UNDERTAKING J14.5

Undertaking

To provide the calculation of when the tax losses get factored in in subsequent years.

Response

This undertaking followed a series of questions that were asked of OPG about Ex. F4-T2-S1, Table 16. Before responding the undertaking, it is appropriate to put Table 16 in its proper context.

In EB-2007-0905, OPG proposed an integrated model for the treatment of its Bruce facilities. Even though these facilities were not prescribed under O. Reg. 53/05, OPG proposed that they be treated as if they were regulated for the purposes of setting OPG's payment amounts.

The integrated model assumed, amongst other things, that OPG earn a regulated return on its Bruce facility assets and that ratepayers get the benefit of tax losses for the Bruce facilities that were available for the period prior to April 1, 2008. These Bruce tax losses had been calculated on a stand-alone basis along with the prescribed facilities using regulatory accounting.

This integrated model was rejected by the OEB in its decision in EB-2007-0905. In that decision, OPG was directed to treat its Bruce facilities as unregulated assets and make all calculations of Bruce-related costs and revenues on GAAP basis, rather than a regulatory accounting basis. The OEB also ordered OPG to establish the Bruce Lease Net Revenues Variance Account to be effective for the period after April 1, 2008.

Elsewhere in the EB-2007-0905 decision, the OEB gave OPG directions as to how tax losses for the period prior to April 1, 2008 should be re-calculated by OPG. OPG was required to bring these revised tax losses calculations forward in this case and it has done so.

Table 16 was prepared as part of a reconciliation between the $990M of regulatory tax losses as at December 31, 2007 that OPG had originally proposed in EB-2007-0905 and the tax losses recalculated to reflect the OEB's directions in EB-2007-0905. The re-calculated tax losses are $110M (ref. Ex. F4-T2-S1 Table 8). The tax losses shown in Table 16 have no relevance in this proceeding other than as part of the reconciliation exercise (i.e., showing how the $990M becomes the $110M).

Given the OEB's decision that the Bruce facilities be treated as unregulated assets, they need to be treated as just another part of OPG's unregulated operations for the period prior to April 1, 2008, the date the OEB established the Bruce Lease Net Revenues Variance Account. Accordingly, any gain or loss from these assets for this period belongs to OPG and ratepayers have no claim on any gain or responsibility for any loss for this period. Similarly, any deductions for tax purposes during that period would have been used up in the calculation of taxes for OPG's unregulated operations. As a consequence, there are no remaining tax losses or tax deductions related to the Bruce facilities for the period prior to April 1, 2008 that can be provided to ratepayers.

Turning now to the undertaking - OPG was asked in the undertaking to treat the Bruce facilities as if they were a stand-alone entity for the period prior to April 1, 2008, and not part of OPG's other unregulated operations, and to calculate what amount of tax deductions from this period might be returned to ratepayers over time via the reversal of timing differences and over what time that reversal would occur.

Under GAAP, tax expense is the sum of two components: a current income tax expense and a future income tax expense. Current income tax expense is the amount of cash taxes payable/refundable on the taxable income for the year. Future income tax expense is the amount of taxes payable/refundable in the future which relate to GAAP accounting income reported in the year.

In the period April 1, 2005 to March 31, 2008 period there was a tax expense for the Bruce facilities calculated on a GAAP basis. The tax expense was due to the fact that tax deductions for temporary differences available for that period resulted in a future income tax expense. This future income tax expense reverses over time as the timing differences associated with the deductions that gave rise to the expense themselves reverse. This reversal over time results in a future income tax credit. (Tr. Vol 14 page 162-163)

Attachment 1, Table 1 provides a summary of the tax deductions with temporary timing differences determined on a GAAP basis. It is based on the detailed GAAP-based Bruce facility income tax calculation presented in Table 2.

