

**Green Paper:**

**Special Payment Program  
Ontario's Hydroelectric Generating Stations**

**Prepared on behalf of:  
The Greater Coalition of Municipalities throughout the Province of Ontario**

Prepared by:  
Municipal Tax Advisory Group

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## **DISCLAIMER**

The information, views, data and discussions in this document and related material are provided for general reference purposes only. Any regulatory and statutory references are, in many instances, not directly quoted excerpts and the reader should refer to the relevant provisions of the legislation and regulations for complete information.

The reader is cautioned that decisions should not be made in the sole consideration of or reliance on the information and discussions contained in this report. It is the responsibility of each individual in either of a decision-making or advisory capacity to acquire all relevant and pertinent information required to make an informed and appropriate decision with regards to any matter under consideration concerning municipal finance issues.

No attempt has been made by the Municipal Tax Advisory Group to establish the completeness or accuracy of the data prepared by the Municipal Property Assessment Corporation (MPAC) and relied upon for purposes of preparing this report. As a result, no warranties or guarantees are provided that the source data is free of error or misstatement.

Finally, the Municipal Tax Advisory Group is not responsible to the municipality, nor to any other party for damages arising based on incorrect data or due to the misuse of the information contained in this study, including without limitation, any related, indirect, special or consequential damages.

### **Background and Issues Overview**

This paper has been prepared to examine the Compensatory Payment Program (CPP) associated with the former property taxation on Hydroelectric Power Generating Stations throughout Ontario. The Province of Ontario has announced that it will phase down and claw back annual payments of the CPP created in 2001, the program which replaced the taxation of Hydroelectric Power Generating Stations from the property tax regime by exempting land and structures from municipal taxation. Across Ontario, there are at least 111 Municipalities that host hydroelectric power dams and associated structures. Numerous municipalities have significant reliance on the CPP to make up for lost property tax revenue as a result of the Provincial decision to exempt the assessment of these facilities beginning in 2001.

It is the announced reduction in Compensatory Payments and the potential to consider and reintroduce taxation that are the central issues in this paper.

In 2014, the Province of Ontario has unilaterally decided to reduce the transfer payment without notice of compensation to municipalities<sup>1</sup>. While the total value of the program (\$18.7 million) is miniscule in relation to the Provincial budget, it is significant for numerous municipalities that rely on those payments in lieu of taxation.

**Provincial Table 1.10 Power Dam Special Payment Program Annual Funding**

(\$Millions) \*2014 Ontario Budget

	2014	2015	2016	2017
Annual Payments to Municipalities	18.7	18.1	16.8	14.3

*Note: According to the information available to us, the Power Dam Payments to Municipalities in 2012 totalled approximately \$18.7 million. For the 2013 and 2014 taxation years this special payment was frozen at 2012 levels.*

The taxes derived from the application of the municipal tax rate on the assessments of hydroelectric power dams contributed to municipal revenues ranging from less than 1.0% to as much as 66% of the municipality's municipal levy for all purposes, depending on the size of the municipality and the characteristics of the hydroelectric power generating station, such as size, structure and output. Municipalities continue to shift the losses in tax revenue to the remaining tax base as demonstrated in illustration 1 following.

With the commitment of the Province to have appropriate consultation with this current initiative, it is the goal of this paper to create awareness of this circumstance, describe the impacts and effects, and explore options. Participating municipalities in this endeavor will be

<sup>1</sup> It is reported the Province of Ontario has stayed reduction of the CPP for 2015 and 2016.

able to determine possible alternatives and make representation to the Province where appropriate.

### **Special Payment Program**

With the exemption of property taxation for hydroelectric power dams, poles and wires that were historically subject to taxation up to the year 2000, the Province amended the Electricity Act, 1988 requiring the owners of these properties to pay to the Province a Gross Revenue Charge (GRC) of the following three components:

- A property tax component payable to the Minister of Finance
- A property tax component payable to the Ontario Electricity Financial Corporation
- A water rental component payable to the Minister of Finance<sup>2</sup>

At the time the legislation was changed from property tax contribution, it was reported that the owners generally regarded their GRC payments as fairly equivalent to the property taxes once paid. Without provincial disclosure of this GRC payment, it is very difficult to validate this comment. It; however, removed the relationship of fair municipal taxation that was and remains applied to other types of power generation facilities in Ontario including nuclear, thermal and green energy facilities. The GRC payment requirement of the Province effectively limited opportunity for third party adjudication of property and assessment valuation disputes given the denial of the appeal process to the Assessment Review Board. The assessment of land and buildings was arbitrarily eliminated from the appeal stream. This legislative change effectively removed the owner's ability to contest the relationship of tax payment associated with an assessment.

The municipal perspective at the time these properties became exempt was that the loss of gross receipt and elimination of the assessment from the roll (hence loss of tax revenue) was offset by the new Provincial Compensatory Payment Program (CPP). The municipalities saw the trade-off as revenue neutral; no gain but no significant loss either with any shortfall taken up by any education tax room that had been created in 1998. The change to compensatory payment also somewhat provided stability in the revenue stream for municipalities as there was no risk of assessment appeals or tax write-offs. Municipalities shared their concerns at the initiation of the change in revenue method with the Ministry of Finance that it was critical that these CPP payments keep pace with municipal costs, inflation and future value of money. It is clear that appropriate indexing has not occurred resulting in continued shift to the taxpayers caused by revenue shortfalls as a result of inadequate increases and adjustments in compensatory payments. Municipalities continue to rely upon the Province to fulfill its original commitments to maintain this neutrality without loss of revenue.

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<sup>2</sup> Disclosure of the various taxes paid by the Power Dams would be revealing and transparent and would assist municipalities to understanding the unilateral decision by Ontario to reduce the Compensatory Payment Program.

Municipalities are not party to the value of the GRC payments to the Province. It stands to reason that if the Province is reducing the municipal contribution of the Compensatory Payment Program, then power generating owners will also be seeing a reduction in their required contributions to the Province. The inverse could be classified as “downloading”. It would be of great value to the municipal sector to understand the pending reduction in Provincial transfers, which in turn should result in hydroelectric power producers also seeing reductions in their GRC and other transfer payments (i.e. Water Rental).

While the primary objective should be to maintain revenue neutrality, (tax and gross receipts revenue to Compensatory Payment) it would be worthy of disclosure to municipal government of the relationship of the GRC to the CPP. If the Provincial revenue stream does not change or the Province sees greater revenue from its GRC, the reduction or “claw back” of the municipal portion of the CPP ought to be substantiated. This paper does not identify any reason for the reduction in the program payments.

The reduction in revenue for some municipalities will be significant. As an example, the 2012 payment made to one of the smaller municipalities represents more than 65% of its total levy. As noted, the range of payment to total levy for all municipalities ranges from less than 1% to more than 65%. The stake and concerns of the municipalities is proportional to the contributions they rely upon in relation to their total levy. The CPP adjustments have not kept pace with either changes in municipal rates or costs, hence shifts to the property tax base and all tax classes. Local taxpayers are facing increased tax burden as a result of: 1) compensatory payment not keeping pace with cost of living, and 2) now unilateral claw-back of this primary municipal revenue source. There is no place else where these monies can come from except the already burdened local taxpayer. The compensatory payments have not kept pace with the amount of revenue that would be realized if the dams and structures remained taxable, (CVA x's tax rate) as they were in 2000. The claw back announcement further removes the spirit and fairness of the plan when the Province originally established the payment program.

Based on the budget announcement and the introduction of Bill 14, “Building Opportunity and Securing our Future Act” (budget measures) the Province will effectively claw back the Power Dam Special Payment for hydroelectric generating stations, poles and wires by approximately 24% by 2017 annually, commencing in 2017<sup>3</sup>. This represents approximately \$4.4 million in cuts to these transfers over the period identified. As we understand it, poles and wires were never part of the CPP but perhaps should have been.

Historically, municipalities received Gross Receipts and taxed the assessable portion of power dams as part of their revenue stream to pay for municipal services. To some municipalities with minor impact on their revenue stream, the announced reduction and claw back is manageable, but to some it can be described as catastrophic. The following illustration 1 demonstrates the historic evolution of the change from taxable assessment and Gross Receipts in 2000 to the

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<sup>3</sup> It is reported the Province of Ontario has stayed reduction of the CPP for 2015 and 2016.

Compensatory Program in 2001 following to 2019. This is only illustrative and does not represent the data from any one municipality.

### Illustration 1

#### Relationship of Assessment, Tax Revenue and Compensatory Payment



Prior to the 2001 exemption, the municipality calculated and applied the tax rate to the rateable assessment on the roll. The tax rate calculations and determinations incorporated the PILT CVA and the class attracted its proportionate share of the overall municipal levy as a result, due to the weighting of the CVA. As long as the compensatory payment remained equivalent to the tax amount, there is no systemic tax shift between classes; however, once the compensatory payment is reduced, all classes must participate in making up the reduction; those with the greater tax ratio will now bear the greater proportion of the reduction.

The reduction in CPP begins in 2017 (now that 2015 and 2016 have been stayed). It is acknowledged that the original intent was to begin reduction in 2015 by \$600,000 (from \$18.7M to \$18.1M). Accordingly, no reduction is illustrated in this exhibit in 2016.

From the illustrative table, one can see that in 2000, the levy is determined as a percentage of the total assessment. The 2001-2002 column illustrates the introduction of the CVA exemption, demarked above by the sharp drop in the Assessment line, however, the municipality is compensated for lost revenue by the Provincial Payment depicted by the purple bar through to 2016. While the graph demonstrates minor inflation and modest growth in CVA, it does not illustrate any change to the Provincial payment, albeit occasional modest inflationary adjustments occurred. Beginning in 2017, the graph displays the reduction in Compensatory Payment (red arrow) and the resulting property tax increase required. The portion of the general levy on all classes must increase to compensate for the Provincial claw back and effective downloading. This places more pressure on the assessment base with the unavoidable impact of driving up the local municipal tax rate purely as a result of this change in Provincial policy. To maintain the same level of service to the citizens and taxpayers of the municipality, Councils will be forced to increase the burden to all other classes. While there has not been any formal announcement made for 2018 and beyond, as of the date of this paper, if the current trend is any indication, municipalities will be forced to continue to increase tax rates to offset the resultant loss of revenue. The same effect will be the case even if the Compensatory Payment Program simply maintains the reduced 2017 level.

### **Assessment, Taxation Options**

In Ontario, the responsibility of the property assessment function rests with the Municipal Property Assessment Corporation (MPAC). This responsibility is carried out under the direction of the Assessment Act R.S.O. 1990 and supporting regulations. In Ontario all land for assessment purposes is to be valued at its current value. Current Value is defined as;

*In relation to land, the amount of money the fee simple, if unencumbered, would realize if sold at arm's length by a willing seller to a willing buyer; ("valeur actuelle").*

This concept to ensure lands are assessed at current value primarily relies upon the traditional three approaches to value as accepted in appraisal theory, being the cost, sales and income approaches to value. While these approaches all have merits for their use and application, the appropriateness for each is dependent on the type and use of property being valued. By applying these techniques, when carried out properly, an estimate of current value for a specific property can be achieved with measured accuracy.

In its 2014 Budget, the Province committed to working with municipalities and the Municipal Property Assessment Corporation (MPAC), to review options to ensure Ontario's property tax system is fair, accurate and predictable. Found on page 16 of Chapter I, Section E of the budget papers, this announcement is immediately followed by the announced reduction in the Power Dam Special Payment Program.

**1998-2000 Taxation Years- Current Value Assessment (1996 base)**

For the 1998 taxation year, the *Assessment Act* was amended to provide that the assessment of land shall be based on its current value (arms-length purchase and sale between a willing buyer and a willing seller in an open free unencumbered market). The valuation date for the 1998-2000 taxation years is June 30, 1996.

