

M.O. 2021-01

Order P-30.1.1-2021-01 of the Minister of Finance dated March 16, 2021.

An Act respecting the Financial Assistance for Investment Program and establishing the Special Contracts and Financial Assistance for Investment Fund
(chapter P-30.1.1)

Financial Assistance for Investment Program applicable to enterprises billed at Rate L and enterprises that are large power consumers served by off-grid systems

CONSIDERING the first paragraph of section 1 of the Act respecting the Financial Assistance for Investment Program and establishing the Special Contracts and Financial Assistance for Investment Fund (chapter P-30.1.1), which provides that the Minister of Finance administers the Financial Assistance for Investment Program, which assistance is applicable in the form of a partial payment of the electricity bill of a recipient enterprise that carries out an investment project which pursues the objectives determined by ministerial order;

CONSIDERING the second paragraph of section 1 of the Act, which provides that the classes of eligible enterprises and the eligibility requirements of a project are determined by ministerial order, and a ministerial order may pertain to one or more components of the Program according to the class of enterprises to which it applies;

CONSIDERING the first paragraph of section 2 of the Act, which provides that an enterprise or a group to which it belongs may, according to the terms determined by ministerial order, be entitled to more than one amount of financial assistance;

CONSIDERING the first paragraph of section 3 of the Act, which provides in particular that the amount of financial assistance may, in the cases and on the conditions prescribed by ministerial order, reach up to 50% of the eligible costs of the project;

CONSIDERING the second paragraph of section 3 of the Act, which provides in particular that the amount of financial assistance may not exceed 20% of the electricity costs for each billing period during the maximum period of application of the financial assistance, determined by ministerial order;

CONSIDERING the third paragraph of section 3 of the Act, which provides that the manner in which the financial assistance is applied is to be determined by ministerial order;

CONSIDERING the first paragraph of section 4 of the Act, which provides that the eligible costs of a project that are incurred on the dates set by ministerial order are the amounts giving entitlement to tax depreciation;

CONSIDERING section 5 of the Act, which provides that financial assistance is applicable only to electricity bills for a consumption period prior to the date determined by ministerial order;

CONSIDERING section 6 of the Act, which provides that to receive financial assistance, an enterprise must send an application to the Minister before the date and in the manner determined by ministerial order;

CONSIDERING the first paragraph of section 7 of the Act, which provides that the financial assistance is subject to a verification conducted in the manner determined by ministerial order;

CONSIDERING the second paragraph of section 7 of the Act, which provides in particular that where the financial assistance is revised or revoked in the course of a verification, it may be recovered in the manner determined by ministerial order;

CONSIDERING the second paragraph of section 8 of the Act, which provides in particular that if a decision grants or modifies financial assistance, it is also notified to the electric power distributor which must specify, in the manner determined by ministerial order, the amount of the assistance on the electricity bill it issues to the enterprise;

CONSIDERING section 12 of the Act, which provides that the ministerial orders provided for by the Act are not subject to the publication requirement set out in section 8 of the Regulations Act (chapter R-18.1) or to the date of coming into force set out in section 17 of that Act;

CONSIDERING Décret 1285-2019 dated 18 December 2019, which establishes the conditions of the Programme de rabais d'électricité applicable aux consommateurs de grande puissance desservis par les réseaux autonomes;

CONSIDERING Décret 1286-2019 dated 18 December 2019, which establishes the conditions of the Programme de rabais d'électricité applicable aux consommateurs facturés au tarif « L »;

CONSIDERING the second paragraph of section 20 of the Act respecting the Financial Assistance for Investment Program and establishing the Special Contracts and Financial Assistance for Investment Fund, which provides that special contracts covered by the Programme de rabais d'électricité applicable aux consommateurs de grande puissance desservis par les réseaux autonomes and those covered by the Programme de rabais d'électricité applicable aux consommateurs facturés au tarif « L » are terminated on the date of coming into force of that section and, from that date, the rebates to which the beneficiaries of those programs are entitled are governed by that Act;

