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## BY E-MAIL AND WEB POSTING

June 29, 2017

**To: All Licensed Electricity Distributors  
All Licensed Electricity Retailers  
All Licensed Unit Sub-Meter Providers  
All Other Interested Parties**

**Re: Implementation of the *Fair Hydro Act, 2017***

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The *Fair Hydro Act, 2017* puts in place a number of measures to implement the Ontario government's Fair Hydro Plan. Schedule 1 to the *Fair Hydro Act, 2017* – the *Ontario Fair Hydro Plan Act, 2017* (OFHP Act) – establishes the framework under which eligible customers will see their electricity bills reduced effective July 1, 2017. By reason of amendments to section 70 of the *Ontario Energy Board Act, 1998* (OEB Act), electricity distributors and unit sub-meter providers are required as a condition of licence to comply with the OFHP Act.

Schedule 2 to the *Fair Hydro Act, 2017* contains amendments to the OEB Act regarding a number of electricity-related relief programs that further mitigate electricity bills for certain electricity consumers, including the introduction of a new Distribution Rate Protection (DRP) program under section 79.3 of the OEB Act and a new program to provide on-reserve First Nations residential customers with a credit against their delivery charges under section 79.4 of the OEB Act (FNDC program). Ontario Regulation 198/17 (Distribution Rate-Protected Residential Customers) (DRP Regulation) sets out details pertaining to the implementation of the DRP effective July 1, 2017. Ontario Regulation 197/17 (First Nations Delivery Credit (On-reserve Consumers under Section 79.4 of the Act)) (FNDC Regulation) sets out details pertaining to the implementation of the FNDC program effective July 1, 2017.

Among other things, the DRP Regulation and the FNDC Regulation contemplate that

the Ontario Energy Board (OEB) will establish the date by which certain settlement transactions are to take place.

This letter sets out the OEB's direction regarding this issue. It also:

- provides guidance in relation to certain issues relating to the application of Part II of the OFHP Act; and
- establishes new reporting requirements for applicable licensees relating to the timing of their implementation of Part II of the OFHP Act and the DRP and FNDC programs.

#### **A. Bill Reductions under the Part II of the OFHP Act**

On June 22, 2017, the OEB issued its [Report on Regulated Price Plan Prices and the Global Adjustment Modifier for the Period July 1, 2017 to April 30, 2018](#) (Report). In the Report, the OEB set the following:

- new Regulated Price Plan (RPP) prices for RPP customers; and
- a new "GA Modifier", which is to be used to reduce the Global Adjustment (GA) charges otherwise payable by customers that are eligible for electricity bill relief under the OFHP Act but that are not paying RPP prices.

The new RPP prices and GA Modifier apply in respect of electricity consumed between July 1, 2017 and April 30, 2018. They are not to be applied with respect to electricity consumed before July 1, 2017, regardless of whether the invoice issued to the customer includes charges for consumption both prior to and after that date.

The new RPP prices are to be implemented in the normal course using invoicing and settlement processes that have been in place for some time. As such, the OEB does not anticipate any operational or technical issues in relation to the application of the new RPP prices by licensed distributors. However, certain other implementation questions arise in relation to the impact of the transition to new RPP prices. Section 1 below addresses the suspension of the Final RPP Variance Settlement Amount (FVSA) mechanism. Guidance on other implementation issues may be provided in the coming weeks.

The GA Modifier is new, and the OEB is therefore providing guidance in relation to how the GA Modifier is to be applied when billing eligible customers.

### 1. *Final RPP Variance Settlement Amount*

The FVSA was put into place so that customers who leave the RPP for certain reasons pay or are paid their share of the accumulated variance between the actual RPP supply cost and the revenues collected from RPP customers. Under the OFHP Act, the FVSA is no longer required to serve the purpose for which it was designed.

The OEB is therefore suspending the operation of the FVSA mechanism. Until further notice, no FVSA is to be charged or credited by distributors to any customer that leaves the RPP on or after July 1, 2017.

