IESO Confidential – April 4, 2017

IESO key issues with draft legislation

In addition to a number of detailed drafting questions and comments, the IESO has identified the following as its key issues on the draft legislation circulated April 3, 2017:

1. Regulatory Asset / deferral amount definition –
    a. Stikeman's draft proposing language relating to the creation and transfer of regulatory asset. Property issues.
    b. Role of OEB in setting price during deferral phase and recovery phase. Important for regulatory accounting treatment.
    c. Clarity of drafting – should not be defined by what is purchased by Financing Entity, but rather by what is deferred (i.e. difference between amount invoiced to LDCs and amount collected due to price mitigation).
    d. What is included in regulatory asset? i.e. IESO financing costs, taxes? RPP forecast variance? Original RPP variance as at April 30 2017 – does this get included?
    e. Limited to GA attributable to procurement contracts? What if difference between amount invoiced to LDCs and amount collected is greater than GA attributable to procurement contracts.
    f. can asset be created in the financing entity to avoid need for sale?

2. IESO liability relating to regulatory asset –
    a. Legislation must be clear that the IESO does not have obligations/liabilities regarding the regulatory asset after it has been divested to the Financing Entity. No recourse to IESO. Amounts cannot be debts / guarantees of the IESO.
    b. IESO role collecting deferral amount – as agent, not principal.
    c. IESO cannot be obligated to make full payment of deferral amount by a certain date. Should be drafted to indicate the regulatory asset must be collected by a set date, without placing that obligation on the IESO.
    d. Important from accounting and pragmatic perspective (i.e. IESO is not for profit entity with no source of funding other than ratepayers, or primarily government backed lending).
    e. Is there possibility deferred amount is not purchased from IESO? What happens in that eventuality?
    f. What is role of IESO, as principal or as clearing house?

3. Role of IESO:
    a. in determining difference between amounts collected from eligible consumers and the amounts that LDCs owe the IESO must be understood. IESO receives payments and information regarding amounts collected from LDC consumers only from the LDCs. LDCs inform the IESO of the shortfall in the total amount invoiced by the IESO to the LDC. IESO does not generate this information itself.

b. Collecting deferral amount from consumers. IESO will collect from LDCs, who collect from the eligible class of consumers.
c. IESO role collecting deferral amount – as agent, not principal.
d. IESO cannot be entity to determine recovery amounts. Needs to be another party [Ministry/OEB?] from inputs from financing entity.

4. IESO objects –
    a. We recommend that the new IESO objects relating to Fair Hydro Plan be drafted generally rather than specifically to provide flexibility for unanticipated issues.

5. Legislation structure –
    a. IESO supports a separate section for the deferral mechanisms. (i.e. separate from 25.33).

6. Recovery amount –
    a. An input into RPP price, or a separate identifiable amount?
    b. Role of OEB in determining this amount is important for accounting.

7. IESO is not borrowing from financing entity –
    a. these references in draft legislation to be removed.

8. IESO and OPG trust sale process –
    a. Need to clarify roles and obligations and make sure sale must occur or deal with what happens if it does not.