78 (3) of the Act; and
6. rate riders set out in the applicable rate order issued by the Board under subsection 78(3) of the Act;

"proxy consumer (TOU)" means a potential consumer who satisfies all of the following conditions:

[NTD: This is not intended to be an actual consumer. Instead, this is just a "proxy" or "representative" consumer who is used for purposes of calculating rates under new section 6.1 below.

Important note: Because some (most) cross-generational consumers are on TOU pricing, and some are on two-tier pricing, we will need *TWO* proxy consumers so the Board can set both TOU rates and two-tier rates on a going-forward basis, starting in the bill reduction period.]

1. The consumer is a member of the class of consumers described in subsection 4 (3).
2. The consumer purchases electricity directly from Toronto Hydro.

   [NTD: "Directly from" is intended to exclude, for e.g., a consumer whose consumption is measured by a sub-meter in a sub-metered building that purchases its electricity from TH. This avoids the need to address sub-metering fees.]

3. The consumer is billed time-of-use rates.
4. The consumer consumes, on average, 750 kilowatt hours of electricity each month, of which:

    (a) 65% is consumed during the off-peak period;

    (b) 17% is consumed during the mid-peak period; and

    (c) 18% is consumed during the on-peak period;

    [NTD (for Energy Policy): The Regulated Price Plan Price Report for the period from Nov1/16 to Oct31/17 states that the % of TOU consumption figures listed above (65% off-peak, 17% mid-peak and 18% on-peak) "are based on several years of consumption data for consumers provided by the IESO".

    Do you want to apply those %'s to the proxy consumer (TOU)?]

5. The consumer 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 Act.
6. The consumer is not in a contract with a retailer for the purchase of electricity from the retailer.
7. The consumer is invoiced by Toronto Hydro on a monthly basis.
8. The consumer is not invoiced by Toronto Hydro for electricity on an equal monthly payment plan or an equal billing plan.
9. The consumer is invoiced by Toronto Hydro only for the invoice amount.

"proxy consumer (two-tier)" means a potential consumer who satisfies all of the conditions applicable to a proxy consumer (TOU) except that the potential consumer:

1. is billed two-tier rates; and
2. consumes, on average, 750 kilowatt hours of electricity each month, of which:

    (a) 53% is consumed during the lower tier period; and

    (b) 47% is consumed during the upper tier period;

    [NTD (for Energy Policy): The Regulated Price Plan Price Report for the period from Nov1/16 to Oct31/17 states that "[b]ased on historical consumption, approximately 53% of RPP tiered consumption is forecast to be at the lower tier price … and 47% at the higher tier price".

    Do you want to apply those %'s to the proxy consumer (two-tier)?]

"proxy consumer account" means, in respect of the proxy consumer (TOU) or the proxy consumer (two-tier), an account with Toronto Hydro for the provision of electricity;

"rate of inflation" for a specified period means the rate calculated according to the formula:

$$(CPI(B) / CPI(A)) - 1$$

where,

CPI(B) is the all items Consumer Price Index published for Ontario as published by Statistics Canada under the authority of the Statistics Act (Canada) for the last month of a specified period, and

CPI(A) is the all items consumer price index published for the province of Ontario by Statistics Canada for the month preceding the commencement of the specified period;

"Toronto Hydro" means Toronto Hydro-Electric System Limited;

Class of consumers, s. 79.16

4. (1) REVOKED: O. Reg. 494/10, s. 2 (1).

(2) On and after November 1, 2009, the following are prescribed as ~~the~~ a class of consumers for the purposes of subsection 79.16 (1) of the Act:

1. Low-volume consumers.
2. A consumer who has a demand of 50 kilowatts or less.
3. A consumer who has an account with a distributor, if the account relates to,
   i. a dwelling,
   ii. a property as defined in the *Condominium Act, 1998*,
   iii. a residential complex as defined in the *Residential Tenancies Act, 2006*, or
   iv. a property that includes one or more dwellings and that is owned or leased by a co-operative as defined in the *Co-operative Corporations Act*.
4. A consumer who annually uses at least 150,000 but not more than 250,000 kilowatt hours of electricity.
5. A consumer who has an account with a distributor if the consumer,
   i. carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and
   ii. holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act. O. Reg. 58/08, s. 1; O. Reg. 115/09, s. 1 (2); O. Reg. 494/10, s. 2 (2, 3).