### 2. *Application of the GA Modifier*

Customers that are eligible for electricity bill relief under the OFHP Act are defined in that Act as “specified consumers”. Specified consumers include customers that are eligible for and paying RPP prices. Specified consumers also include the following customers (together, Non-RPP OFHP Customers):

- customers that are eligible for the RPP but have opted out in favour of a contract with an electricity retailer;
- customers that are eligible for the RPP but have opted out in favour of market-based pricing (referred to as “electing spot consumers” in the OEB’s Standard Supply Service Code); and
- customers that are not eligible for the RPP but are eligible for the 8% rebate under the *Ontario Rebate for Electricity Consumers Act, 2016*.<sup>1</sup>

In accordance with section 8 of the OFHP Act, Non-RPP OFHP Customers will receive bill relief in the form of a reduction to the GA charges that they would otherwise pay. To that end, the OEB has set an amount – the GA Modifier – that must be applied to reduce the GA charges payable by Non-RPP OFHP Customers. As set out in the Report, the OEB has set the GA Modifier at -\$32.90/MWh.

Distributors and retailers that use retailer-consolidated billing are still required to comply with their respective obligations under Ontario Regulation 429/04 (Adjustments under Section 25.33 of the Act) (GA Regulation), subject to reflecting the application of the GA Modifier as described below.

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<sup>1</sup> See the OEB’s [February 9, 2017](#) letter providing guidance regarding implementation of the Ontario Rebate for Electricity Consumers.

Under Ontario Regulation 195/17 (Fair Adjustment under Part II of the Act) (OFHP Regulation), the GA Modifier must be applied as follows in each billing period for each Non-RPP OFHP Customer:

- Step 1: multiply the GA Modifier by the total volume of electricity consumed by the Non-RPP OFHP Customer during the billing period
- Step 2: deduct the amount from Step 1 from the GA charges that are otherwise payable by the Non-RPP OFHP Customer in the normal course under the GA Regulation for the billing period

For the purposes of Step 1, the “total volume of electricity consumed” by a Non-RPP OFHP Customer in a billing period is the volume of electricity distributed to the Non-RPP OFHP Customer adjusted for total losses as defined in the Retail Settlement Code.

In the case of a Non-RPP OFHP Customer that is a low-volume consumer, Steps 1 and 2 must be performed twice in order to also comply with the GA Regulation: (a) once in respect of the GA payable on electricity distributed to the Non-RPP OFHP Customer exclusive of total losses; and (b) once in respect of the GA payable on the volume of total losses. In terms of bill presentation:

- the GA amount to be shown on the GA line of the invoice is the amount that results from calculation (a), and not both the GA amount that the Non-RPP OFHP Customer would otherwise pay under the GA Regulation and the GA amount that is payable after the application of the GA Modifier; and
- the amount that results from calculation (b) is to be included in the total cost of the delivery charges that are on the Delivery line of the invoice.

For a Non-RPP OFHP Customer that is not a low-volume consumer, the amount to be shown on the GA line of the invoice is the amount that results from the calculations set out in Steps 1 and 2, and not both the GA amount that the Non-RPP OFHP Customer would otherwise pay under the GA Regulation and the GA amount that is payable after the application of the GA Modifier.

Where the GA Regulation requires a distributor to adjust its accounts with a retailer, the distributor shall use the GA amounts as reduced by the GA Modifier.

### *3. Licensed Unit Sub-meter Providers*

On and after July 1, 2017, licensed unit-sub meter providers (USMPs) must flow

through to each end-use consumer in a unit of a multi-unit complex (the “consumer” as defined in the OEB’s Unit Sub-Metering Code) that end-use consumer’s proportionate share of the bill reduction that is applied to the master bill (as defined in the Unit Sub-Metering Code) in respect of the complex in which the end-use consumer is located. This obligation is set out in section 12(2) of the OFHP Act and section 7 of the OFHP Regulation. The obligation to flow the master bill reduction through to the end-use consumer is also required in order for an exempt distributor (as defined in the Unit Sub-Metering Code) to maintain its exemptions from licensing under Ontario Regulation 161/99 (Definitions and Exemptions) made under the OEB Act.

#### *4. Invoicing Requirements*

Ontario Regulation 196/17 (Invoicing Requirements) (OFHP Invoicing Regulation) made under the OFHP Act outlines specific requirements relating to the Ontario government’s Fair Hydro Plan that must appear on or with invoices issued by licensed distributors, licensed USMPs and licensed retailers using retailer-consolidated billing (together, licensed electricity vendors).

Each invoice issued by a licensed electricity vendor to a specified consumer, as defined in the OFHP Act, on and after July 1, 2017 must include, in a location where conservation or other utility messages to consumers are usually placed, the statement set out in section 1 of the OFHP Invoicing Regulation.