At this time, all generating stations were assessed and taxable in accordance with policy at the time. It is important to note that the business assessment was removed for all commercial and industrial properties. The reduction in revenue was offset by the education tax room created in 1998. While the approaches to value vary based on the characteristics of these property types, all generating stations (thermal, nuclear etc.) were assessed at the estimated 1996 value base for assessment purposes. This practice of valuation was applied in a consistent fashion to all hydroelectric power generation facilities throughout Ontario. This consistent application had regard for both fairness and equity amongst similar property types. The values were transparent and subject to scrutiny by all parties. Other types of power generation facilities were also assessed in a similar fashion, albeit slight variations to the valuation approach applied depending on the characteristics of the facility.

Under the 1996 Current Value Base, the assessment of hydroelectric dams in Ontario was valued based on a hybrid consideration of the cost, income and sales approach to value. Municipalities then levied taxes based on the assessments delivered by the assessment authorities, the Province prior to 1998 and MPAC thereafter.

In application of this approach, the following areas of valuation were considered;

1. The value of the land was determined based on the value of the waterpower lease.
2. The taxable value of the improvements was determined based on 60% of the cost per kilowatt (K.W.) of installed capacity and further adjusted for base year equalization and depreciation; the 40% balance of the value was considered exempt from taxation. This allocation for exemption is associated with areas of the asset directly associated with the production of power.

***Land Value***

All bodies of water in the province are governed by the Ontario government. In order for hydroelectric facilities to use water to generate power, they must pay a rent to the government in the form of a water power lease. The water power lease rate is based on the horsepower produced.

MPAC uses the annual kilowatt per hour (K.W.H.) produced by each facility and converts it to horse power (HP). The horse power produced is then multiplied by the applicable rent to determine the waterpower lease rent. The final step in the process in arriving at the land



value for hydroelectric facilities is to capitalize the Annual Rent by a selected Capitalization Rate (8.5%).

### ***Taxable Improvement Values***

MPAC used a rate per K.W. of installed capacity which represents an estimate of the total average cost to construct a dam in the base year of valuation. The K.W. rate was arrived at in consultation with hydroelectric power producers.

MPAC estimated that 60% of the K.W. base rate represents the taxable improvement value. 40% of the K.W. base rate represents the exempt value. The improvement K.W. rate was then modified to the appropriate base year of value for the municipality or locality in which the property is located.

Paragraph 18 of s. 3(1) of the *Assessment Act* provides an exemption from municipal taxation for all machinery and equipment including the foundations on which they rest used for producing electric power. For each property, MPAC estimated that 60% of the structure value was taxable and 40% was exempt machinery, equipment and foundations. Parties have disputed whether certain components of the properties were machinery and equipment. The areas of dispute were resolved by the courts in an application under s. 46 of the *Assessment Act*. Please note that the exempt vs taxable percentages of the total value remain in dispute through historic appeals. Table 1 depicts historical positions of taxable vs exempt assessment in relation to total value:

**Table 1**  
**Taxable Assessment vs. Exempt Assessment**  
**Diversity of Perspective and Position**

	MPAC Historic Position	Taxpayer Assertion
Exempt %	40%	55%
Taxable %	60%	45%

Table 2 identifies those areas of the Dams and their components that were associated with taxable and exempt assessments:

**Table 2**  
**Taxable and Exempt Components of Dams**

<b>Taxable Items</b>	<b>Exempt Items</b>
Dams	Turbines & Generators
Intake Structures	Penstocks
Spillways	Surge Tanks
Sluices	Gates, Hoists
Powerhouse Structures	Trash Racks
	Stop Logs
	Powerhouse Cranes

Provincial Assessment and later MPAC made allowances for chronological depreciation to arrive at an improvement value.

### ***Final Determination of CVA***

Once the land value and taxable improvements have both been determined utilizing the methods described above, these values were added together to arrive at the assessed value. It was this final value that municipalities used to levy taxes against.

### **Taxes vs. Compensatory Payment**

Over the last 15 years, Municipalities have grown to rely on these compensatory payments as a result of the exemption of assessment for these property types. However, the compensatory payments have not kept pace with the growth in assessment and increased demands on the municipalities' levies. A sample of three municipalities in Ontario clearly demonstrates the fact that the Compensatory Payments have seriously fallen behind. Table 3 identifies the Compensatory Payment and compares it to the tax that could have been levied (exempt assessment remaining on the roll X's class tax rate). The data are collected from the municipalities and their Financial Information Return for 2014.

**Table 3**  
**Difference in CVA Tax and Compensatory Payment**

<b>2014 Phased CVA</b>	<b>2014 CVA Tax</b>	<b>Compensatory Payment</b>	<b>Difference</b>
152,427,500	\$7,120,441	\$4,484,352	-\$2,636,089

NOTE: The values shown in this table are the cumulative numbers of three municipalities.

In addition to other downloaded responsibilities, municipalities have struggled to meet the overall levy required to cover costs of services. The shifts to the assessment base have varied significantly from one Municipality to another; however, for some of Ontario's municipalities, hydroelectric power production is a primary industry and traditionally there has been a strong reliance on taxation and later compensatory payment in lieu thereof, to support and maintain the community infrastructure and economy.

With the proposition announced in the Provincial budget to claw back the compensatory payment, this places many municipalities in a dilemma for recovering revenues needed to cover municipal costs. There has not been any announced or inferred offsetting opportunity for municipalities to recover the lost revenue except to either cut services or increase property taxes.

**Current Value Assessment 2013 to 2016 Taxation (2012 CVA base)**

Effective with the 2013 taxation, all property assessments returned on the roll reflected a current value estimate as of January 1, 2012. This represents the 6<sup>th</sup> cycle of reassessment that has been conducted from the date that the exemption legislation came into effect impacting hydroelectric power dams. The values returned on the 2001 taxation roll reflected an estimate of exempt assessment. In review of the 2001 returned roll, the exempt assessment identified reflected a value that better compared to the taxable value identified on the 2000 taxation year return. It is our concern that the exempt assessed value shown on the roll since the year 2000 does not reflect the entire property assessment, but rather only the previously taxable portion with little to no regard for the previously exempt portion.

**"19.2 (1) Valuation Days (Assessment Act)"**

Valuation Base Year	Taxation Year
June 30, 1996	1998-2000
June 30, 1999	2001,2002
June 30, 2001	2003
June 30, 2003	2004,2005
January 1, 2005	2006-2008
January 1, 2008	2009-2012
January 1, 2012	2013-2016

If one were to ever reconsider an assessment based tax for hydroelectric power dams, one should not fully rely on the current assessments returned as an example of fair assessment. It would be necessary for MPAC to revisit those properties and perform a complete reassessment to ensure the values reflect the total current value. Regard to apportionment of exempt uses would also be required. It has been suggested that MPAC may be making a more concerted effort to review the exempt assessments of these properties for the 2016 Current Value Assessment base

commencing in 2017. Municipal input is recommended in this process to encourage transparency and fairness.

It is quite common that when properties become exempt, those values are not well maintained by the assessment authorities over the reassessment cycles. It is understood that MPAC has not systemically maintained the current values for these properties since they became subject to full exemption.

If a taxation model is considered, then a reasonable current property value for hydroelectric power dams under the current assessment cycle would be required to be undertaken. The approach needs to be transparent and reasonable to all interested parties. The model should result in revenue neutrality for municipalities.

From our review of MPAC's assessment practices along with legislative authorities, hydroelectric power dams are the only type of power generation facility that appears on the roll today as totally exempt. The CPP was created to compensate municipalities for the loss of revenue as a result of these properties shifting from a taxable entity to an exempt classification and without PILT. Other power generation facilities are assessed on the roll and are taxable in one form or another. Public generation ownership such as OPG pay taxes as a PILT. For the OPG, PILT's such as the Nuclear or Thermal sites, the assessments remain on the roll and the value reflects in part a regulated rate category pursuant to 19.0.1 of the Assessment Act that is considered in the valuation. In other words, the value returned on the roll does not reflect its true current value as a result of the special legislation and regulation.

When properties are identified on the roll that pay as a PILT or full taxation, these values are constantly maintained with each reassessment cycle. Fairness, transparency and equity amongst similar property reflecting market fluctuations from one assessment base year to another. The owners of these facilities and municipalities have the ability to appeal and assist MPAC with appropriately adjusting the CVA. When looking at the exempt assessments of Power Dams that continue to be identified on the roll, it is our understanding that these values have not been fastidiously maintained by MPAC similar to taxable properties, since the introduction of the GRC and the CPP.

To assist the reader, a comparison table of the assessment of different power generation facilities is produced at Table 4. It illustrates the assessments applied to other Nuclear/Thermal sites. While these Ontario Power Generation (OPG) properties pay taxes as a PILT they are assessed on the roll. While these assessments are returned for PILT consideration, their values are encumbered by application of a regulated rate. Table 4 following illustrates the results of this analysis. For comparison purposes, we have included Table 5 which illustrates the relationship of the current exempt assessment per Megawatt (MW) of installed capacity for hydroelectric facilities.

**Table 4**  
**Illustration of Regulated Assessment an Comparison of Assessment  
per Megawatt, Nuclear and Thermal Electricity Generation**

<i>Generating Station</i>	<i>As built Capacity (MW)</i>	<i>2014 Phased assessment</i>	<i>Assessment per MW</i>
<i>Lennox GS</i>	<i>2232</i>	<i>56,732,000</i>	<i>25,417</i>
<i>Pickering GS</i>	<i>4124</i>	<i>140,549,000</i>	<i>34,080</i>
<i>Darlington GS</i>	<i>3524</i>	<i>108,669,500</i>	<i>30,836</i>
<i>Bruce GS</i>	<i>6516</i>	<i>111,604,000</i>	<i>17,128</i>
<i>Average</i>			<u><i>26,865</i></u>

**Table 5**  
**Illustration of Non-regulated Exempt Assessment and Comparison of  
Assessment per Megawatt, Hydroelectric Generation**

<i>Location of Hydro Dam</i>	<i>MW</i>	<i>2014 Exempt Assessment</i>	<i>Assessment per MW</i>
<i>Cochrane</i>	<i>20</i>	<i>19,071,000</i>	<i>953,550</i>
<i>Sault St. Marie</i>	<i>52</i>	<i>62,213,000</i>	<i>1,196,403</i>
<i>Wawa</i>	<i>106</i>	<i>89,869,000</i>	<i>847,820</i>
<i>Atikokan</i>	<i>10</i>	<i>11,335,000</i>	<i>1,133,500</i>
<i>Average</i>			<u><i>1,032,818</i></u>

As demonstrated, the assessments for Nuclear and Thermal sites bares no relationship to the exempt assessments historically returned for the hydro dams. This difference can be expected due to the regulated rate applied to both nuclear and thermal site assessments. This regulated rate is removed from inflation or other appropriate indexing and has not kept pace with current value reforms. Consequently, it could be said that these values do not meet current value by application of their regulation.

Other value considerations would include the differences in physical size, cost to build, cost to run, life expectancy, output and profit to name a few. This comparative gap in assessment was the catalyst issue raised by IPPSO when the province heard submissions from this group to eventually exempt these assessments and create a GRC/CPP program. It is presumed that the purpose was to secure a stable tax payment to IPPSO so they could compete in the world energy markets and continue to reinvest in these types of developments in Ontario. To consider an

assessment base tax for hydroelectric facilities today may present the same comparative problem. This could be considered a regressive step by some, but progressive by those that share in the revenue generated therefrom. The IPPSO presentation to the standing committee of the Legislature is attached to this report.

Hydroelectric generation site sales are the best point of reference as a proxy of assessment. Unfortunately, there are few sales to report in Ontario and in general upon which to fully rely. Further international research into sales may be necessary as we move forward into the principle issue identified in this report.

This Compensatory Payment in relation to GRC contribution requires clarification and audit before one can rationalize a reason for this announcement to claw back this commitment.