CONSIDERING paragraph 4 of section 245 of chapter 5 of the Statutes of 2020, which provides that sections 1 to 11, 19 and 20 of the Act respecting the Financial Assistance for Investment Program and establishing the Special Contracts and Financial Assistance for Investment Fund come into force on the date of coming into force of the first ministerial order made under that Act;

CONSIDERING THAT it is expedient to implement the measures needed to ensure a transition from the Programme de rabais d'électricité applicable aux consommateurs facturés au tarif « L » and the Programme de rabais d'électricité applicable aux consommateurs de grande puissance desservis par les réseaux autonomes to the Financial Assistance for Investment Program established by the Act respecting the Financial Assistance for Investment Program and establishing the Special Contracts and Financial Assistance for Investment Fund;

THE MINISTER OF FINANCE ORDERS AS FOLLOWS:

THAT the conditions, terms and characteristics of the Financial Assistance for Investment Program that are to be established by ministerial order pursuant to sections 1 to 8 of the Act respecting the Financial Assistance for Investment Program and establishing the Special Contracts and Financial Assistance for Investment Fund (chapter P-30.1.1), attached to this Ministerial Order, form, from the date of publication of this Ministerial Order, an integral part of the Program.

Québec, March 16, 2021

ERIC GIRARD
Minister of Finance

Conditions, terms and characteristics of the Financial Assistance for Investment Program

An Act respecting the Financial Assistance for Investment Program and establishing the Special Contracts and Financial Assistance for Investment Fund (chapter P-30.1.1)

1. Every enterprise billed at Rate L or having entered into a request for supply with Hydro-Québec for a block of power eligible for that rate, as well as every enterprise served by or having entered into a request for supply to be served by an off-grid system for at least 5,000 kilovolt-amperes of available power is, if it obtains an attestation of eligibility for a project referred to in section 3, entitled to receive financial assistance in the form of a partial payment of its electricity costs.

2. For the purposes of this Program, the rate applicable is the rate for the contract of an enterprise referred to in section 1 under Hydro-Québec's electricity rates for its electricity distribution activities, including the credits for supply and the adjustment for transformation losses that are applicable.

The financial assistance to which an enterprise referred to in section 1 may be entitled does not apply to any rate options applicable under Hydro-Québec's electricity rates, as referred to in the first paragraph. However, an enterprise receiving financial assistance remains eligible for those options, in particular the interruptible electricity options, and for the commercial programs that apply.

3. A project is eligible when it targets one of the following objectives:

(1) the conversion of production processes to adapt existing products to market demand;

(2) the enhancement of productivity or energy efficiency through the modernization of operating procedures;

(3) increased output to adapt supply to market demand;

(4) a new production start-up.

In addition, the project must meet the following conditions:

(1) it must be carried out in Québec in an establishment of the enterprise or of the group to which it belongs, or in an establishment where the main production phases take place;

(2) subject to the provisions of section 17, the eligible project costs must represent an investment at least equal to the lesser of

(a) 40% of the electricity costs for the 12-month period preceding the application to establish the eligibility of the establishments of the enterprise or the group to which it belongs, billed at Rate L, or the establishments served by an off-grid system with available power of at least 5,000 kilovolt-amperes, or, for an enterprise that has been subject to the same requirement for a period of less than 12 months, an estimate of the cost produced by Hydro-Québec; and

(b) \$40 million;

(3) the project costs must be capitalized before 1 January 2026;

(4) the project must generate new investment.

For the purposes of this Financial Assistance for Investment Program, projects may be grouped in a single application for eligibility.

4. The eligible costs for a project covered by an application from an enterprise billed at Rate L or having entered into a request for supply with Hydro-Québec for a block of power eligible for that rate are, when the application is received before 1 January 2019, the amounts incurred after 17 March 2016 that give entitlement to tax depreciation.

The eligible costs for a project covered by an application from an enterprise referred to in section 1 are, when the application is received after 31 December 2018, the amounts incurred starting on 1 January of the year during which the application giving entitlement to tax depreciation is received.

If an enterprise belongs to a group referred to in section 2 of the Act respecting the Financial Assistance for Investment Program and establishing the Special Contracts and Financial Assistance for Investment Fund (chapter P-30.1.1), the eligible costs for the project and the financial assistance are calculated for the group.