(3) Commencing May 1, 2017 and continuing until the end of the cross-generational recovery period, the following are prescribed as a class of consumers for the purposes

of subsection 79.16 (1) of the Act **[and sections 25.34 and 25.35 of the *Electricity Act, 1998*]**:

[NTD:

The above in square brackets is a placeholder for linking the calculation of the new GA reduction rate with the determination of the amount of GA that will be "deferred" each month (and financed by the Financing Trust) under the proposed *Electricity Act, 1998* amendments.

The list below describes those consumers who will be covered by the GA relief. It covers all consumers who are entitled to OREC except for those not paying a GA charge (i.e. non-grid connected customers of IPAs).

While this is a new section, to assist in seeing the changes made relative to the description of RPP consumers in section 6, those changes are highlighted in green.]

1. Low-volume consumers.
2. A consumer who has a demand of 50 kilowatts or less.
3. A consumer who has an account with a licensed distributor, a licensed retailer or the IESO, if the account relates to,

[NTD: The above changes (relative to section 6, and highlighted in green) are needed to properly capture the consumers entitled to the deferral - e.g. we need to say "licensed" distributor to exclude customers of IPAs]

   i. a dwelling,

   ii. a property as defined in the *Condominium Act, 1998*,

   iii. a residential complex as defined in the *Residential Tenancies Act, 2006*, without regard to section 5 of that Act, or

   iv. a property that includes one or more dwellings and that is owned or leased by a co-operative as defined in the *Co-operative Corporations Act*.

4. A consumer who annually uses at least 150,000 but not more than 250,000 kilowatt hours of electricity.
5. A consumer who has an account with a licensed distributor, a licensed retailer or the IESO, if the consumer,

   i. carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993*, and

   ii. holds a valid registration number assigned under that Act or the consumer's obligation to file a farming business registration form was waived pursuant to an order made under subsection 22 (6) of that Act.

Determining rates, ss. ~~79.16~~ 4 (2) consumers

6. (1) ~~For~~ Subject to subsection (4), for the purpose of clause 79.16 (1) (b) of the Act, the Board shall determine rates for the consumers described in subsection 4 (2) in the following manner:

[NTD: The existing section 6 determines the rates for the existing RPP class of consumers (described in the existing ss. 4 (2).

If the RPP class of consumers is 100% a subset of the new ss. 4 (3) class of consumers (the "cross-generational consumers" benefitting from the GA "deferral"), then section 6 will not be used until after the end of the 30-year "cross-generational recovery period" (other than to calculate the "delta" or amount of the deferral under the new sections 6.1 and 6.3).

The new section 6.1 sets out the rate-setting process that the Board would follow for the "cross-generational consumers" if the goal was to ensure that the rates reflected the GA costs over each May 1 – April 30 period.

The new section 6.2 sets out the rate-setting process that the Board will follow for the "cross-generational consumers" where the goal is to reduce the proxy consumer's bill by 25% in the first year, only increase that bill year-over-year for the next 4 years by CPI, and then limit year-over-year increases in subsequent years to 10% (with an overriding requirement that 100% of the GA "deferred" be recovered by April 30, 2047).

The new section 6.3 sets out the calculation of the rate "delta" between having the cross-generational consumers pay the full amount of GA each 12-month period and having them pay something less than the full amount of GA. This rate "delta" (multiplied by the volume of electricity consumed by all of the cross-generational consumers in the 12-month period in question) is the amount of the GA that is being "deferred" for that period, and that must ultimately be recovered from the cross-generational consumers over the 30-year period.]

1. The Board shall determine rates in a manner that is consistent with the Standard Supply Service Code issued by the Board.
2. The first rates determined by the Board shall remain in effect for not less than 12 months. The Board shall determine separate rates after that time for periods of not more than 12 months or for such shorter time periods as the Minister may direct.
3. In determining the rates, the Board shall forecast the cost of electricity to be consumed by the consumers to whom the rates apply, taking into consideration adjustments required under section 25.33 of the *Electricity Act, 1998* and shall ensure that the rates reflect those costs.