Of the total tax deductions of $604.9M presented in Table 1, only $32.4M would be notionally attributed to ratepayers after considering who paid for the items that gave rise to the deductions (i.e., ratepayers or OPG's Shareholder). Where OPG's Shareholder funded the payment then the deduction belongs to it, and not ratepayers. The following adjustments reflect this attribution:

1) A reduction of $283M related to a segregated fund contribution in 2007. OPG received $225M from Bruce Power prior to being regulated and paid tax on the receipt of the funds. In addition, OPG was required to escalate this amount. The escalation up to April 1, 2005 was $58M which was funded by OPG's Shareholder out of OPG's earnings. Therefore the tax benefit of this contribution ($225M + $58M) should accrue to OPG. (Tr. Vol. 14, page 170)
2) A reduction of $177.1M that is required to reduce Bruce earnings before tax for the period April 1, 2005 to March 31, 2008 to zero. OPG did not collect tax on this income from ratepayers and therefore is entitled to the corresponding amount of deductions.
3) A reduction of $112.5M for temporary timing differences which reverse in the period April 1, 2005 to March 31, 2008 that originated prior to April 1, 2008 and on which OPG's Shareholder paid tax. Therefore the benefit of this reversal belongs to OPG.

The residual amount of unattributed deductions is $32.4M. Under GAAP this amount would reverse in future years and would serve to reduce the future tax expense in those years calculated on a GAAP basis for the Bruce facilities. This reversal is expected to take place over approximately 25 years and the tax benefit would be calculated as 25% of this amount.

Numbers may not add due to rounding.

Table 1
Calculation of Adjusted Bruce Net Deductible Temporary Differences on a GAAP Basis ($M)
Period From April 1, 2005 to March 31, 2008

Line No.	Particulars	Notes	April 1, 2005 - March 31, 2008
			(a)
1	**Net Deductible Temporary Differences**	1	(604.9)
2	**Less: Amount Applied to Reduce Bruce Earnings Before Tax to Nil During Apr 1, 2005 - Mar 31, 2008**	2	177.1
3	**Less: Deduction for Additional Contribution to Nuclear Segregated Funds in 2007 Funded by OPG's Shareholder**	3	283.0
4	**Less: Previously Taxed Temporary Differences Reversing During Apr 1, 2005 - Mar 31, 2008**	4	112.5
5	**Adjusted Net Deductible Temporary Differences**		**(32.4)**
	(line 1 + line 2 + line 3 + line 4)		

Notes:

1 Net Deductible Temporary Differences on a GAAP basis for April 1, 2005 to March 31, 2008 are derived as follows ($M):

Line No.	Period	Temporary Differences per J14.5 Total Additions Table 2, Line 7	Temporary Differences per J14.5 Total Deductions Table 2, Line 13	((b)-(a)) Net Deductible Temporary Differences
		(a)	(b)	(c)
1	April 1 to December 31, 2005*	239.2	316.8	(77.6)
2	Year Ending December 31, 2006	331.6	431.8	(100.2)
3	Year Ending December 31, 2007	415.8	834.3	(418.5)
4	January 1 to March 31, 2008	91.5	100.1	(8.6)
5	Total	1,078.1	1,683.0	**(604.9)**

*Represents 3/4 of the annual amounts for 2005 per Ex. J14.5, Table 2

2 Bruce earnings before tax during the period Apr 1, 2005 - Mar 31, 2008 were reduced to Nil by a portion of net deductible temporary differences in order to eliminate taxable income and, therefore, taxes payable for that period. As per J14.5, Table 2, Line 1, earnings before tax from Bruce on a GAAP basis for the period Apr 1, 2005 - Mar 31, 2008 were as follows ($M):

Line No.	Period	Bruce GAAP EBT
		(a)
1	April 1 to December 31, 2005*	64.7
2	Year Ending December 31, 2006	77.5
3	Year Ending December 31, 2007	68.3
4	January 1 to March 31, 2008	(33.4)
5	Total	**177.1**

*Represents 3/4 of the annual amount for 2005 per Ex. J14.5, Table 2

3 One-time additional contribution of $334M was made to the Nuclear Segregated Funds in 2007 based on direction from the Province of Ontario, relating to a note receivable for $225M received from Bruce Power L.P. in 2001 and collected in 2003 pertaining to the closing of the Bruce Lease transaction (Tr. Vol 14, pg. 169-172 and EB-2007-0905, Ex. G2-T2-S1, pg. 2, lines 11-20). The amount of the one-time contribution was determined as $225M escalated by 4.5% per annum plus the annual rate of change in Ontario CPI, in accordance with the direction from the Province of Ontario. Tax incurred by OPG on the original amount of $225M was funded by OPG's Shareholder, as it was incurred prior to April 1, 2005. Similarly, the escalation in the amount of $58M up to April 1, 2005 was funded by the Shareholder from OPG's earnings, on which OPG also paid tax. Therefore, the tax benefit associated with the the deduction for $283M of the one-time contribution ($225M + $58M) accrues to the Shareholder, as the original tax cost for this amount was also incurred by the Shareholder.