### **Conclusions and Observations**

1. There has been considerable dialogue amongst the municipal community on this announcement, but very little in respect to Provincial consultation. Only recently has the Province agreed to consultation with the municipalities affected.
2. This report finds no quantifiable reason for these payments to be phased down other than it being merely a Provincial decision to do so. Although no conclusive evidence to support this claim at this time, it is understood the Gross Receipts charges to all power producing entities have increased.
3. Unlike the increasing costs of municipal services matched in part by growth in assessment, the Province is reducing its Compensatory Payment Program thereby adding to the increasing difficulty of funding the loss of the revenue. This announcement places many municipalities in a dilemma to meet their fiscal levy and adds pressure to other taxpayers that will need to pick up this shortfall through increased tax rates.
4. The Province has invited, and it is strongly encouraged, that a committee of municipalities be established to lobby the Province to develop a fair and equitable solution that maintains at least revenue neutrality. MPAC should be a party to this initiative to consider modified assessment and taxation for revenue neutrality. A meeting should be established with all parties as soon as possible to consider options.
5. Further analysis may be required with MPAC to consider revisions to the exempt assessments placed on the roll. They clearly do not reflect the entire property value. The assessment for dams and structures have not been reasonably well maintained. Taxable or not, the total assessment needs to be reflected on the roll.

6. The evidence is clear that the CPP has not kept pace with inflation, nor with taxation levels. This paper samples only a few municipalities to consider the relative relationship of the CPP to what the estimated tax would be under an assessment approach. This analysis can be expanded to all interested municipalities to consider the gap in CPP to what they could achieve through assessment. This report suggests that the assessment approach will provide equity, fairness, transparency, consistency, reliability and certainty for both municipalities and owners of the dams. Further study should be undertaken by each municipality that hosts a dam or structure that is now exempt. Historical assessment and tax rate access would be required to expand this analysis.
7. Caution needs to be considered if the assessment approach is a consideration. Clearly under a regulated method such as the Nuclear and Thermal sites, the results would be counterproductive relative to the CPP. This is because the regulated rates that affect them in their assessment allowed for no indexing and have not kept pace with market changes. They are encumbered and the values in no way reflect current value.
8. The historical method of valuation as shown in this report has been tested and should remain applicable today. The owners would still be entitled to exempt portions of their assessment.
9. It is recommended that a clear understanding of the current relationship of CPP to GRC payments needs to be revealed to assist with the understanding of this announcement.
10. It would also appear that the CPP's made to various municipalities have gone astray from the initial basis to have a direct relationship with what once was received through an assessment based approach.
11. Any grant or PILT program needs to maintain consistency, fairness and transparency for all municipalities.
12. It should be a consideration of the Province to assist those municipalities that face significant impacts due to the claw back of the compensatory payment established in 2001 to compensate for the lost revenue as a result of the exempt assessment.
13. If no alternative funding formula or methodology is established, the Province of Ontario is encouraged to maintain the status quo in respect of this CPP.
14. If no alternative funding formula or methodology is established, the Province of Ontario is encouraged, in addition to maintaining its commitment to equivalent compensation for exempt assessment, that such payments be fully indexed.

15. From the municipal perspective, the Province's Compensatory Payments do not represent Provincial support and grant but rather partial replacement of taxation that existed historically. It is critical that these payments maintain a degree of relationship to what could have been charged under an assessment based approach.



## **Reference**

Efforts have been made to present information and supporting documentation on both sides of the spectrum in relation to assessment, taxation and gross receipts. This paper has taken into consideration the various postulates and positions taken and most relevant material is attached.

### **Material and information referenced and attached:**

#### **Appendices:**

1. Publication by Ontario labelled “2014 Ontario Budget, Chapter I, Section E: Ontario’s Decade – A 10-Year Plan for the Economy”, an excerpt being pages 16 and 17 with headings “Strengthening Ontario’s Property Tax System” which speaks to working with Municipalities and MPAC for a fair, accurate and predictable assessment followed immediately by “Power Dam Special Payment Program” announcing the clawing back of special payments.
2. Publication by Ontario labelled “2015 Ontario Budget, Chapter IV: A Fair and Sustainable Tax System, an excerpt being pages 12, 13 and 14 with headings “Power Dam Special Payment Program” and “Strengthening the Property Assessment System”.
3. Publication by Ontario published April 2002 labelled “Taxes and Charges on the Gross Revenues of Hydroelectric Generating Stations under Section 92.1 of the Electricity Act, 1998”. (note: The Ministry has since updated and issued new directions and prescriptions for the payment of the GRC).
4. Power Dam Payment Recipients – From 2012 Financial Information Returns (for illustration purposes only and not changed to 2013 or 2014 as CPP payments were frozen at the 2012 levels).
5. Email Report from Chris Wray, CAO/Clerk-Treasurer July 7, 2014 in respect of the impact and effect on the municipality of Wawa with observations, historical context and inviting other municipalities in similar quandaries to collectively respond to the reduction in payment and downloading of Provincial cost.
6. Two letters from Her Worship Mayor Linda Nowicki, July 3, 2014; one to the The Honourable Premier of Ontario, Kathleen Wynne and one to the Honourable Minister of Finance, Charles Sousa in strong objection to the Province’s announced unilateral reductions in Compensatory Payments.
7. Association of Municipalities of Ontario, 08/06/2015 entitled Province Decreasing Power Dam Payments.

8. Independent Power Producers Society of Ontario (IPPSO) position and argument made to the Standing Committee of the Province of Ontario prior to 2000 in respect of tax burden and inequitable competition.
9. From AMO President Gary McNamara, December 2, 2015 in respect of Bill 144, the Budget Measures Act, expressing concern about the Government reducing municipal PILT for facilities producing electricity and impinging on limited municipal tax revenues.

**Material and information referenced but not attached:**

1. The Electricity Act, 1998
2. The Assessment Act, R.S.O. 1990, as amended and Ontario Regulation 282/98 as amended.
3. From Ontario Power Generation web site “www.OPG.com”, being a statement of evidence describing the gross revenue charges that OPG is required to pay the Province of Ontario pursuant to legislative and regulatory requirements.
4. Publication by Ontario published March 2010 labelled “Gross Revenue Charge (GRC) Instalment Instructions.
5. St. Catharines Standard, Newspaper Article, Sunday, March 11, 2012, on the “big revenue loss” in Thorold, the City of St. Catharines and the Regional Municipality of Niagara as a result of exempting over 923 acres of land used for hydroelectric power production and the loss of potentially more than \$1,000,000 in property tax.
6. CBC News article posted: July 28, 2014, “Ontario towns grapple with power dam subsidy reduction”
7. Cornwall Standard-Freeholder, Tuesday May 22, 2012, “Note to OPG: Pay Up!” citing millions of dollars paid to Akwesasne on the non-Cornwall side of the St. Lawrence River and only \$100’s of thousands of dollars paid to Cornwall.
8. Appraisal Journal, summer 2014, the appraisal of Power Plants.
9. Discussions of the author of this paper with Ontario Power Generation.
10. Discussions of the author of this paper with Municipal Property Assessment Corporation.

## **Appendix 1 Compensatory Payment Program**

Publication by Ontario labelled "2014 Ontario Budget, Chapter I, Section E: Ontario's Decade – A 10-Year Plan for the Economy", an excerpt being pages 16 and 17 with headings "Strengthening Ontario's Property Tax System" which speaks to working with Municipalities and MPAC for a fair, accurate and predictable assessment followed immediately by "Power Dam Special Payment Program" announcing the clawing back of special payments.

The government will continue to provide unconditional support to municipalities through the OMPF and proceed with the phase-down to \$500 million. However, to manage program spending, and in light of the significant level of support provided to municipalities, the phase-down schedule for the OMPF will be adjusted for 2015. Under the revised schedule, municipalities will receive \$515 million through the program in 2015.

Ontario will continue to work closely with municipalities to manage the phase-down of the program, and ensure that details of the 2015 allocations are available as soon as possible to support municipal budget planning.

Even with the phase-down of the OMPF, the government's commitment to the provincial uploads means that overall support to municipalities will continue to increase, with the provincial uploads more than offsetting the reduction to the program.

**TABLE 1.9 Provincial Support to Municipalities Continues to Increase**  
(\$ Millions)

	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Provincial Uploads	1,368	1,560	1,630	1,770
OMPF	575	550	515	500
<b>Combined Support</b>	<b>1,943</b>	<b>2,110</b>	<b>2,145</b>	<b>2,270</b>

## Strengthening Ontario's Property Tax System

Ontario's property assessment and tax system plays a fundamental role in supporting local municipal services and the Province's elementary and secondary school system. The *2013 Budget* announced that the Province would work with the Municipal Property Assessment Corporation (MPAC), municipalities and business taxpayers to review options to ensure Ontario's property tax system is fair, accurate and predictable.

The final report on the Special Purpose Business Property Assessment Review was released in December 2013 and is available on the ministry's website. The report includes recommendations related to improving the assessment of specific special purpose business properties, as well as 26 overarching recommendations for strengthening the overall property assessment system. The Ministers of Finance and Municipal Affairs and Housing have accepted the report. The Province is now focused on implementing the recommended improvements to Ontario's property assessment system in consultation with municipalities and other stakeholders.

## Power Dam Special Payment Program

The Province provides a special annual payment to municipalities hosting hydro-electric generating stations (power dams). Through this program, the Province has been providing municipalities with funding that reflects the amount of property tax revenue that each municipality received from these stations prior to 2001, when the stations became exempt

from property taxation.

In 2013, the Province advised municipalities that this program would be reviewed as part of a broader examination to ensure government programs meet their policy objectives, while taking into account the government's ongoing effort to make responsible spending choices. Pending the outcome of the review, the Province committed to maintain a stable level of funding to municipalities under this program for the 2013 and 2014 taxation years.

As a result of the Province's review, and in the context of the government's commitment to continue to manage spending, the program will be phasing down to \$14.3 million by 2017.

**TABLE 1.10 Power Dam Special Payment Program Annual Funding (\$ Millions)**

	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Annual Payments to Municipalities	18.7	18.1	16.8	14.3

The Province will work with municipalities on ways to implement the phase-down in a manner that is fair and manageable.

## Chart Descriptions

### Chart 1.15: Program Spending Per Capita in 2012–13

This chart compares per-capita program spending in Ontario to the other nine provinces for 2012–13. In 2012–13, Ontario's per-capita program spending was \$8,369. This is the lowest per-capita program spending among the provinces. This is followed by British Columbia, Quebec, Nova Scotia, New Brunswick, Alberta, Prince Edward Island, Manitoba, Newfoundland and Labrador, and Saskatchewan.

### Return to Chart 1.15

### Chart 1.16: Total Revenue Per Capita in 2012–13

This chart compares Ontario's total revenue per-capita to the other nine provinces for 2012–13. In 2012–13, Ontario's total revenue per-capita that included its own source and federal transfers was \$8,453. This is the lowest total per-capita revenue among the provinces. This is followed by British Columbia, Alberta, New Brunswick, Nova Scotia, Prince Edward Island, Manitoba, Quebec, Saskatchewan, and Newfoundland and Labrador.

### Return to Chart 1.16

### Chart 1.17: Ontario Wage Settlements

This chart shows the average annual base wage increases from wage settlements ratified between July 17, 2012 and March 26, 2014. The average annual wage settlements for the

## **Appendix 2 Compensatory Payment Program**

Publication by Ontario labelled "2015 Ontario Budget, Chapter IV: A Fair and Sustainable Tax System, an excerpt being pages 12, 13 and 14 with headings "Power Dam Special Payment Program" and "Strengthening the Property Assessment System".

## ***A First Step towards a More Equitable and Modern Tax System***

The inequities identified in the review underscore the need to reform the PLT system. There was broad agreement that all taxpayers should pay their fair share, but there was also recognition that PLT reform must proceed at a manageable pace. A staged approach to reform will focus on engaging northern Ontarians in ongoing discussions.

Proposals outlined in this *Budget* would reduce PLT inequities beginning in 2015, and form an important first stage in building a fair and modern PLT system:

- For residential taxpayers, the PLT rate would be adjusted by \$10 per \$100,000 of assessed value in 2015 and an additional \$40 per \$100,000 of assessed value in 2016;
- Unincorporated area businesses would make a proportionate contribution; and
- The minimum per property PLT would be set at \$50 annually in 2016 to ensure that all property owners make a basic contribution towards the cost of important services.