In addition, there is a time-limited requirement applicable to all licensed electricity vendors that issue invoices in paper form to a specified consumer. Starting with the first invoice issued to a specified consumer on or after July 1, 2017 and ending with the first invoice issued to the specified consumer on or after July 1, 2018, the invoice must be accompanied by a bill insert that meets the requirements of section 2(2) of the OFHP Invoicing Regulation:

- once in a quarter, if the specified consumer is billed on a monthly basis; or
- twice during the roughly one-year July to July period, if the specified consumer is billed on a seasonal basis.

The requirement to provide quarterly bill inserts applies even if a distributor has an exemption from the monthly billing requirement set out in the OEB’s Distribution System Code.

Under the OFHP Invoicing Regulation, the Minister of Energy may authorize a licensed electricity vendor to use alternative wording or follow a different invoicing process than

what is otherwise required by the OFHP Invoicing Regulation. Any licensed electricity vendor who receives such Ministerial authorization must report this to the OEB as soon as possible after notice of the authorization is received.

#### *5. New Reporting Requirements*

To enable the OEB to monitor the implementation of Part II of the OFHP Act, the OFHP Regulation and the OFHP Invoicing Regulation (together, the OFHP Requirements), the OEB will require each licensed electricity vendor to provide information as to the timing of the adaptation of their invoices for purposes of the OFHP Requirements. Each licensed electricity vendor must comply with the following reporting requirements under the condition of its licence that requires it to provide information to the OEB as the OEB may require.

Each licensed electricity vendor shall, no later than July 21, 2017, file a letter with the OEB that provides the following information:

- i. if the licensed electricity vendor has already commenced to issue invoices that have been adapted to comply in full with the OFHP Requirements, the date on which compliant invoices were first issued; or
- ii. if the licensed electricity vendor has not commenced to issue invoices that have been adapted to comply in full with the OFHP Requirements, the date on which the licensed electricity vendor expects to commence issuing compliant invoices.

A licensed electricity vendor referred to in paragraph (ii) above must also file a further letter with the OEB:

- i. where applicable, promptly upon becoming aware that the implementation date referred to in its initial filing may be delayed, indicating the reasons for and anticipated length of the delay; and
- ii. within two business days of the date on which it commences to issue compliant invoices.

All filings required to be made in accordance with the above reporting requirements should be in searchable/unrestricted Adobe Acrobat (PDF) format and should be sent to [FHPreporting@oeb.ca](mailto:FHPreporting@oeb.ca). The subject line of the e-mail should state: "OFHP Implementation: [Licensee Name]".

## **B. Distribution Rate Protection and First Nations Delivery Credit Programs**

### *1. General: DRP Program*

The DRP program applies to eligible customers served by the 8 licensed electricity distributors (DRP Distributors) named in the DRP Regulation. Customers that are eligible for the DRP program (DRP-eligible Customers) are described in the DRP Regulation as follows:

- For Atikokan, InnPower, Chapleau, Northern Ontario Wires and Sioux Lookout: customers that fall within a residential-rate classification
- For Algoma, customers that fall within the R1 residential-rate classification, if he or she resides continuously at the service address to which the account relates for at least eight months of the year
- For Hydro One, customers that fall within the R1 (year-round medium-density residential) or R2 (year-round low-density residential) residential-rate classification, if he or she resides continuously at the service address to which the account relates for at least eight months of the year
- For Lakeland, customers in the former Parry Sound Power service area that fall within a residential-rate classification

The DRP program provides for a cap on the amount that DRP-eligible Customers can be charged for base distribution charges, which consist of the base monthly fixed service charge and base variable distribution charge. In its [Decision and Order](#) dated June 22, 2017 (EB-2017-0234), the OEB set the cap at \$36.43.

This cap applies with respect to electricity consumed on or after July 1, 2017. It is not to be applied with respect to electricity consumed before that date, regardless of whether the invoice issued to a DRP-eligible Customer includes charges for consumption both prior to and after that date. Appendix A provides an illustrative example of the proration that is required to ensure that the cap is appropriately applied to invoices that include pre-July 1 consumption.

### *2. General: FNDC Program*

The FNDC program applies to a customer of a licensed distributor (FNDC Distributor) that occupies residential premises located on or within a reserve within the meaning of the federal *Indian Act* if the customer is a member of a band within the meaning of that *Act* and has an account with the FNDC Distributor that falls within a residential-rate

classification (FNDC-eligible Customer).