4 Certain net deductible temporary differences during the period Apr 1, 2005 - Mar 31, 2008 represent reversals of amounts that were previously taxed and are, therefore, not going to reverse or provide any tax benefit in subsequent periods. As OPG's Shareholder bore the tax cost when the taxable temporary differences originally arose prior to April 1, 2008, the Shareholder is also entitled to the tax benefit associated with the corresponding deductible temporary differences. This applies to temporary differences related to Receipts from Nuclear Segregated Funds and Cash Expenditures for Used Fuel, Waste Management & Decommissioning. These amounts for the period Apr 1, 2005 - Mar 31, 2008 are as follows ($M):

Line No.		Previously Taxed Temp. Diff. per J14.5 Fund Receipts Table 2, Line 5	Previously Taxed Temp. Diff. per J14.5 Cash Expenditures Table 2, Line 10	((b)-(a)) Net Total Previously Taxed Temp. Diff.
		(a)	(b)	(c)
1	April 1 to December 31, 2005*	8.3	23.3	15.0
2	Year Ending December 31, 2006	9.0	45.0	36.0
3	Year Ending December 31, 2007	24.0	67.0	43.0
4	January 1 to March 31, 2008	2.4	20.9	18.5
5	Total	43.7	156.2	**112.5**

*Represents 3/4 of the annual amounts for 2005 per Ex. J14.5, Table 2

Table 2
Calculation of Stand-Alone Bruce Income Taxes on a GAAP Basis ($M)
Years Ending December 31, 2005, 2006 and 2007 and Three Months Ending March 31, 2008