Necessary legislative amendments to facilitate these changes will be introduced.

The government will ensure that provisions are in place for property tax relief to make changes more manageable for low-income seniors and low-income residents with disabilities.

Provincial Land Tax reform is not just about addressing tax inequities. The Province values the views of unincorporated area residents on how to improve the PLT system. In response to suggestions made through the consultations, the Province is proposing to introduce measures that would support better information sharing with local boards and will continue to seek input on additional system improvements.

## ***Continuing to Work with Northern Ontarians on PLT Reform***

The proposed measures announced today would be fully implemented by 2016, but the PLT review will not end with these changes. The Province will continue discussions on ways to further address tax inequities in the north and support the work of local roads and services boards.

To initiate the next phase of discussions, the government will launch a new series of consultations with northern Ontarians. The Province is committed to continuing along the path of reform and to ensuring that the PLT is transformed into a fair and modern property tax system.

## **Power Dam Special Payment Program**

The Power Dam Special Payment Program provides municipalities with mitigation related to the former property tax on hydro-electric generating stations (power dams). These facilities became exempt from property taxation in 2001 when the gross revenue charge was introduced.

The *2014 Budget* announced a plan to phase down the program's funding by approximately

25 per cent over three years, starting with a three per cent reduction in 2015.

The Province committed to work with municipalities to explore ways to implement the phase-down in a manner that is fair and manageable. To support these consultations, a working group with municipal representatives was formed.

Subsequent to the *2014 Budget*, it was determined that the consultations will also explore the option of reintroducing property taxation for power dams. Recognizing that it was impossible to complete the property tax aspect of this project before the 2015 municipal budget year, it was announced in the *2014 Ontario Economic Outlook and Fiscal Review* that the planned reduction to the program for 2015 will be deferred.

This allows time to conduct further analysis and hold consultations with municipal and electricity sector representatives, as well as the Municipal Property Assessment Corporation (MPAC), to fully explore various options, including reintroducing property taxation.

Through this process, the Province is working with stakeholders to strike a balance between predictability for municipal revenues and stability for ratepayers and electricity generators. The outcome will be communicated before the 2016 taxation year.

### **Strengthening the Property Assessment System**

The Province, in partnership with MPAC, municipalities and stakeholders, is working to improve the property assessment system in time for the next province-wide reassessment in 2016.

The key focus of this work is the implementation of the Special Purpose Business Property Assessment Review (the Assessment Review) report recommendations.

The objectives of the Assessment Review recommendations are to improve the transparency, accuracy and predictability of the property assessment system. The Province is proposing changes that would support these objectives by helping to resolve disputes about assessed values before the return of the assessment roll.

Currently underway is a new advance disclosure process for special purpose business properties, which are unique or complex business properties that are particularly challenging to assess. The Municipal Property Assessment Corporation's consultation on guides that detail the assessment methodologies for these properties was completed in early 2015. The next phase will entail a discussion of market factors and analytics that go into the assessment of properties. Stage three, the release of property-specific preliminary values, is targeted for early 2016, well in advance of roll return.

Municipalities, taxpayers and assessment professionals have expressed support for this proposed approach, which has been designed to reduce the need for the appeal system to resolve concerns with property assessments.

To support full participation in the advance disclosure process, the Province is proposing to



strengthen protections for commercial proprietary information shared by taxpayers with MPAC as part of the valuation process. The Province is also proposing changes that would bolster MPAC's ability to obtain additional information about properties to facilitate the determination of accurate assessed values.

The Province and its partners are also moving forward with implementing other Assessment Review recommendations to improve data integrity, streamline assessment appeals, and better inform municipalities about assessments at risk, as well as property-specific assessment recommendations.

In addition, the Province is working closely with its partners to clarify the roles and responsibilities of the various parties, including through the establishment of policies, procedures and standards for the provision of assessment services by MPAC. As well, to better reflect historic policy intent, the Province is proposing to clarify the tenure of future MPAC board of director appointments and ensure consistency with other key corporations created by Provincial statute.

The Province is committed to transparency and public reporting. Regular updates on implementation of the Assessment Review recommendations will continue to be posted on the Ministry of Finance website.

## **Summary of Measures**

## **Appendix 3**

Publication by Ontario published April 2002 labelled "Taxes and Charges on the Gross Revenues of Hydro-electric Generating Stations under Section 92.1 of the Electricity Act, 1998". (Note: the Ministry has since updated and issued new directions and prescriptions for the payment of the GRC).



# **Taxes and Charges on the Gross Revenues of Hydro-electric Generating Stations under section 92.1 of the Electricity Act, 1998**

Bulletin EA 1-2002

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- 
- This bulletin contains important information for owners of hydro-electric generating stations and water power leaseholders liable to pay the taxes and charges on the gross revenues of hydro-electric generating stations under section 92.1 of the Electricity Act, 1998 (the "Act").
  - The information in this bulletin does not replace the law found in the Act and related regulations.

## **Background**

### **Gross Revenue Charge (GRC)**

In November 2000, legislation was introduced to encourage the development and expansion of environmentally friendly hydro-electric generating stations in Ontario. Effective January 1, 2001, the existing property taxes and water rental charges paid by hydro-electric generating station owners and water power leaseholders were replaced with taxes and charges on the gross revenues of hydro-electric generating stations. These taxes and charges on gross revenues represent separate components of what is known as the Gross Revenue Charge (GRC).

### **GRC Components**

There are three GRC components:

- The GRC Property Tax Component Payable to the Minister of Finance,
- The GRC Property Tax Component Payable to the Ontario Electricity Financial Corporation (OEFC), and
- The GRC Water Rental Component Payable to the Minister of Finance.

### **GRC Property Tax Components**

The GRC Property Tax Component Payable to the Minister of Finance is payable by hydro-electric generating station owners liable for the tax under subsection 92.1 (1) of the Act on

the gross revenues of hydro-electric generating stations. The GRC Property Tax Component Payable to the Minister of Finance applies to all stations in Ontario except those stations that were, on or before December 31, 2000, subject to the property tax Payment in Lieu under subsection 92 (1) of the Act, whether or not there has been a change in ownership after that date. Stations that were, on or before December 31, 2000, subject to the property tax Payment in Lieu under subsection 92 (1) of the Act (i.e. stations owned by Ontario Power Generation or by municipal electricity utilities prior to 2001) are now subject to the GRC Property Tax Component Payable to the OEFC under subsection 92.1 (2) of the Act.

## **GRC Water Rental Component**

The GRC Water Rental Component Payable to the Minister of Finance is payable by every holder of a water power lease liable for the water rental charge under subsection 92.1 (5) of the Act. The GRC Water Rental Component applies to the gross revenue of the hydro-electric generating station subject to the water power lease.

## **New Regulation**

On April 4, 2002, Ontario Regulation 124/02 was filed. O. Reg. 124/02: defines "gross revenue" for the purposes of the section 92.1 of the Act; prescribes how to calculate a station's annual generation; provides for certain exemptions and deductions; and, sets out the basic administrative requirements for hydro-electric generating station owners and water power leaseholders required to pay one or more of the GRC components.

## **Definitions**

### **Definitions for the Purposes of this Bulletin**

For the purposes of this bulletin:

"generator" means a person who owns or operates a generation facility that is a hydro-electric generating station;

"holder of a water power lease" means a person who has entered into an agreement, lease or other writing respecting the use of water under subsection 42 (2) of the Public Lands Act, or under the Niagara Parks Act, or The St. Lawrence Development Act, 1952 (No. 2), or who is required to enter into such agreement, lease or writing in order to be entitled to occupy public lands.

"hydro-electric generating station" includes any building or structure in which electricity is generated through the use of water power or from the movement of water;

"new station" means a station that first generates electricity after December 31, 2000;

"owner" includes a tenant of land owned by the Crown or a municipality on which a hydro-electric generating station is located or a tenant of land owned by any other person if the tenant is the generator of electricity from the hydro-electric generating station;

"redeveloped station" means a station at which improvements come into service after December 31, 2000 that include a substantially replaced power house and associated physical infrastructure for the conveyance and utilization of water;

"station" means a hydro-electric generating station;

"upgraded station" means a station at which improvements come into service after December 31, 2000 that increase the station's generation of electricity by at least two per cent on an annual basis.

## **GRC Rates**

### **Graduated Rates**

GRC rates for both property tax components are graduated based on the annual generation of a station as follows:

Total Annual Generation	GRC Rate
Up to and including 50 gigawatt hours (gWh)	2.5 %
Greater than 50 up to and including 400 gWh	4.5 %
Greater than 400 up to and including 700 gWh	6.0 %
Greater than 700 gWh	26.5 %

Every station owner benefits from the lower rates on the gross revenue from the first 700 gigawatt hours of annual generation for each station.

### **Water Rental Charge Rate**

The GRC water rental charge rate is fixed at 9.5% of a station's gross revenue from annual generation.

## **Annual Generation**

### **Annual Generation of a Station not Engaging in Water Transfers**

The annual generation of a station whose owner or operator does not, with respect to that station, pay or receive compensation for the transfer of water to or from another generator during the year, is the amount of electricity generated by the station during the year, other than electricity that is consumed directly in the generation of electricity at the station without being conveyed through a transmission or distribution system.

### **Annual Generation of a Station Engaging in Water Transfers**

The annual generation of a station whose owner or operator, with respect to that station, pays or receives compensation for the transfer of water to or from another generator during the year, is the amount of electricity generated by the station during the year, other than electricity that is consumed directly in the generation of electricity at that station

without being conveyed through a transmission or distribution system, plus the net amount of compensation, in the form of electricity or other compensation converted to electricity, received from other generators for the use of water associated with that station.

## **Measuring Electricity by Means of an Approved Electricity Meter**

Station owners or operators must determine the amount of electricity generated by the station by measuring the amount of electricity generated by means of a meter that would either: satisfy the market rules established by the Independent Electricity Market Operator or the requirements of a distributor licensed under the Ontario Energy Board Act, 1998. to whose distribution system the station is connected; or satisfy the requirements for a meter to be used for the purposes of obtaining the basis of a charge for the electricity under the Electricity and Gas Inspection Act (Canada) and the regulations under that Act.

As an exception, where the Minister has authorized the owner or operator to determine the amount of electricity generated by the station without the use of the meter, or if the meter described above did not accurately measure the electricity generated, the owner or operator may determine the amount of electricity generated by making a reasonable estimate. Such estimates may be reviewed.

As a further exception, and only for the period prior to the opening of the electricity market to competition, in situations where there is no meter, the owner or operator of a station may determine the amount of electricity generated by the station by making a reasonable estimate of the amount of electricity generated during the year. Such estimates may be reviewed.

## **Gross Revenue**

### **Gross Revenue Prior to Electricity Market Opening to Competition**

In December 2001, the Ontario Government confirmed its intention to open Ontario's electricity market to competition on May 1, 2002. For the period January 1, 2001 to the day before Ontario's electricity market opens to competition, the gross revenue of a hydro-electric generating station is the amount determined by multiplying the station's annual generation for the year by a price of \$40,000 per gigawatt hour.

How "gross revenue" is to be determined for the period after the electricity market opens to competition will be the subject of a separate Ontario Tax Bulletin, to be issued as soon as "gross revenue" for post market opening period is defined.

## **GRC Payments**

### **GRC Payments for 2001**

Payment of the taxes and charges on the gross revenues of hydro-electric generating stations for 2001 must be delivered to the Ministry of Finance on or before May 16, 2002, along with the 2001 GRC Annual Return. Station owners and water power leaseholders should refer to the 2001 GRC Annual Return Guide for detailed instructions on making GRC payments for 2001.

## **GRC Payments for 2002 and Subsequent Years**

For 2002 and subsequent years, station owners and water power leaseholders are required to make their GRC payments on a monthly or quarterly basis. Station owners and water power leaseholders should refer to the GRC Instalment Instructions for detailed instructions on making GRC instalments for 2002 and subsequent years.