The credit to be provided to an FNDC-eligible Customer is:

- In the case of Hydro One Remote Communities Inc. and the licensed distributor serving Cat Lake Indian Reserve No. 63C, an amount equal to the monthly service charge to which the FNDC-eligible Customer is subject
- In the case of Cornwall Street Railway Light and Power Company Limited, an amount equal to the minimum monthly charge to which the FNDC-eligible Customer is subject
- In all other cases, an amount equal to the FNDC-eligible Customer's delivery charge (charges for distribution, retail transmission and losses other than losses included in regulatory charges)

The FNDC credit applies with respect to electricity consumed on or after July 1, 2017. It is not to be applied with respect to electricity consumed before that date, regardless of whether the invoice issued to a FNDC-eligible Customer includes charges for consumption both prior to and after that date. An illustrative example of the proration that is required to ensure that the credit is appropriately applied to invoices that include pre-July 1 consumption is also included in Appendix A.

### *3. Dates for Payments by DRP Distributors and FNDC Distributors*

Under the settlement regime established by the DRP Regulation and the FNDC Regulation, the funds necessary to provide reimbursement in relation to the DRP assistance or FNDC credit provided by DRP or FNDC Distributors (including host distributors and wholly-embedded distributors) flow from the Minister of Energy to the IESO, and then to DRP or FNDC Distributors that are market participants. These "upstream" payments are described in sections 9(1), 9(2)(a) and 9(2)(b) of the DRP Regulation and in sections 10(1), 10(2)(a) and 10(2)(b) of the FNDC Regulation.

Host DRP or FNDC Distributors are, in turn, required to make payments to wholly-embedded DRP or FNDC Distributors for the purposes of reimbursing them in relation to the DRP assistance or FNDC credit that they provide to their DRP-eligible or FNDC-eligible Customers. These "downstream" payments are described in section 9(2)(c) of the DRP Regulation and section 10(2)(c) of the FNDC Regulation, and are to be made before the date specified by the OEB for that purpose. For the purposes of the FNDC program, Hydro One Remote Communities Inc. is deemed to be a wholly-embedded distributor of Hydro One Networks Inc., and Cornwall Street Railway Light and Power



Company Limited is deemed to be a wholly-embedded distributor of Canadian Niagara Power Inc.

The OEB understands from the IESO that the settlement timeline will require market participant DRP and FNDC Distributors to provide the required information to the IESO by the 4<sup>th</sup> business day of a month. The amount of the reimbursement will be reflected on the invoice issued to the DRP or FNDC Distributor by the IESO on the 10<sup>th</sup> business day of the month, and payment will be made on the 12<sup>th</sup> business day of the month. The upstream portion of the settlement regime will therefore be completed by the 12<sup>th</sup> business day of each month. As such, DRP and FNDC Distributors that are market participants would as of that day be in a position to provide the reimbursement referred to in section 9(2)(c) of the DRP Regulation or section 10(2)(c) of the FNDC Regulation to their wholly-embedded DRP or FNDC Distributors.

The OEB is therefore setting the 15<sup>th</sup> business day of each month as the date before which the payments referred to in section 9(2)(c) of the DRP Regulation and in section 10(2)(c) of the FNDC Regulation must be made by host DRP or FNDC Distributors to their wholly-embedded DRP or FNDC Distributors. The OEB understands that the first upstream DRP and FNDC settlements will occur in August, and therefore no downstream payments are required to be made in July.

As permitted by section 9(6) of the DRP Regulation and section 10(6) of the FNDC Regulation, payments from host DRP or FNDC Distributors to wholly-embedded DRP or FNDC Distributors may be made by way of set-off in the accounts maintained by the host Distributor.

DRP and FNDC Distributors must ensure that they have the necessary processes in place to allow for the timely flow of the information required to support the settlement regime described in the DRP Regulation or FNDC Regulation, as applicable, including the timing of payments referred to above. Among other things, a wholly-embedded DRP or FNDC Distributor is responsible under section 8(1) of the DRP Regulation or section 9(1) of the FNDC Regulation for providing the necessary information to its host DRP or FNDC Distributor in the format and at the times specified by the host Distributor.

#### *4. Invoicing Requirements*

DRP and FNDC Distributors are required to adapt their invoices in conformity with the DRP Regulation and the FNDC Regulation by October 1, 2017.

For the FNDC program, this includes a requirement to separately identify the amount of

the FNDC credit as a “First Nations Delivery Credit” on invoices issued to FNDC-eligible Customers.

Under the FNDC Regulation, the Minister of Energy may authorize a FNDC Distributor to use alternative wording or follow a different invoicing process than what is otherwise required by the FNDC Regulation. Any FNDC Distributor who receives such Ministerial authorization must report this to the OEB as soon as possible after notice of the authorization is received.