4. In determining rates commencing May 1, 2011, the Board shall set an off-peak period associated with the regulated price referred to as RPEMOFF in section 3.4 of the "Standard Supply Service Code for Electricity Distributors" issued by the Board,

   i. that begins no later than 7 p.m. on every weekday and ends,

      A. no earlier than 7 a.m. on the next day if the next day is a weekday, or

      B. no earlier than 12 a.m. on the next day if the next day is Saturday, Sunday or a holiday, and

   ii. that begins no later than 12 a.m. on every Saturday, Sunday and holiday and ends no earlier than,

      A. 12 a.m. on the next day, if the next day is Saturday, Sunday or a holiday, or

      B. 7 a.m. on the next day if the next day is a weekday.

(2) The times of day set out in subparagraphs 4 i and ii of subsection (1) are in central standard or daylight saving time or eastern standard or daylight saving time, whichever is then prevailing in the particular location in Ontario.

(3) Despite paragraph 4 of subsection (1), the Board may set different off-peak periods for the purpose of such electricity price pilot projects as it specifies.

(4) The provisions of this section only apply for a period contemplated in paragraph 2 of subsection (1) if there are consumers described in subsection 4 (2) who are not also consumers described in subsection 4 (3).

[NTD: New section 6.1 below sets out the rules the Board is to follow in determining the rates for the "cross-generational consumers" described in ss. 4 (3) based on the assumption that the *full amount* of GA attributable to this class is to be recovered by the end of each 12-month period.]

Determining rates, s. 6.3

6.1 (1) The Board shall determine rates for the consumers described in subsection 4 (3) in the manner set out in subsection 6 (1) solely for the purpose of section 6.3.

[NTD for leg counsel: The "delta" calculation in this reg. will quantify the amount of GA being "deferred" and later recovered under the proposed new EA provisions. To bridge the gap between this reg. (made under the OEBA) and the EA, we will presumably need to provide a cross-reference link in an EA reg. (e.g. 429/04 or a new reg.).]

[NTD: New section 6.2 below sets out the rules the Board is to follow in determining the rates for the "cross-generational consumers" described in ss. 4 (3) who receive the GA reduction]

Determining rates, ss. 4 (3) consumers

6.2 (1) For the purpose of clause 79.16 (1) (b) of the Act, the Board shall determine rates for the consumers described in subsection 4 (3) in the following manner:

1. Subject to paragraphs 2, 3, 4, 5 and 6, the Board shall determine rates in a manner that is consistent with the Standard Supply Service Code issued by the Board.

   [NTD (for Energy Policy): Will the SSSC have any relevance to the determination of rates on a going-forward basis for the cross-generational consumers, based on the approach required under this new s. 6.2? I assume not. If the SSSC will not be relevant, then this paragraph 1 should be removed.]

2. The first rates determined by the Board under this section shall remain in effect for the bill reduction period. The Board shall determine separate rates after that time for periods of 12 months.

   [NTD (for leg counsel): Do we need to specify that the "periods of 12 months" are from May 1 – April 30? I assume that "after that time" refers to immediately after that time. If that is correct, then presumably we don't need to specify May 1 – April 30?]

3. In determining the rates for the bill reduction period, the Board shall:

   a. calculate the average monthly invoice amount for the base period for the proxy consumer (TOU) account and for the proxy consumer (two-tier) account;

   b. determine time-of-use rates that would reduce the average monthly invoice amount for the proxy consumer (TOU) account for the bill reduction period by an amount equal to twenty-five percent of the average monthly invoice amount for the proxy consumer (TOU) account for the base period; and

   c. determine two-tier rates that would reduce the average monthly invoice amount for the proxy consumer (two-tier) account for the bill reduction period by an amount equal to twenty-five percent of the average monthly invoice amount for the proxy consumer (two-tier) account for the base period.

4. In determining the rates for the bill smoothing period, the Board shall:

   a. determine time-of-use rates that would increase the average monthly invoice amount for the proxy consumer (TOU) account for each of the twelve month periods in the bill smoothing period by the rate of inflation relative to the average monthly invoice amount for the proxy consumer (TOU) account for the immediately preceding twelve month period; and

b. determine two-tier rates that would increase the average monthly invoice amount for the proxy consumer (two-tier) account for each of the twelve month periods in the bill smoothing period by the rate of inflation relative to the average monthly invoice amount for the proxy consumer (two-tier) account for the immediately preceding twelve month period.

