



# Fedeli Focus on Finance

## The facts about the sale of Hydro One

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# The facts about the sale of Hydro One

The discussion regarding the sale of our Hydro One public utility began last year when the Premier's Advisory Council on Government Assets (The Ed Clark Report) was first presented. Entitled *RETAIN & GAIN:*

*Making Ontario's Assets Work Better for Taxpayers and Consumers*, the committee had a defined mission. They were to recommend ways to maximize the value of the LCBO, OPG, and Hydro One. They were to take into account the government's preference

to retain core assets in public ownership and look for ways to improve customer service. Their conclusion: the Province "can retain all three core companies and significantly improve their performance". In fact they concluded "Hydro One transmission should remain in public hands as a core asset". That was then; this is now.

Something happened along the way to Ed Clark's final report, issued five months later. *Striking the Right Balance: Improving Performance and Unlocking Value in the Electricity Sector in Ontario*, claimed their thinking "evolved". They now concluded that the Province should sell a majority interest in Hydro One, through share sales to the public.

It appears what happened is the government realized what the Ministry of Finance had been saying all along: there is no plan to balance the budget; they are not on track to meet their deficit targets. So they opted to burn the furniture to heat the house. They are selling off assets to artificially balance the budget.

Let's just look at the facts: The government passed last year's budget in July, 2014, and only four months later had to come back to the Legislature, cap-in-hand, looking for \$500 million more. The 2014 deficit was \$10.9 billion, up from the previous year's \$10.5 billion, which itself was up from the previous \$9.2 billion deficit. Between rising deficits and not meeting their revenue targets, the government realized its numbers are all headed the wrong way. So they needed the

money from a fire sale of Hydro One – and hoped nobody would notice.

First, for weeks they leaked stories to the media about beer and alcohol ... will she... won't she... what will she do? On rollout day, the Premier announced the sale of Hydro One under a massive banner that read BEER IN GROCERY STORES. She boldly stated that allowing a six-pack to be sold in a limited number of GTA grocery stores was the most dramatic change since Prohibition. And oh, by the way, we're selling Hydro One.

They announced that up to 60% of Hydro One would be sold, yielding \$9 billion. Of that, \$5 billion was to go to pay down Hydro One debt, and \$4 billion was to go to 'transit'. Every media story said they were selling Hydro One so they could invest in transit and infrastructure and stop the gridlock. But this is where their story really starts to unravel.

## Trick or Transit: The 2014 Budget

In the 2015 Budget, the government boasted a \$130 billion, 10-year transit and infrastructure plan, and portrayed it as a massive new investment. And selling the shares of Hydro One was touted as a critical piece of the infrastructure puzzle. However, if you look at the 2014 Budget, the exact same \$130 billion transit and infrastructure commitment had already been announced, except it didn't require a \$4 billion fire sale of Hydro One to make it work.

In fact, in both the 2014 and 2015 Budget documents, the government put forward similar plans to pay for this \$130 billion investment. It included devoting 7.5 cents from the provincial gas tax, using revenues from the existing HST on the provincial gas tax, high occupancy toll lanes, and the aviation fuel tax increase, among other measures. In Table 1.1 (next page), the 2014 Budget included proceeds from asset sales – \$3.1 billion over four years, to be exact. A significant chunk of that has already been realized through the sale of Ontario's remaining GM shares – \$1.1 billion in net proceeds. There was no mention of, nor an expenditure of the \$4 billion now required from Hydro One.



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The proceeds from the sale of Hydro One were not included in the 2014 budget

TABLE 1.1 Dedicated Funds for Moving Ontario Forward (\$ Billions)					
	2014-15*	2015-16	2016-17	2017-18	10-Year Total
2014 Budget: Dedicated Funds	3.3	3.3	3.0	3.2	28.9
Projected Asset Optimization Target (Including Contributions through the Trillium Trust)	1.1	1.0	0.5	0.5	3.1

Source: 2015 Ontario Budget

Given that the government already had its transit and infrastructure plan costed out, the proposed sale of Hydro One and the claim that it's necessary to fund transit should be met with raised eyebrows. The Ottawa Citizen's Randall Denley best summarized what the government is doing:

*"A reasonable person might wonder why we need to sell most of a significant public asset, just to keep doing what we have been doing for years. The real answer, I suspect, is that putting some billions of new money into the province's transit trust will enable the government to quietly shift existing money to help it reduce the deficit or pay for other spending".*

-- Ottawa Citizen, April 22, 2015

In the Legislature, the government never fails to insist the proceeds from Hydro One are to pay for infrastructure. They continue to announce another transit route the money will fund. But there's another reality the government would prefer is ignored – the \$13 billion annually is for total annual capital spending – not just on transit and infrastructure. Approximately 60% is for bricks and mortar, 11% for equipment, 5% for IT, and 20% for transit. And a further fact ... the current commitment is actually down from the \$13.5 billion annual commitment the government made in the 2013 Fall Economic Statement.

## Hydro One Sale Impact

As stated, the plan to sell up to 60% of Hydro One is expected to generate \$9 billion, and \$5 billion is to go toward the \$27 billion Hydro debt. It is held by the little-known Ontario Electricity Financing Corporation, with some estimates of debt as high as \$35 billion.