#### *5. New Reporting Requirements*

To enable the OEB to monitor the implementation of the DRP and FNDC programs, the OEB will require DRP and FNDC Distributors to provide information as to the timing of the adaptation of their invoices for purposes of those programs. Each DRP and FNDC Distributor must comply with the following reporting requirements under the condition of its licence that requires it to provide information to the OEB as the OEB may require.

Each DRP and FNDC Distributor must, no later than July 21, 2017, file a letter with the OEB that provides the following information:

- i. if the Distributor has already commenced to issue invoices that have been adapted to comply in full with the DRP Regulation and/or the FNDC Regulation, as applicable, the date on which compliant invoices were first issued; or
- ii. if the Distributor has not commenced to issue invoices that have been adapted to comply in full with the requirements of the DRP Regulation and/or the FNDC Regulation, as applicable, the date on which the Distributor expects to commence issuing compliant invoices.

A distributor that is both a DRP Distributor and a FNDC Distributor must file separate letters pertaining to each program.

A DRP or FNDC Distributor referred to in paragraph (ii) above must also file a further letter with the OEB:

- i. where applicable, promptly upon becoming aware that the implementation date referred to in its initial filing may be delayed, indicating the reasons for and anticipated length of the delay; and
- ii. within two business days of the date on which it commences to issue compliant invoices.

All filings required to be made in accordance with the above reporting requirements should be in searchable/unrestricted Adobe Acrobat (PDF) format and should be sent to [FHPreporting@oeb.ca](mailto:FHPreporting@oeb.ca). For letters relating to the DRP program, the subject line of the e-mail should state: "DRP Implementation: [Licensee Name]". For letters relating to the FNDC program, the subject line of the e-mail should state: "FNDC Implementation: [Licensee Name]".

#### *6. General Record-Keeping*

DRP and FNDC Distributors are reminded that, under section 79.7 of the OEB Act, they are required to keep at a location in Ontario such records as are necessary to determine and verify compliance with sections 79.3 and 79.4 of the OEB Act, as applicable, in addition to any records required to be kept under the DRP Regulation or the FNDC Regulation, as applicable.

Any inquiries relating to this letter should be directed to the OEB's Industry Relations Enquiry e-mail at [IndustryRelations@oeb.ca](mailto:IndustryRelations@oeb.ca). As described in sections A5 and B5, "New Reporting Requirements", filings in response to reporting requirements should be sent to [FHPreporting@oeb.ca](mailto:FHPreporting@oeb.ca).

Yours truly,

*Original Signed By*

Brian Hewson  
Vice President  
Consumer Protection & Industry Performance

## APPENDIX A

### Example of Prorating for DRP

Monthly Fixed Service Charge: \$35.28; Volumetric Rate: \$.0250/kWh

Billing Period: June 15-July 15, 2017; 16 days in June, 15 days in July

Consumption: 350 kWh in June; 400 kWh in July

Total Base Distribution Charge for bill without DRP = \$35.28 + \$18.75 = \$54.03

Prorate Monthly Maximum Distribution Charge = \$36.43 x 15/31 = \$17.63

Base Distribution Charge for 16 days in June = \$35.28 x 16/31 + 350 kWh x \$.0250 = \$26.96

Base Distribution Charge for 15 days in July = \$35.28 x 15/31 + 400 kWh x \$.0250 = \$27.07; capped at \$17.63

Total Base Distribution Charge for bill = \$26.96 + \$17.63 = \$44.59

### Example of Prorating for FNDC\*

Monthly Fixed Service Charge: \$35.28; Volumetric Rate: \$.0250/kWh, Smart Meter

Entity Charge = \$0.79, Loss Factor = 1.0945

Retail Transmission Rates: \$0.0046/kWh and \$0.0035/kWh

Losses: \$6.91

Billing Period: June 15-July 15, 2017; 16 days in June, 15 days in July

Consumption: 350 kWh in June; 400 kWh in July

Total Delivery Charge for bill without FNDC = \$54.82+\$6.65+\$6.91= \$68.38

Total Delivery Charge for 16 days in June = \$27.37+\$3.10+\$3.23 = \$33.70

Total Delivery Charge for 15 days in July = \$27.45+\$3.55+\$3.69 = \$34.69, apply FNDC of (\$34.69) = \$0

Total Delivery Charge for bill with FNDC = \$33.70+\$0 = \$33.70

\*Commodity prices not updated for July 1, 2017 in example