### **Monthly Instalments**

If the total of all GRC amounts payable for all stations for the immediately preceding year is \$10,000 or more, the owner or the holder of a water power lease is required to make a monthly instalment on the 16th day of every month, equal to the lesser of:

- 1/12th of the total of the amounts payable for the year, and
- 1/12th of the total of the amounts payable for the immediately preceding year,

unless, the month is January or February, in which case the instalment is equal to the lesser of,

- 1/12th of the total of the amounts payable for the year, and
- 1/12th of the total of the amounts payable for the year immediately before the immediately preceding year.

### **Quarterly Instalments**

If the total of all GRC amounts payable for all stations for the immediately preceding year is less than \$10,000, the owner or the holder of a water power lease may make quarterly instalments on the 16th day of March, June, September and December of the year, equal to one-quarter of the lesser of:

- the total of the amounts payable for the year, and
- the total of the amounts payable for the immediately preceding year,

### **First Instalments for 2002 are due June 16, 2002**

First instalments are due June 16, 2002. If the total of the GRC amounts payable for all stations for 2001 is \$10,000 or more, the first instalment payment must be equal to six (the number of months in 2002 commencing before June 16, 2002) multiplied by the lesser of,

- 1/12th of the total of the amounts payable for 2002, and
- 1/12th of the total of the amounts payable for 2001.

If the total of the GRC amounts payable for all stations for 2001 is less than \$10,000, the first instalment payment must be equal to two (the number of quarterly instalment periods

in 2002 commencing before June 16, 2002) multiplied by the lesser of,

- one-quarter of the total of the amounts payable for 2002, and
- one-quarter of the total of the amounts payable for 2001.

## **Remittance Advice Forms**

GRC payments are to be made using one or a combination of the remittance advice forms provided by the Ministry of Finance. Station owners and water power leaseholders are asked to complete and detach the applicable remittance advice form(s) and send it to the Ministry of Finance, together with their GRC payment(s), in the self-addressed envelope also provided by the ministry.

All returns, payments and remittance advice forms are to be submitted to the Minister of Finance, including cheques that are made payable to OEFC for charges under subsection 92.1(2) of the Act.

## **Interest**

Debit interest is calculated and charged daily on the unpaid portion of any amount payable, from the day on which the payment is due to the day on which the amount plus interest is received. Credit interest is allowed on instalment payments in the same manner interest is allowed on instalment payments under the Corporations Tax Act.

## **5 per cent Penalty**

Station owners and water power leaseholders may be liable to a penalty equal to 5 per cent of any unpaid amount or \$6, whichever is greater, if they do not make full payment by the GRC Annual Return due date.

## **GRC Annual Return**

### **2001 GRC Annual Return**

The 2001 GRC Annual Return must be delivered to the Minister of Finance on or before May 16, 2002, along with full payment of all amounts payable for 2001.

### **2002 and Subsequent Years**

For 2002 and subsequent years, the GRC Annual Return is due on or before March 16th of the year following the year to which the Annual Return relates.

## **Exemptions and Deductions**

### **Exempt Stations**

The following stations are exempt from the GRC:

- Every station that is exempt from provincial, municipal and school taxes and fees under section 12 of The Ottawa River Water Powers Act, 1943.



- Every station that is a work erected by a conservation authority, as referred to in subsection 33 (1) of the Conservation Authorities Act.
- The Stan Adamson Power House on the Ottonobee River in the City of Peterborough, while it is owned and operated by Trent University.
- The Prairie Portage Generating Station in Quetico Provincial Park, while it is owned and operated by the Crown in right of Ontario.

## **Exemptions from Water Rental Charges**

The holder of the water power lease for each of the following stations is exempt from the water rental component of the GRC on the gross revenue derived each year from the following amount of annual generation of the station:

- 270.608 gWh or, in a leap year, 271.35 gWh of annual generation of the Francis H. Clergue Generating Station on the St. Mary's River in the City of Sault Ste. Marie.
- 58.03062 gWh or, in a leap year 58.189608 gWh of annual generation of the Big Eddy Generation Station on the Spanish River in the City of Greater Sudbury.

## **Prior 10-Year Holiday from Water Rentals**

Under subsection 92.1 (7) of the Act, a holder of a water power lease who was not required to pay a hydro-electric charge under the Public Lands Act because the station has been in service for less than 10 years is exempt from the water rental component of the GRC for the remainder of the 10-year period, if any.

The above exemptions are provided only for the purpose of ensuring similar treatment for stations that were exempt from property taxes and water rental charges prior to the GRC effective date.

## **Deduction for Eligible Capacity Available for 120 Months**

In order to encourage investment in the generation of electricity from water power, subsection 92.1 (6) of the Act provides that the gross revenue from the generation of electricity from eligible capacity may be deducted from gross revenue for the purposes of calculating the GRC amounts payable. The deduction for eligible capacity is available for the first 120 months after the eligible capacity is put into service, as determined by the Minister of Natural Resources.

The eligible capacity of a "new" or "redeveloped" station refers to the station's total annual generation. The eligible capacity of an "upgraded" station refers to the incremental increase in the amount of electricity generated annually by the upgraded station as a result of the upgrade.

## **Statements Issued by the Minister of Natural Resource**

In order to claim this deduction, the station owner or the holder of the water power lease

must provide the Minister of Finance with a statement issued by the Minister of Natural Resources, and any amended statement issued by the Minister of Natural Resources, that contains the following information:

- Whether the work carried out was to construct a new station, to redevelop the station or to upgrade the station.
- That the work was carried out in accordance with an approval issued by the Minister of Natural Resources under the Lakes and Rivers Improvement Act.
- The date that the eligible capacity was put into service.  
If the work was to upgrade the station, the projected percentage increase in the amount of electricity generated annually by the upgraded station as a result of the upgrade.

## Additional Information

If this bulletin does not completely address your particular situation, refer to the Electricity Act, 1998 and related regulations, visit our website at [ontario.ca/finance](http://ontario.ca/finance) or contact:

Ministry of Finance  
Motor Fuels and Tobacco Tax  
33 King Street West  
PO Box 625  
Oshawa ON L1H 8H9

- 1 866 ONT-TAXS (1 866 668-8297)
- Fax: 905 433-5680
- 1 800 263-7965 for teletypewriter (TTY)

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## **Appendix 4**

Power Dam Payment Recipients – From 2012 Financial Information Returns (for illustration purposes only and not changed to 2013 or 2014 as CPP payments were frozen at the 2012 levels).

## Power Dam Payment Recipients – From 2012 FIRs

Municipality	Power Dam Compensation	Payment as % of Own purpose taxation
Admaston-Bromley Tp	\$5,001	0.470%
Amprior T	\$49,034	0.704%
Arran-Elderslie M	\$2,551	0.052%
Atikokan Tp	\$545,006	0.982%
Bancroft T	\$687	0.017%
Billings Tp	\$4,974	0.523%
Black River - Matheson Tp	\$10,369	0.403%
Blind River T	\$95,334	2.401%
The Blue Mountains T	\$570	0.005%
Bonnechere Valley Tp	\$2,654	0.105%
Bracebridge T	\$26,538	0.258%
Brantford C	\$808	0.001%
Brockton M	\$3,764	0.064%
Bruce Co	\$4,866	0.014%
Brudenell, Lyndoch and Raglan Tp	\$6,059	0.879%
Burk's Falls V	\$7,658	0.915%
Casselman V	\$2,101	0.101%
Centre Wellington Tp	\$4,678	0.048%
Charlton-Dack M	\$7,929	2.078%
Cochrane T	\$221,871	4.901%
Coleman Tp	\$660	0.072%
Conmee Tp	\$1,209	0.234%
Cornwall C	\$419,499	0.814%
Dysart et al Tp	\$1,100	0.020%
Ear Falls Tp	\$45,234	2.354%
Edwardsburgh-Cardinal Tp	\$23,462	0.640%
Espanola T	\$797,281	9.933%
Fauquier-Strickland Tp	\$345,846	57.889%
Fort Frances T	\$350,807	3.214%
Frontenac Co	\$977	0.012%
Gananoque ST	\$14,532	0.234%
Georgian Bay Tp	\$10,673	0.264%
Greater Madawaska Tp	\$794,030	49.113%
Greater Sudbury C	\$622,400	0.300%
Greenstone M	\$239,222	2.091%
Grey Co	\$10,425	0.022%

Municipality	Power Dam Compensation	Payment as % of Own purpose taxation
Grey Highlands M	\$28,857	0.485%
Haliburton Co	\$10,202	0.087%
Hamilton C	\$9,163	0.001%
Hastings Co	\$6,007	0.050%
Havelock-Belmont-Methuen Tp	\$7,963	0.174%
Head, Clara and Maria Tp	\$105,558	24.909%
Highlands East M	\$5,410	0.132%
Horton Tp	\$25,683	1.766%
Huron Shores M	\$36,956	1.602%
Iroquois Falls T	\$870,743	14.758%
Kapuskasing T	\$63,872	0.600%
Kawartha Lakes C	\$53,714	0.066%
Kenora C	\$467,445	2.332%
Killaloe, Hegarty and Richards Tp	\$158	0.009%
Kingston C	\$3,672	0.002%
Lanark Co	\$42,020	0.153%
Lanark Highlands Tp	\$6,580	0.162%
Latchford T	\$104,822	19.256%
Laurentian Hills T	\$44,398	1.679%
Leeds and Grenville UCo	\$6,585	0.022%
Machar Tp	\$4,147	0.301%
Machin Tp	\$6,573	0.436%
Madawaska Valley Tp	\$34,981	1.005%
Marmora and Lake M	\$9,243	0.345%
Matachewan Tp	\$8,870	4.596%
Mattawa T	\$11,834	0.567%
Mattawan Tp	\$75,848	32.646%
McNab-Braeside Tp	\$185,945	5.943%
Merrickville-Wolford V	\$2,747	0.126%
Minden Hills Tp	\$55,976	1.010%
Mississippi Mills T	\$46,668	0.634%
Muskoka D	\$22,521	0.028%
Muskoka Lakes Tp	\$22,491	0.292%
Naim and Hyman Tp	\$56,027	8.237%
Niagara Falls C	\$2,261,853	4.141%
Niagara R	\$1,632,351	0.569%
Niagara-on-the-Lake T	\$115,640	1.411%
Nipissing Tp	\$472	0.025%

Municipality	Power Dam Compensation	Payment as % of Own purpose taxation
North Frontenac Tp	\$8,124	
North Kawartha Tp	\$1,782	0.191%
Northumberland Co	\$55,810	0.045%
Oliver Paipooonge M	\$6,711	0.133%
Ottawa C	\$235,268	0.136%
Papineau-Cameron Tp	\$6,238	0.019%
Parry Sound T	\$16,451	0.567%
Peterborough C	\$121,759	0.229%
Peterborough Co	\$32,560	0.126%
Port Hope M	\$972	0.102%
Powassan M	\$50,652	0.007%
Prescott and Russell UCo	\$1,505	2.039%
Quinte West C	\$388,586	0.004%
Renfrew Co	\$394,109	1.120%
Renfrew T	\$18,137	1.227%
Rideau Lakes Tp	\$1,581	0.299%
Sables-Spanish Rivers Tp	\$79,798	0.027%
Sault Ste. Marie C	\$1,568,438	3.454%
Smith-Ennismore-Lakefield Tp	\$6,129	1.748%
Smiths Falls ST	\$12,479	0.078%
Smooth Rock Falls T	\$155,058	0.120%
South Dundas Tp	\$110,407	10.325%
South Frontenac Tp	\$656	2.146%
South Stormont Tp	\$169,287	0.005%
St. Catharines C *	\$350,697	3.969%
Stormont, Dundas and Glengarry UCo	\$101,330	0.443%
Terrace Bay Tp	\$3,617	0.286%
The North Shore Tp	\$121,047	0.116%
Timmins C	\$17,009	22.024%
Trent Hills M	\$135,911	0.030%
Tweed M	\$665	1.462%
Wawa M	\$2,350,908	0.020%
Wellington Co	\$7,035	66.512%
West Grey M	\$1,441	0.009%
West Nipissing M	\$278,346	0.022%
Whitewater Region Tp	\$49,146	2.264%
		1.504%

## **Appendix 5**

Email Report from Chris Wray, CAO/Clerk-Treasurer July 7, 2014 in respect of the impact and effect on the municipality of Wawa with observations, historical context and inviting other municipalities in similar quandaries to collectively respond to the reduction in payment and downloading of Provincial cost.