Prior to the 2015 Budget, Ontario law stated that all proceeds from the sale of Hydro One must be directed toward paying down that debt. As well, annual profits from Hydro One are used to pay down the OEFC debt. However, Ed Clark announced the government will simply change the law so that it can use those proceeds for other purposes. By applying only a portion of the sales proceeds against the debt, and by diluting the

ownership and consequently lowering annual revenue, a serious problem arises. There is less money available to pay an even larger-proportioned debt. The difference will have to come from the beleaguered ratepayers. As energy analyst Tom Adams put it "the debt represents future locked-in rate increases".

*Filling the hole that (Ed Clark) is creating at the OEFC results in a rate increase that he's not talking about ... "this is a shell game".*

-- Tom Adams, Toronto SUN, April 25, 2015

## What you can't see can hurt you

As the expression goes... the devil is in the details. Just days after the Budget was presented, we received the binder of 45 Schedules. This is where all the actual details of the Bill are laid out. And this is where we learned that the oversight Ontarians rely on over Hydro One was going to be eliminated. I first raised this in the Legislature on April 28, 2015:

*The moment even one single share is sold, Hydro One will no longer be deemed an Agency of the Crown. Schedule 3 strips the Auditor General of powers – no more value-for-money audits. Schedule 10 cuts out the Financial Accountability Officer. In Schedule 11, the Financial Administration Act is amended to limit our ability to obtain any information on Hydro One. In Schedule 13, Freedom of Information no longer applied to Hydro One – we don't get to know a thing. Schedule 38 removes Hydro One from the Sunshine List – one of the most controversial disclosures last year. Under Schedule 22, Lobbyists no longer have to register. Schedule 23 excludes Hydro One from oversight of the Management Board of Cabinet Act. Schedule 28 takes Hydro One out of the Municipal Freedom of Information. Schedule 30 guarantees the Ombudsman would no longer be able to investigate Hydro One. Schedule 37 means no more Integrity Commissioner.*

In the following weeks, the Auditor General and several other Officers of the Legislature took the unprecedented step of writing a joint letter in opposition to the government's plan to remove their oversight of Hydro One. In the Bill's original form, the moment one single share of Hydro One is sold, those officers no longer have oversight over its operations.

***"Our 2014 value-for-money audit of the province's Smart Metering Initiative and two of our value-for-money audits currently under way—Electricity Power System Planning, and Electricity Transmission and Distribution—are examples of work that we would not be permitted to do once the proposed amendments take effect."***

-- Auditor General Bonnie Lysyk, Budget Committee Hearings, May 21, 2015

### **The Hydro One sale has 3 major problems:**

#### **Secret Process**

The decision to sell was made without public input and the sale will be done in complete secrecy. The Liberals are selling Ontario's largest utility behind closed doors and we will never know if we received true value.

#### **Loss of Majority Ownership**

If we lose majority ownership of Hydro One, ratepayers will be forced to accept whatever changes the new owners decide, such as higher rates.

#### **Loss of Independent Consumer Protection**

We will never again have independent investigations of consumer complaints, such as the Ombudsman's damning report on failed billing.

But cutting out the Officers apparently didn't go far enough or fast enough for the government. The government quietly introduced amendments to the Budget Bill at the 11th hour, to allow the transfer of Hydro One securities to a holding corporation, which would immediately remove the scrutiny of those Legislative watchdogs, upon passage of the Bill. So now, not only will the future operations of Hydro One be kept from their scrutiny (and the Legislature's), but the entire sale process itself. The government has made this even less transparent than when they first announced it in the budget.

### **Mistrust of the Trillium Trust**

There is yet another area of the Budget that bears disclosure. In the 2014 Budget, the government established the Trillium Trust to hold funds from asset sales to be dedicated to transit. However, they left a couple of major loopholes in their own legislation. The Bill actually states they may put a portion of any proceeds from what it deems qualifying asset sales into the Trust. Yet proceeds actually are deposited into general revenues, not the Trillium Trust. We brought amendments to the Finance Committee before the Budget was passed, in an attempt to close these loopholes.

The first amendment attempted to have the government define exactly what a *qualifying* asset is compared to a non-qualifying asset. The second asked the government to designate an asset a qualifying asset within

90 days after disposition of said asset. The third would have had the Auditor General provide the Legislature with an annual report to list what qualifying and non-qualifying assets had been disposed of, and where the proceeds from those sales went.

Unfortunately, the government voted down all these amendments. Fast forward to this year's budget. Just prior to Committee hearings, the government proposed its own amendments which it claimed to fix the loopholes we identified. But in fact, their tepid attempt to fix the loophole only created another loophole. The amendments stated that the Trillium Trust would be credited after asset proceeds were deposited into general revenues. But it didn't define what *after* means – after 90 days? 365 days? Five years? It allows the government to continue to be able to skew its finances to appear different than they are actually in order to make its massive deficit look smaller. Thankfully, their amendments were ruled out of order.

### **Key Questions**

- As the 2014 Budget laid out the plan to pay for \$130 billion in transit and infrastructure without revenue from Hydro One, what will the government *really* do with the proceeds from the Hydro One sale?
- Why is the government continuing to deposit asset sale proceeds into general revenues and not commit to transferring those funds within a given time frame into the Trillium Trust?
- Why did the government use a last-minute amendment to the Budget Bill to allow Hydro One to be transferred to a holding corporation?



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