5. In accordance with section 3 of the Act respecting the Financial Assistance for Investment Program and establishing the Special Contracts and Financial Assistance for Investment Fund, an increase in the amount of financial assistance to which an enterprise or the group to which it belongs is entitled is granted for each 2% reduction in the intensity of greenhouse gas emissions generated by the project, up to a maximum reduction of 20%. The increase corresponds to 1% of eligible project costs for each 2% reduction.

The intensity of greenhouse gas emissions is the ratio of greenhouse gas emissions to the quantity of units produced.

The enterprise must report the greenhouse gas emissions before and after the carrying out of the project, using the methods indicated on the Ministère des Finances website. In the case of a project with no reference greenhouse gas emissions prior to the carrying out of the project, the enterprise must, in its application, use a comparative analysis to show the maximum potential reduction in the intensity of greenhouse gas emissions offered by the solution selected for the project.

Greenhouse gas emissions are calculated in accordance with the Regulation respecting mandatory reporting of certain emissions of contaminants into the atmosphere (chapter Q-2, r. 15).

The increase in financial assistance to incentivize a reduction in greenhouse gas emissions will be paid at the latest during the last payment year of the financial assistance, once the reduction in the intensity of greenhouse gas emissions or, where applicable, the achievement of the potential reduction offered by the project, has been verified using the methods indicated on the Ministère des Finances website.

The electricity bill may also be adjusted proportionally to take into account a reduction in electricity consumption resulting from the carrying out of a project that reduces the intensity of greenhouse gas emissions.

The terms and conditions for the greenhouse gas emissions reports may require that the information provided by the enterprise be attested by a member of the Ordre des ingénieurs du Québec or that the enterprise consent to the verification of the information on the site of the establishment.

6. Subject to the second paragraph, an enterprise must, to benefit from financial assistance for a project referred to in section 3, submit an application for eligibility using the form available on the Ministère des Finances website before 1 January 2024, along with an investment budget.

The application for eligibility for a project that is already under way must be submitted not later than the last day of the calendar year during which the project began.

The investment budget for a project must include a description of the project, a presentation of the type of investment involved, and a timeframe for expenditure.

The enterprise must demonstrate the technical and financial feasibility of its project, the economic potential for enhanced productivity or increased output, and the potential for a reduction in the intensity of greenhouse gas emissions, if applicable.

The enterprise must also demonstrate that activities have been ongoing in every establishment concerned by the project since at least the date of submission of the application and, at the Minister's request, that the activities have continued until the date of issue of the attestation of eligibility.

7. The financial assistance granted can only be applied to electricity bills issued before 1 January 2033. It is payable from the date provided for in section 11 until the expiry of a period of 48 consecutive months or, in the case of a project with eligible costs of \$250 million or more, 96 consecutive months.

8. Except on contrary notice from the enterprise or the group to which it belongs, the amount of financial assistance is allocated to the electricity bills issued for all establishments billed at Rate L or all establishments served by an off-grid system with available power of at least 5,000 kilovolt-amperes, as the case may be, covering the consumption periods during the payment period referred to in section 7, in a way that ensures, where possible, that the assistance granted corresponds to 20% of the amount of each bill calculated in accordance with the applicable rate referred to in section 2.

When the last portion of the financial assistance applicable to an audited report is less than the percentage provided for in the first paragraph, Hydro-Québec must determine to which establishment or establishments referred to in that paragraph it applies the financial assistance, unless the enterprise or the group to which it belongs sends Hydro-Québec a prior notice indicating to which establishment or establishments Hydro-Québec should apply it.

9. If the enterprise or the group to which it belongs is entitled to receive more than one amount of financial assistance, the enterprise or group may choose to alternate the application of the financial assistance without exceeding the payment period referred to in section 7. Such alternation does not interrupt the payment period for the financial assistance. The enterprise or the group must so inform the Minister and Hydro-Québec.

In addition, an amount of financial assistance may apply cumulatively to the remainder of another amount of financial assistance, without exceeding the limit of 20% of electricity costs per consumption period.