**From:** Chris Wray

**Sent:** July-07-14 7:54 PM

**Subject:** Power Dam Special Payment Program - Ontario Budget

Dear Colleagues:

There are some communities across the Province of Ontario that are looking forward to the adoption of the current Provincial Budget; many more are not. Many communities are struggling with aspects of the current budget such as the accelerated cuts to the OMPF program, the unknown aspects of a new OPP billing model and questions about funding for aging infrastructure. If you are receiving this email it is because your community is also subject to a cut in the Power Dam Special Payment Program.

The proposed clawback of this program should be alarming for many communities. Implemented in 2001, the program was put in place to replace the taxation revenues associated with hydro-electrical plants, poles and wires when these properties were deemed exempt. In the case of the Municipality of Wawa, this meant that 47% of our property assessment base was declared exempt – can you imagine a change of this magnitude happening to your community?

We have attached a brief excerpt from the Provincial Budget document, yet somehow this does not do justice to the ramifications of the proposal. The following are few additional thoughts:

1. The program is very small (\$18.7 million in 2014) when compared the multi-billion annual budget yet the impact of the clawback is large for many of the communities.
2. Payments range from \$158 (0.002% own purpose taxation) to \$2,350,908 (66.512% own purpose taxation). These payments are significant contributions to the revenue base of many participating communities.
3. The program represents property that was previously taxable assessment. The right to tax the subject properties was removed in 2001.
4. The previous property taxation model was replaced with a gross receipts model wherein payments are now submitted to the Province of Ontario. The Province of Ontario has refused to release the amounts of these payments.
5. Since 2001, the payments have not kept pace with either inflation or the property taxation rates in any community. This has resulted in an unfair shift to the remaining assessment base.
6. Payments to MPAC still reflect a calculation that uses the now exempt assessment. Communities therefore pay MPAC for the assessment of property that is no longer assessed.
7. ARB cases that may have existed prior to 2001 would require taxation refunds from their remaining property assessment.



8. The only way for participating communities to recapture the subject revenue would be through a taxation increase to the remaining assessment. Alternatively, services could also be cut to compensate for the loss in revenue.
9. The clawback of this program affects 110 communities across the Province, many in a very significant way.
10. There is nothing that is fair or manageable about the reduction in this program.

Should the Province proceed ahead with this clawback, Wawa will be unable to meet financial obligations. Many services will need to be eliminated or reduced or a property taxation levy increase of 12.6% will need to be implemented. Either way, it is our ratepayers that lose.

Given the above, Wawa is prepared to host or co-host, in a central location, a joint meeting of interested and concerned communities to discuss how to best approach this matter before it is too late. To that end, we would appreciate hearing from you by way of return email (to this email address). If you require more information or wish to discuss this matter, you can call the following:

Linda Nowicki Mayor	Chris Wray CAO / Clerk-Treasurer
------------------------	-------------------------------------

We look forward to hearing from you as soon as practicable.

Best Regards,

Linda Nowicki  
Mayor

Chris Wray  
CAO / Clerk-Treasurer

## Power Dam Special Payment Program

The Province provides a special annual payment to municipalities hosting hydro-electric generating stations (power dams). Through this program, the Province has been providing municipalities with funding that reflects the amount of property tax revenue that each municipality received from these stations prior to 2001, when the stations became exempt from property taxation.

In 2013, the Province advised municipalities that this program would be reviewed as part of a broader examination to ensure government programs meet their policy objectives, while taking into account the government's ongoing effort to make responsible spending choices. Pending the outcome of the review, the Province committed to maintain a stable level of funding to municipalities under this program for the 2013 and 2014 taxation years.

As a result of the Province's review, and in the context of the government's commitment to continue to manage spending, the program will be phasing down to \$14.3 million by 2017.

TABLE 1.10 Power Dam Special Payment Program Annual Funding (\$ Millions)				
	2014	2015	2016	2017
Annual Payments to Municipalities	18.7	18.1	16.8	14.3

The Province will work with municipalities on ways to implement the phase-down in a manner that is fair and manageable.

## **Appendix 6**

Two letters from Her Worship Mayor Linda Nowicki, July 3, 2014; one to the The Honourable Premier of Ontario, Kathleen Wynne and one to the Honourable Minister of Finance, Charles Sousa in strong objection to the Province's announced unilateral reductions in Compensatory Payments.



**The Office of the Premier of the Province of Ontario  
Legislative Building  
Room 281  
Queen's Park  
Toronto, ON M7A 1A1**

**Attention: The Honourable Kathleen Wynne - Premier**

**July 3, 2014**

**Dear Premier Wynne:**

**Re: Update – Municipality of Wawa**

I am so pleased that you are enjoying your Flood Mud mug. I ask that you pour yourself a mug of your favourite beverage while you consider the new dilemma faced by Mr. Sanders and his fellow Wawaites.

In 2001, the Municipality of Wawa lost the right to tax almost 50% of its assessment base when the Province of Ontario exempted power dams from property taxation. No other municipality in the Province has ever been stripped of such a large amount of property assessment through Provincial legislation. This was replaced with a program of compensatory payments. The budget that your government is now proposing to introduce proposes to reduce these compensatory payments by as much as 23%, financially crippling our community. This is all notwithstanding a decades old Assessment Review Board case concerning the power dams that could result in Wawa having to return in the area of \$7.5 million in past taxation.

In the past fifteen years, Wawa has had to deal with the loss of major employers including Algoma Ore and Weyerhaeuser while having to absorb the collapse of the forestry, mining and tourism industries. The loss of, employment, the ability to tax power dams and far too many public sector jobs to mention have left us questioning the sustainability of the community.



**P.O. BOX 500, 40 BROADWAY AVENUE, WAWA, ONTARIO, P0S 1K0  
Telephone: (705) 856-2244, Fax: (705) 856-2120, Website: [www.wawa.cc](http://www.wawa.cc)**



The present Provincial Budget document proposes to "clawback" approximately \$889,000 over the next four years and then approximately \$548,000 for every year thereafter; all on an annual payment of \$2,350,908 (received in 2013). In order to compensate for this loss, we will need to increase our municipal property tax levy by 12.6%, notwithstanding planned decreases in OMPF payments and a declining assessment base. Our community cannot afford this devastating blow; Mr. Sanders can't afford this.

Unfortunately the bad news does not stop there. Despite the assistance provided by the Province of Ontario through the ODRAP Program, and due to the cost of replacing two of the flood ravaged bridges, we still find ourselves over \$800,000 short in repairing the flood damage. The remainder of our infrastructure is also in desperate need of attention with our most pressing need being the re-build of our sewage system at \$1.3 million. How can we possibly manage any of this given the proposed cuts to the compensatory power dam payments?

A reduction in revenues of this size at any time will not allow us to meet our obligations, including those obligations to others. Our former Mayor, Howard Whent made the following point in a recent letter to the editors of local media outlets:

*"This would not only impact Wawa, it would affect all 20 municipalities served by the Algoma District Services Administration Board (ambulance, child care, social housing, Ontario Works). This year (2014) Wawa will contribute \$870,879 of the \$2,326,051 power dam compensation to the operation of this Board. (Wawa will contribute an additional \$626,955 from the actual tax base). If Wawa gets less as power dam compensation, the contribution to this Board will be reduced and that means that all the municipalities would have to then pay for the difference. (I won't go through the calculations but the amount would be in the hundreds of thousands.)"*

The Province of Ontario went to great lengths to develop and legislatively adopt the Growth Plan for Northern Ontario (2011). How is asking small northern communities to give so much more than they can afford in keeping with this plan? I quote again from former Mayor Whent's letter:

*"This means then that in reality the "power dam payment" at the proposed \$1,767,636 would actually mean about a million dollar loss in "purchasing power" (i.e. to pay for the same services as the \$2 million brought in 2000). I know that the Municipality cannot possibly reduce costs or increase taxes to cover this magnitude of a financial hit."*

Further, Premier Wynne stated immediately after her election that the people of Ontario have chosen to look to the future with "optimism" and that your government will provide "opportunities for their communities". Wawa is facing the opposite.

The people of Ontario helped us through our natural disaster. Your budget will create a financial disaster. Our community is being asked to cut far more than any other. This is not fair and I am sure the taxpayers of Ontario would agree.

Mr. Sanders wants to stay here and make more Flood Mud pottery and the people of Wawa want to remain in their homes. Please leave the dam payments as they are and revisit the policy of CPI adjustments applied in past years.

**Best Regards,**



**Linda Nowicki**  
**Mayor**

Cc: The Hon. Michael Gravelle – Minister of Northern Development & Mines  
The Hon. Charles Sousa – Minister of Finance  
The Hon. Ted McMeekin – Minister of Municipal Affairs & Housing  
The Hon. Jeff Leal – Minister of Agriculture & Rural Affairs  
The Hon. Bob Chiarelli – Minister of Energy  
The Hon. Madeleine Meilleur – Attorney General & Minister of Francophone Affairs  
Michael Mantha – MPP, Algoma-Manitoulin  
Lynn Buckham – MMAH, Sudbury  
David King – MMAH, Sudbury  
Kathy Horgan – MMAH, Sudbury  
Paul Prosperi – MMAH, Sudbury  
Allan Doheny – ADM, Ministry of Finance  
AMO  
FONOM  
NOMA  
ADSAB  
Municipalities receiving power dam compensatory payments



The Ministry of Finance  
Frost Bldg South  
7th Floor  
7 Queen's Park Cres  
Toronto, ON M7A 1Y7

Attention: The Honourable Charles Sousa - Minister

July 3, 2014

Dear Minister Sousa:

Re: Update – Municipality of Wawa

On behalf of the Municipality of Wawa, congratulations of your recent re-election and appointment as Minister of Finance.

You may recall that during Wawa's disastrous rainfall and flooding in October 2012, our local potter, Jim Sanders, lost everything when the waters rose and his home and shop ended up in a deep gorge that was, prior to the flood, his driveway. With the assistance of the ODRAP fund, Mr. Sanders was able to relocate to a new home and re-establish his business.

Somehow, in the confusion of the above noted events, Mr. Sanders was able to return to his destroyed home, gather some of the mud and clay that now filled his living room and create a line of pottery he calls "Flood Mud". To that end, we are enclosing for you, a Flood Mud Mug designed by Mr. Sanders. I ask that you pour yourself a mug of your favourite beverage and consider the new dilemma faced by Mr. Sanders and his fellow Wawaites.

In 2001, the Municipality of Wawa lost the right to tax almost 50% of its assessment base when the Province of Ontario exempted power dams from property taxation. No other municipality in the Province has ever been stripped of such a large amount of property assessment through Provincial legislation. This was replaced with a program of compensatory payments. The budget that your government is now proposing to introduce proposes to reduce these compensatory payments by as much as 23%, financially crippling our community.



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Best Regards,



Linda Nowicki  
Mayor

cc: The Hon. Michael Gravelle – Minister of Northern Development & Mines  
The Hon. Ted McMeekin – Minister of Municipal Affairs & Housing  
The Hon. Jeff Leal – Minister of Agriculture & Rural Affairs  
The Hon. Bob Chiarelli – Minister of Energy  
The Hon. Madeleine Meilleur – Attorney General & Minister of Francophone Affairs  
Michael Mantha – MPP, Algoma-Manitoulin  
Lynn Buckham – MMAH, Sudbury  
David King – MMAH, Sudbury  
Kathy Horgan – MMAH, Sudbury  
Paul Prosperi – MMAH, Sudbury  
Allan Doheny – ADM, Ministry of Finance  
AMO  
FONOM  
NOMA  
ADSAB  
Municipalities receiving power dam compensatory payments

## **Appendix 7**

Association of Municipalities of Ontario, 08/06/2015 entitled Province  
Decreasing Power Dam Payments.