Line No.	Particulars	2005 Actual	2006 Actual	2007 Actual	Q1 2008 Actual
		(a)	(b)	(c)	(d)
	Determination of Taxable Income				
1	**Earnings Before Tax[1]**	86.2	77.5	68.3	(33.4)
	Additions for Tax Purposes - Temporary Differences:				
2	**Depreciation[2]**	98.4	99.1	76.1	15.3
3	**Accretion[2]**	192.0	204.0	255.7	66.7
4	**Used Fuel and Waste Management Expenses[2]**	15.4	17.4	20.9	4.1
5	**Receipts from Nuclear Segregated Funds[3]**	11.0	9.0	24.0	2.4
6	**Other**	2.1	2.1	39.1	3.0
7	**Total Additions - Temporary Differences**	318.9	331.6	415.8	91.5
	Deductions for Tax Purposes - Permanent Differences:				
8	**Deferred Rent Revenue**	13.8	13.8	13.8	3.4
	Deductions for Tax Purposes - Temporary Differences:				
9	**CCA[4]**	12.5	11.6	10.1	2.2
10	**Cash Expenditures for Used Fuel, Waste Management & Decommissioning[3]**	31.0	45.0	67.0	20.9
11	**Contributions to Nuclear Segregated Funds[3]**	212.0	212.0	563.0	98.8
12	**Earnings (Losses) on Nuclear Segregated Funds[2]**	166.9	163.2	194.2	(21.8)
13	**Total Deductions - Temporary Differences**	422.4	431.8	834.3	100.1
14	**Taxable Income / (Loss) Before Allocation to Period Prior to Regulation and Loss Carry-Over**	(31.1)	(36.5)	(364.0)	(45.4)
15	**Allocation to Period Prior to Regulation** (Line 14 x 1/4 for 2005)	7.8	N/A	N/A	N/A
16	**Taxable Income / (Loss) Before Loss Carry Over**	(23.3)	(36.5)	(364.0)	(45.4)
17	**Tax Loss Carry-Over to Future Periods**	23.3	36.5	364.0	45.4
18	**Taxable Income After Loss Carry-Over**	0.0	0.0	0.0	0.0
	Determination of Current Income Taxes				
19	**Taxable Income After Loss Carry-Over**	0.0	0.0	0.0	0.0
20	**Income Tax Rate - Current**	34.12%	34.12%	34.12%	31.50%
21	**Income Taxes - Current**	0.0	0.0	0.0	0.0
	Determination of Future Income Taxes				
22	**Total Net Short-Term Temporary Differences** (Line 2 + Line 5 - Line 9 - Line 10)	65.9	51.5	23.0	(5.4)
23	**Income Tax Rate - Current**	34.12%	34.12%	34.12%	31.50%
24	**Future Income Taxes - Short-Term Before Allocation to Period Prior to Regulation**	(22.5)	(17.6)	(7.8)	1.7
25	**Allocation to Period Prior to Regulation** (Line 24 x 1/4 for 2005)	5.6	N/A	N/A	N/A
26	**Future Income Taxes - Short-Term**	(16.9)	(17.6)	(7.8)	1.7
27	**Total Net Long-Term Temporary Differences** (Line 7 - Line 13 - Line 22)	(169.4)	(151.7)	(441.5)	(3.2)
28	**Income Tax Rate - Long-Term**	25.00%	25.00%	25.00%	25.00%
29	**Future Income Taxes - Long-Term Before Allocation to Period Prior to Regulation**	42.4	37.9	110.4	0.8
30	**Allocation to Period Prior to Regulation** (Line 29 x 1/4 for 2005)	(10.6)	N/A	N/A	N/A
31	**Future Income Taxes - Long-Term**	31.8	37.9	110.4	0.8
32	**Tax Loss** (Line 14)	(31.1)	(36.5)	(364.0)	(45.4)
33	**Income Tax Rate[5]**	29.00%	29.00%	25.00%	25.00%
34	**Future Income Taxes - Tax Loss Before Allocation to Period Prior to Regulation**	(9.0)	(10.6)	(91.0)	(11.4)
35	**Allocation to Period Prior to Regulation** (Line 34 x 1/4 for 2005)	2.3	N/A	N/A	N/A
36	**Future Income Taxes - Tax Loss**	(6.8)	(10.6)	(91.0)	(11.4)
37	**Future Income Taxes - Total** (Line 26 + Line 31 + Line 36)	8.1	9.8	11.5	(8.8)
	Income Tax Rate - Current				
38	**Federal Tax**	21.00%	21.00%	21.00%	19.50%
39	**Federal Surtax**	1.12%	1.12%	1.12%	0.00%
40	**Provincial Tax**	14.00%	14.00%	14.00%	14.00%
41	**Provincial Manufacturing & Processing Profits Deduction**	-2.00%	-2.00%	-2.00%	-2.00%
42	**Total Income Tax Rate - Current**	34.12%	34.12%	34.12%	31.50%
	Income Tax Rate - Long-Term				
43	**Federal Tax**	15.00%	15.00%	15.00%	15.00%
44	**Federal Surtax**	0.00%	0.00%	0.00%	0.00%
45	**Provincial Tax**	10.00%	10.00%	10.00%	10.00%
46	**Provincial Manufacturing & Processing Profits Deduction**	0.00%	0.00%	0.00%	0.00%
47	**Total Income Tax Rate - Long-Term**	25.00%	25.00%	25.00%	25.00%

Notes:

1 Earnings Before Tax for Q1 2008 on a GAAP basis are as per Ex. H1-T1-S1, Table 10a, Line 14 plus Line 12: ($33.3M) + ($0.1M) = ($33.4M).

2 Depreciation, Accretion, Earnings (Losses) on Nuclear Segregated Funds for Q1 2008 on a GAAP basis are as per Ex. H1-T1-S1, Table 10a, Lines 4, 7 and 8, respectively. Used Fuel and Waste Management Expense for Q1 2008 on a GAAP basis are the sum of Ex. H1-T1-S1, Table 10a, Lines 9 and 10.

3 Amounts for Q1 2008 are the difference between 2008 full-year amounts as per Ex. C2-T1-S2, Table 2, Col. (a) and amounts for Apr - Dec 2008 as per Ex. G2-T2-S1, Table 8, Col. (a):

Line No.		2008 Full Year	Apr 1 - Dec 31, 2008	Q1 2008
		(a)	(b)	(c)
1	Receipts from Nuclear Segregated Funds *(also referred to as "Disbursements")*	19.0	16.6	2.4
2	Cash Expenditures for Used Fuel, Waste Management & Decommissioning	72.4	51.5	20.9
3	Contributions to Nuclear Segregated Funds	395.0	296.2	98.8

4 CCA amounts have been adjusted for the resolution of the 1999 taxation year audit.

5 Income tax rate assumed to be in effect at the time tax losses would be expected to be utilized.