5. Subject to paragraph 6, in determining the rates for the cross-generational recovery period, the Board shall:

   a. determine time-of-use rates that would increase the average monthly invoice amount for the proxy consumer (TOU) account for each of the twelve month periods in the cross-generational recovery period by no more than ten percent relative to the average monthly invoice amount for the proxy consumer (TOU) account for the immediately preceding twelve month period; and

   b. determine two-tier rates that would increase the average monthly invoice amount for the proxy consumer (two-tier) account for each of the twelve month periods in the cross-generational recovery period by no more than ten percent relative to the average monthly invoice amount for the proxy consumer (two-tier) account for the immediately preceding twelve month period.

6. Despite paragraph 5, the Board shall determine time-of-use rates and two-tier rates with a view to ensuring that the rates reflect the **[full amount of GA deferred, plus financing costs (interest, admin and other servicing costs incurred by the IESO or the financing trust)]** by the end of the cross-generational recovery period.

   [NTD: We will be able to more fully develop this paragraph as we sort out the proposed legislative amendments related to the GA "deferral" financing.]

Determining differences in rates

6.3 (1) For each 12-month period in the bill smoothing period and the cross-generational recovery period, the Board shall determine the difference between,

(a) the total amount payable by the cross-generational consumers for electricity using the rates determined under section 6.2, and

(b) the total amount that would have been payable by the cross-generational consumers for electricity using the rates determined under section 6.1,

based on the amount of electricity actually consumed by the cross-generational consumers in the 12-month period.

[NTD: Will it be possible for the Board to make the above determinations (e.g. based on information provided by the IESO)?

The difference between (a) and (b), if positive, would represent a principal amount of the cross-generational consumers' electricity costs that would be "deferred". If the difference is negative, this would represent the amount of the "deferral" being repaid in the 12-month period (which payment would cover not just principal but also interest and other financing related costs).

The differences between (a) and (b) will have to link back to the proposed EA amendments related to the "deferral" and repayment of the "deferral".

It appears at first blush to be necessary to take this approach when determining the amounts "deferred". The reason for this is that any "variance" between:

(i) the amounts paid (by LDCs) to the IESO in respect of the cross-generational consumers, and
(ii) the amounts owed by cross-generational consumers,

for the electricity consumed by the cross-generational consumers would be made up of components other than just the amounts being "deferred".]

[NTD (for Energy Policy): Please confirm that no changes are required to sections 7 or 8 of the RPP reg. (reproduced below) in relation to the new GA "deferral" class of consumers, or to s. 79.16 (4) of the OEBA, which relates (in paragraph (b)) to section 8 below (note that we will need to amend 79.16 (3)).]

Exemptions, s. 79.16

7. (1) Clause 79.16 (1) (b) of the Act does not apply to a consumer in respect of electricity retailed to the consumer by Fort Frances Power Corporation pursuant to its obligations under section 29 of the Electricity Act, 1998 for the volume of electricity supplied to Fort Frances Power Corporation by Abitibi-Consolidated Hydro Limited Partnership.

(2) Revoked: O. Reg. 494/10, s. 4 (2).

(3) Subsection 79.16 (1) of the Act does not apply to a consumer with respect to generation station service. O. Reg. 95/05, s. 7 (3).

Criteria for purpose of s. 79.16 (4) (b)

8. (1) For the purposes of clause 79.16 (4) (b) of the Act,

(a) the criterion is that the consumer must file a written statement in accordance with clause 79.16 (4) (a) of the Act, if before November 1, 2009, the consumer is not a low-volume consumer or a consumer otherwise referred to in subsection 4 (2); or

(b) the criteria are, if the consumer is a low-volume consumer or a consumer otherwise referred to in subsection 4 (2),

(i) the consumer must file a written statement in accordance with clause 79.16 (4) (a) of the Act, and

(ii) the statement must relate to a property for which an interval meter, that measures the amount of electricity used, is used for billing purposes. O. Reg. 115/09, s. 2.

(2) A consumer who on or before March 31, 2005 meets the criteria of subsection 79.4 (2) of the Act shall be deemed to meet the criteria set out in subsection (1).