## Province Decreasing Power Dam Payments

08/06/2015

### Power Dams Backgrounder

Across Ontario, 110 municipal governments host power dams. These communities rely on provincial payments to make up for the lost property tax revenues from hosting the tax-exempt facilities. In its 2014 Budget, the Province proposed cutting these payments by \$4.4 million over four years. Ontario's 2015 Budget deferred this cut by one year, while the Province considered options to restore municipal taxation authority over power dams. To date, such a plan remains pending. Given delays in provincial decision-making, municipalities are asking for a further deferral in 2016, or to eliminate changes to these payments altogether.

The cuts will have a significant financial impact on municipalities with power dams. For example, for the Municipality of Wawa, payments under this program represent the uncollectable tax revenue coming from 47 per cent of its property assessment base. To make up for these losses, residents of Wawa face a 12.6 per cent property tax increase over four years.

Hydro-electric generation facilities were made tax-exempt in 2001, with the Province compensating municipalities for lost property taxes on the hydro facilities in existence at that time. Compensation was based on the amount of taxes levied on those facilities in the 2000 tax year. From 2006 onwards, these payments were indexed based on the Consumer Price Index, at the discretion of the Minister.

The power dam payments to municipalities totalled \$18 million in 2012. In September 2012, the Ministry of Finance informed municipalities that the power dam special payment program would be examined as part of a broader review of government programs, taking into account the Province's fiscal situation.

For the 2013 and 2014 taxation years, the payments issued to municipalities under the power dam special payment program were frozen at their 2012 levels. The Ministry is now consulting with municipalities about the future design of the program.

AMO is extremely concerned with this provincial direction – particularly that there has been no analysis of the cumulative fiscal impact of multiple provincial initiatives on local governments, such as accelerated cuts to the Ontario Municipal Partnership Fund (OMPF) and changes to the OPP billing model.

The reduction of these payments is inconsistent with recent court decisions affecting the federal government and Provincial Payments in Lieu (PILs). Any erosion of these payments could open the Province up to potential legal and equity challenges.

### Contact

Matthew Wilson

Senior Advisor

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T 416.971.9856 ext. 323

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F 416.971.6191

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## **Appendix 8**

Independent Power Producers Society of Ontario (IPPSO) position and argument made to the Standing Committee of the Province of Ontario prior to 2000 in respect of tax burden and inequitable competition.

### Perspective of the taxpayer

#### INDEPENDENT POWER PRODUCERS' SOCIETY OF ONTARIO (IPPSO)

The membership of IPPSO covers a broad spectrum of energy producers, service suppliers, financiers and interested professionals. The membership, as represented by the private hydro-electric power producers, appreciate the opportunity to appear before the standing committee on finance and economic affairs and make submissions in respect of the Fair Municipal Finance Act.

Who are we? Hydro-electric generating stations are capital-intensive projects which require long-term financing. We actually finance our projects up to 35 years. During this period, the net operating income received by the developer is very small compared to the capital investment. That's due to the high leverage nature of our projects. Property taxes are the most significant element of all expenses, after debt repayment. Any increase in property taxes has a significant impact on the profitability and long-term viability of an independent hydro-electric generating station.

This brings us to what the problem is. In the early 1990s, the assessment division of the Ministry of Revenue changed the method of valuing private hydro-electric generating stations for assessment purposes. This resulted in a significant increase in taxes paid by private utilities.

Those private utilities which have negotiated long-term fixed-price contracts with Ontario Hydro have seen drastic reductions in the real market value of our facilities. This change to a new valuation method on private utilities has had a significant adverse impact on an already very thin cash flow. For private utilities, which distribute power directly to the consumers and can seek annual adjustments to their rates, such as Great Lakes Power, the change meant an increase in the actual rates charged to industrial, commercial and residential consumers.

The increase in property taxes paid was the major contributing factor to the elimination of any new investment in private hydro-electric generating stations and the reduction in value and significant losses faced by many managers of existing private utilities. In fact, they have stopped developing a few projects in Ontario only because of the burden of municipal taxes.

In Ontario, the largest producer of hydro-electricity is Ontario Hydro. Ontario Hydro's assessment is determined according to section 52 of the Power Corporation Act. Ontario Hydro is not treated like a private business or citizen. The municipal tax levied on private hydro-electric power producers such as Ontario Hydro is substantially higher than the grants in lieu paid by Ontario Hydro to local municipalities.

All private utilities are assessed pursuant to the provisions of the Assessment Act by the Ministry of Finance's regional assessment commissioners. The Ontario government and

Ministry of Finance have prescribed by policy direction the manner in which market value for private hydro-electric generating stations is determined.

In determining the value for assessment purposes, the ministry's assessor considers such factors as the royalties paid to the government for water power rights and the installed capacity of the generating station.

On the other hand, Ontario Hydro is exempted from the provisions of the Assessment Act by virtue of section 52(l) of the Power Corporation Act. Ontario Hydro makes payments of grants in lieu of property taxes to municipalities in which it is situated. These grants are set at the rate of \$86.11 per square metre of floor area of the generating station where the machinery and equipment are located.

The alternative assessment methodologies for Ontario Hydro and private utilities result in a radical difference between the municipal taxes levied on private utilities and the grants in lieu paid by Ontario Hydro.

By way of example, a review of five generating stations owned and operated by Ontario Hydro indicate that estimated grants in lieu paid by Ontario Hydro under the Power Corporation Act were \$508,000 in 1994. If you look at tab A in our submission, we did a calculation of the grants in lieu that Ontario Hydro paid for five existing facilities in 1994. If Ontario Hydro paid taxes the same way as private utilities, that number would be \$25.3 million.

Conversely, for a seven-year period from 1990 to 1996, one of our members paid a total of \$48.366 million in realty and business taxes to the local school boards and municipalities where it is situated. If this producer had been assessed pursuant to section 52(3) of the Power Corporation Act, the same way Ontario Hydro is assessed, then it would have paid a total of \$1,227,300 in grants during the same period. That calculation is shown in tab B of our submission.

This disparity in treatment is demonstrated by way of another example. The 10.5-megawatt Healey Falls generating station on the Trent-Severn waterway is owned by Ontario Hydro and pays grants in lieu in the amount of \$13,571, one tenth of the taxes paid by another member, which happens to be Algonquin Power. We're assessed at \$125,000 per year for municipal taxes for a four-megawatt project. This is about 25 times greater than what Ontario Hydro pays in grants in lieu.

In the rest of the world outside Ontario, huge systemic changes are taking place in electricity markets. Electricity is bought and sold in a continental energy market and the walls between jurisdictions which permitted monopolistic rate-making are tumbling. Those producers who will survive in the continental energy market are those who can compete internationally. A significant geographic variation in property tax burdens can create winners and losers in the continental energy market.

The present level of municipal taxes in Ontario is a barrier to economic development and unfair to the private sector in the province. Deregulation will occur in Ontario, either in the distant or near future. Like Ontario Hydro, private producers are looking to the United States as a market for generated electricity. Ontario Hydro has announced that it is preparing for deregulation and intends to compete with all power generators. Unfortunately, due to the unfair municipal tax burden, we cannot compete with a tax-free Ontario Hydro.

As the government moves towards deregulation and the possible privatization of Ontario Hydro, the burden of taxation on hydro-electric generating stations must be equalized because: (a) private utilities in Ontario and elsewhere in the North American market do not have the benefit of a virtual property tax exemption as does Ontario Hydro, and so are forced to compete unfairly with the subsidized Ontario Hydro; (b) Ontario Hydro facilities could not support the burden of taxation paid by private utilities, and thus a rational taxation policy must be developed; (c) the current burden of taxation on private utilities results in tax levels which are significantly higher than those faced by competitors in many parts of the North American energy market which, if applied to Ontario Hydro properties, would render the privatized plants uncompetitive in the North American market.

What is a rational tax policy? We do not support imposing tax burdens on Ontario Hydro similar to those that are presently imposed on private power producers, nor do we ask for a virtual exemption from taxation such as that enjoyed by Ontario Hydro today. We propose that the province of Ontario set a uniform provincial rate of taxation on all private hydro-electric power producers equivalent to 3% of gross revenues derived from the sale of electricity produced by the taxpayer.

This solution has several advantages: First, it establishes equity between private utilities and Ontario Hydro. Second, it is consistent with the tax treatment of utilities in Quebec, and thus establishes equity with a significant competitor in the continental marketplace. Third, it adjusts downward the burden of taxation on private utilities to a level which results in economic viability.

How can this be accomplished? Section 7(l) of Bill 106 provides the Minister of Finance with the authority to "prescribe classes of real property for the purposes of this act." The ministry has already issued draft regulations under the Assessment Act referring to the classification of real property. We included in tab C parts of that draft regulation.

The industrial property class is deemed under section 5(2) to include "land used to produce or transform electricity." We are proposing that the Minister of Finance use his authority created under Bill 106 to create a new, additional class of real property in Bill 149 to be known as the "private utility property class." This class would be defined to include "land used to produce or transform hydro-electricity."

The creation of such a class is consistent with other provisions in the Assessment Act for the assessment and valuation of public utilities, such as section 27 of the Assessment Act, which interestingly enough are to be assessed as if they were in the commercial property class. This technical solution would allow the province of Ontario to establish a tax rate for all properties within the private utility property class based upon 3% of the gross revenue derived by the private utility from the sale of hydro-electric energy produced by the utility at that particular location. The result would permit private utilities to compete in the continental energy market and put Ontario Hydro on a level playing field with the private sector.

**The Acting Chair:** Thank you very much, sir, for your presentation. We have approximately six minutes for each caucus, starting with the Conservative caucus.

**Mr Grimmatt:** I wonder if you could perhaps comment on how the elimination of the business occupancy tax might affect your industry.

**Mr Carruthers:** We understand that the real property tax will go up to compensate for it, so at the end of the day we don't anticipate any decrease in taxes.

**Mr Grimmatt:** How did you feel about the business occupancy tax?

**Mr Carruthers:** Great Lakes Power has had an appeal in to the Minister of Revenue since 1989. We're going into our ninth year of fighting a tax appeal. The current rate of business tax is one of the main issues under that. The difficulty with the business tax as it is written is that there are different percentages for different types of businesses, and there didn't appear to be any logical rationale for that. That's one of the issues of our appeal, whether we're at a 60% rate or a 30% rate, which we won at the Assessment Review Board and lost at the Ontario Municipal Board, and now we're proceeding to the Divisional Court.

**Mr Grimmatt:** You did have one of the higher rates.

**Mr Carruthers:** We did have a higher rate, of 60%. Eliminating the business tax is fine. Then you get into fighting what's proper property evaluation. Our proposal in here, the 3%, would eliminate a lot of work for the lawyers and assessors because it's very difficult -- you really can't assess hydro-electric plants like a building in downtown Toronto. Each hydro-electric plant is site-specific to the location. It might have a bigger dam, a different size of powerhouse, pen stocks. They're all really site-specific. You really can't come up with a standard formula to apply to a hydro-electric plant. This is one of the things in our appeal, that when we eventually get into the property valuation, we will be going into a detailed appeal on each of our 12 plants, because there's no way we can do it on a common basis.

**Mr Grimmatt:** Your suggestion of a 3% tax on gross revenues, you indicate that's the situation in Quebec. Is that correct?

**Mr Carruthers:** Yes.

**Mr Grimmatt:** What about other jurisdictions? What about Manitoba and the bordering states? What are their approaches?

**Mr Carruthers:** In Manitoba, as we understand it, it's all Manitoba Hydro government agency and they pay practically no tax.

**Mr Grimmatt:** Do you know about the American jurisdictions, how they're taxed?

**Mr Kerr:** Yes, we have seven facilities in upstate New York. It's a little different in New York, where you can go to a municipality and make an agreement with the municipality on tax



assessment. You can make an agreement to pay a grant or payment in lieu of taxes. The taxes are assessed on a market value, which is based on revenue of the plant. They do an actual value assessment of the plant, how much revenue it makes, then municipal tax is based on that.