10. Financial assistance is granted on the basis of audited reports on the capitalized costs of an eligible project, taking the following conditions into account:

(1) a project covered by an attestation of eligibility cannot be withdrawn by the enterprise after the first audited report has been submitted;

(2) a single audited report cannot target projects covered by separate attestations of eligibility.

11. Financial assistance is granted from the date of the second bill issued following the month in which the Minister receives the first complete audited report on capitalized costs for the project; the report may be filed at any time after the attestation of eligibility has been obtained for the enterprise's project.

The application of financial assistance following the first audited report begins on the date on which it becomes payable, unless the enterprise indicates otherwise in order to postpone the date. The enterprise and Hydro-Québec must be notified of the date.

12. The enterprise may send other audited reports about a project's capitalized costs to the Minister when it considers it appropriate. Provided that the reports are complete, the financial assistance connected to the filing of the reports is granted from the date of the second bill issued following the month during which the Minister receives each complete report.

If the filing of the reports means that more than one amount of financial assistance is payable at the same time, the amounts apply consecutively in the order in which the reports are received.

In addition, the enterprise must, on request, file a final document demonstrating the outcome of the project as compared to the applicable objectives referred to in section 3 or, where applicable, the reasons for not completing a project.

13. When an enterprise that receives financial assistance under this Program owns or acquires an establishment that is not included in an investment project for which an attestation of eligibility has been obtained, that financial assistance may apply to the electricity bill of that establishment only from the month following the month in which the enterprise has sent the Minister a document demonstrating that it is the owner of the establishment and that the establishment is billed at Rate L, or that the establishment is served by an off-grid system with available power of at least 5,000 kilovolt-amperes, as the case may be.

14. Despite any inconsistent provision, the application of financial assistance cannot be suspended at the enterprise's request following the receipt of an audited report concerning another project.

15. Following receipt of a report or other document referred to in section 11 or 12, the financial assistance may be granted, revised, suspended or revoked, as the case may be.

In addition, a modification in the rate charged to the establishments of an enterprise entails suspension of the financial assistance until the applicable rate referred to in section 2 is re-established.

Hydro-Québec

(1) applies the financial assistance according to the terms provided for in the decision notified; or

(2) suspends the financial assistance or ceases to apply it from the date indicated in the decision notified and applies Hydro-Québec's electricity rates for its electricity distribution activities.

The suspension of financial assistance does not interrupt the period during which it is payable.

Where applicable, Hydro-Québec revises the electricity bills using its usual procedure and in accordance with the terms to which it agrees with the Government.

16. For each consumption period referred to in section 8, the electricity bill indicates the following elements:

(1) the amount of the electricity bill calculated in accordance with the applicable rate referred to in section 2;

(2) the amount of the financial assistance applicable to the amount referred to in paragraph 1;

(3) any other amount or credit established pursuant to Hydro-Québec's electricity rates for its electricity distribution activities or Hydro-Québec's conditions of service for its electricity distribution activities.

17. If an enterprise transfers to another enterprise all its establishments billed at Rate L or all its establishments served by an off-grid system with available power of at least 5,000 kilovolt-amperes, as well as all the other establishments included in an investment project for which an attestation of eligibility has been obtained, the transferee enterprise acquires the rights and assumes the obligations of the transferor enterprise with regard to this Program, provided it files with the Minister

(1) a document showing its acquisition of the establishments concerned;

(2) an undertaking to continue to carry out the eligible investment projects involving some or all of the establishments;

(3) a document identifying the person it has designated to act as its representative with the Minister for the purposes of this Program.

18. If an enterprise transfers an establishment included in an investment project for which an attestation of eligibility has been obtained, it must file with the Minister an application to reduce the minimum required investment that the eligible project costs must meet.

19. Except in the case provided for in section 17, the rights conferred by an attestation of eligibility issued for an investment project concerning an establishment are not transferred when the establishment is transferred. A transferee enterprise that intends to continue the project and benefit from the Program must submit a new application for eligibility.

20. This Order comes into force on 1 April 2021.