In Ontario it's based on a formula that was devised by the assessment division, that puts value on the dam, the amount of concrete you have, the land you're sitting on, it gives you value based on the water rental rate. It's a complex formula. It doesn't have anything to do with what type of revenue the plant makes.

**Mr Grimmatt:** What would the impact on provincial revenue be of your suggested proposal?

**Mr Kerr:** It's very little on our side, because in the aggregate we're not a big taxpayer. But it would be a windfall if Ontario Hydro started paying 3% of municipal taxes, because they pay next to nothing in their grants in lieu of taxes.

**Mr Grimmatt:** You're suggesting that this special property class would also apply to Hydro.

**Mr Kerr:** We're proposing that, yes.

**Mr Grimmatt:** What would be the impact on your industry?

**Mr Kerr:** Right now the impact on our industry is significant by the taxes we pay. Our projects are so highly leveraged that our free capital --

**Mr Grimmatt:** I'm talking about the potential impact on your industry of the proposed method.

**Mr Kerr:** It would save our industry. Our industry is in trouble.

**Mr Grimmatt:** What would be the impact financially, though? You've got the figures here.

**Mr Kerr:** We would pay about a third of the tax we're paying now if we were assessed at the current assessment rate.

**The Chair:** Mr Phillips, you have about six minutes.

**Mr Phillips:** I want to try and follow up on that. Roughly speaking, what does your industry pay currently in total realty and business occupancy tax?

**Mr Carruthers:** I would estimate about \$12 million.

**Mr Phillips:** A year?

**Mr Carruthers:** Yes.

**Mr Phillips:** Because the one example you used here said one of your members has paid \$48 million in seven years --

**Mr Carruthers:** That's Great Lakes Power.

**Mr Phillips:** So you must be the bulk of the industry, then. You're over half of the industry.

**Mr Carruthers:** Yes.

**Mr Phillips:** So \$12 million a year in property taxes. You're paying business occupancy tax at the rate of 60%, are you?

**Mr Carruthers:** Correct. That's included in that number.

**Mr Phillips:** And it's going to drop to 40%, so you'll pick up maybe a couple of million dollars there in reduced taxes. If realty taxes will go up, we're told, by about 40% instead of 60% -- that's our understanding. That's the one piece of good news, I gather, in the legislation.

**Mr Carruthers:** Our legal advice is saying, "Don't anticipate any changes in taxes." That's good news if that's what it's going to be.

**Mr Phillips:** If you're paying 60% and it's going to drop to 40% -- you can just work it all out. I think it's somewhere around \$2 million. Then your proposal here is that all the industries -- I think what confused some of us, maybe Mr Grimmett and myself, was that your proposal was that the private utilities be charged 3%. You define Hydro as a private utility. Is that right?

**Mr Carruthers:** Correct.

**Mr Phillips:** So that's where you get the 3%.

**Mr Kerr:** In deregulation we will be competing head to head with Ontario Hydro. We see the inequity in that we pay such a high burden of municipal taxes when Ontario Hydro by the Power Corporation Act doesn't pay.

**Mr Phillips:** If Hydro were to pay at the rate you're paying, have you any idea what they would be --

**Mr Kerr:** It would be astronomical.

**Mr Phillips:** Roughly.

**Mr Carruthers:** I would think on their hydro-electric plants it would probably be about \$120 million -- oh, at the rate we're paying?

**Mr Phillips:** Yes.

**Mr Carruthers:** No, that would be \$350 million.

**Mr Phillips:** You raise a very interesting point, because we are passing a law now, if we pass the law, where the government -- if they privatize hydro production, they have to be in the industrial class by law. If they're industrial class by law, they have to be assessed at the industrial rate by law. That would mean a \$350-million property tax charge, which presumably takes the value of those things down by \$3 billion. Is that right?

**Mr Carruthers:** Yes, at least 10 times.

**1540**

**Mr Phillips:** It lops \$3.5 billion off the value of it, which is dramatic. You've focused my mind, at least, and perhaps the committee's mind, on a fascinating issue and on your proposal, I think I also understand, which is to set up a separate class of real property, establish a --

**Mr Carruthers:** Similar to the pipelines.

**Mr Phillips:** Again I ask the question: Right now, if we were to do that, you believe your tax payable might drop from \$12 million to \$4 million or \$5 million? Ontario Hydro would go up a similar amount, do you think?

**Mr Carruthers:** I'm estimating, on a hydro-electric plant, about \$120 million.

**Mr Phillips:** If you make it revenue-neutral, in other words, that the industry pays no more property taxes, you take the 3% down to 2% or something like that.

**Mr Carruthers:** We're not suggesting that.

**Mr Phillips:** Frankly, you've raised a huge issue, that the law we will pass, Bill 149, would not permit the government, I don't think, unless there is another provision in here that the minister can do whatever he wants anyway -- as I understand the law, it would require putting it into industrial property, and further back here you give us the regulation that defines industrial property as land used to produce or transform electricity, right? That's industrial property.

If it's privatized -- in other words, no longer part of the Power Corporation Act -- they would be required to pay taxes at the same rate you pay, which is \$350 million a year. That changes

the value of Ontario Hydro in a quantum way. You've given us the problem and your proposed solution. I now understand a lot better and I can see it's timely that you're here because, as you point out, Ontario Hydro is going to market to buy the stuff you produce from people who don't pay the same tax rate you do. Ontario producers are disadvantaged in competing with their own state protection, if you will, in some respects.

**Mr Carruthers:** That's absolutely correct. It's the hydro-electric plants that are getting hit with the taxation. A gas-fired co-gen pays practically no municipal tax at all. It's less than one mill, whereas the hydro-electric plants, between our municipal taxes and our water power charges, are paying almost one cent. One of our large customers has recently been approached by a large American utility to sell power into Sault Ste Marie at about three cents Canadian, just over two cents US. We can't compete with the pricing that is coming out there. In fact, our company has recently purchased plants in Quebec and we're looking at building new hydro-electric facilities in the province of Quebec because the tax rate is much lower.

**Ms Frances Lankin (Beaches-Woodbine):** You just started to touch on the issue I wanted to ask you about: the treatment of co-gen and NUGs. As we enter a period of time where those are becoming in fashion again, what will the impact be? I just wanted to ask a quick question of clarification when you were answering Mr Phillips's questions.

The proposal you have for 3% would effectively cost Ontario Hydro \$120 million and some odd if they were to be brought on par with what you pay now, and that was your figure of \$300 million and some odd. If they were to be privatized without any change in this legislation affecting the private sector regime, effectively that's a piece of the bill that people have to consider when they look at the economic viability of all this. Could you explain a little bit more to me the issue with respect to co-gens and NUGs?

**Mr Carruthers:** Under the Assessment Act, the machinery and equipment are exempt from municipal assessment. Basically, a co-gen plant is 95% machinery and equipment. That's where they get all the exemptions. We have an interest in a co-gen plant in Sault Ste Marie. We're paying \$160,000 municipal tax on that plant, which produces twice as much power. It's 110-megawatt plant. We also have a hydro-electric plant in Sault Ste Marie that produces 50 megawatts, less than half, and would pay over \$2.2 million in municipal taxes. The co-gen produces twice as much generation. We're really being penalized. It's not only the property tax, we are also paying water power rentals to the Ministry of Natural Resources.

**Mr Pouliot:** On page 5 of your presentation you say, "Unfortunately, due to the unfair municipal tax burden, we cannot compete with the tax-free Ontario Hydro." You did emphasize in your presentation a focus on the competition aspect. Yet I turn to your page 6 and you just as readily acquiesce that there is a difference between your entity and that of the public sector of Ontario Hydro, that they cannot be treated identically.

I take it from your presentation that your mandate is not necessarily to compete with Ontario Hydro but to complement Ontario Hydro. With respect, I'll put it to you this way: We know on the other side of the ledger the liabilities, the obligations. Ontario Hydro at the present time -- it's not a secret to anyone, fully backed by the broad shoulders of the province, is indebted for \$29 billion. It also faces a further liability of some \$2.9 billion, which is all of our CPP. That fact is not as well known. Plus what looms large indeed is an additional, let's say, \$10 billion in the next three to four years to fix the mess, the challenge of nuclear plants.

This will bring their debt to in excess of \$40 billion. They're in the nuclear business plan. You tacitly recognize this and you come up with a proposal for which you are to be commended. It's a refreshing proposal. You say 3% of gross revenue, but let me put that in true perspective. Do you believe that your property taxes are about to increase?

**Mr Kerr:** The property taxes have increased with the new method of assessment. I'll do it by example. We have a project near Kapuskasing that has just been amalgamated by the town of Fauquier. The property taxes, because they became part of municipal taxes -- we were paying Ontario land taxes -- went from \$10,000 to \$310,000. The concern is, the projects were developed on the basis of a tax payment of a certain amount. When the taxes jump up that much, that project does not make any money. It can't handle its own debt servicing any more.

**Mr Pouliot:** I understand, but your proposal of 3% of gross revenue, would that not in effect decrease the taxes you pay?

**Mr Kerr:** Yes. In that situation I just gave you we'd probably pay about \$120,000 a year in taxes, which we think is fair and equitable with what Ontario Hydro pays and what Quebec pays. The 3% we're proposing we pay is the same as Hydro-Quebec and the private producers pay the same amount of municipal tax, which is 3%.

## **Appendix 9**

From AMO President Gary McNamara, December 2, 2015 in respect of Bill 144, the Budget Measures Act, expressing concern about the Government reducing municipal PILT for facilities producing electricity and impinging on limited municipal tax revenues.

Sent via e-mail: [kkoch@ola.org](mailto:kkoch@ola.org)

December 2, 2015

Katch Koch  
Clerk – Standing Committee on Finance and Economic Affairs  
Whitney Block  
Room 1405  
99 Wellesley Street West  
Toronto, ON M7A 1A2

Dear Mr. Koch:

**RE: Bill 144, *Budget Measures Act*, 2015****For Distribution to the Members of the Standing Committee on Finance and Economic Affairs**

I am writing you about Bill 144, the *Budget Measures Act*, on behalf of the Association of Municipalities of Ontario (AMO). Our association represents Ontario's municipal governments on behalf of the public interests they serve. AMO has an interest in the outcome of Bill 144 as some of the proposals would impact municipal governments' finances.

The Bill addresses a long standing request from municipal governments to phase out capping of property tax so that the full vision of current market value assessment may finally be realized. This will have a positive impact on those municipalities that have had to raise taxes for some tax classes to offset the taxation ceiling that capping has offered other tax classes.

AMO has concerns about possible increasing costs without offsetting revenues. The changes to the *WSIB Act* may have these types of impacts. Full details regarding the impacts to the employer as a result of indexing benefits should be provided prior to passing this section so that the effect of this policy change is clearly understood.

The amendments which support the PIL between airports and municipal governments will address the concerns between Toronto and Billy Bishop Airport. However, we ask that this approach only be used where the effected parties see it as the path forward.

AMO is very concerned about the changes to the *Electricity Act* which appear to divert payments in lieu of taxes (PILs) from municipal governments once the stranded residual debt is retired. When these payments were put in place it was expressly understood that they would be directed toward municipalities from municipal utilities, Hydro One and OPG. Every dollar counts for municipal governments. Over half of the municipal governments in Ontario would raise under \$50,000 if they raised taxes by 1%. Municipal revenue tools are limited in

number and it is essential that the Province not impinge on property taxes and payments in lieu of these taxes.

These are the key points that we wish to raise to the Committee as it reviews Bill 144. AMO is suggesting that the Bill be amended to delete from the Bill, Schedule 3, *Electricity Act*, Subsection 5 (1) and (2). We trust that you will endorse this change as the legislation progresses through the Legislative Assembly.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Gary McNamara', with a long horizontal flourish extending to the right.

Gary McNamara  
AMO President