

October 31, 2012

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VIA RESS FILING AND COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, Ontario M4P 1E4

Dear Ms. Walli

**Re: Ontario Energy Board Consultation on Incentive Regulation for
Ontario Power Generation
Second Round Comments of Power Workers' Union October 31, 2012
Ontario Energy Board File No. EB-2012-0340**

Please find enclosed the Second Round Comments of Power Workers' Union in connection with the above-noted proceedings.

Yours very truly,

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP



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Second Round Comments
Incentive Regulation for Ontario Power Generation
Submission of the Power Workers' Union

1 INTRODUCTION

On May 11, 2012, the Ontario Energy Board (“OEB” or the “Board”) posted a draft report (“PA report”) prepared by Power Advisory LLC (“PA”) on “Incentive Rate Making Options for Ontario Power Generation’s Prescribed Generation Assets”. On August 28th, 2012 Board staff held a Stakeholder meeting at which PA, OPG and OPG’s consultants London Economics International LLC (“LEI”) and Harbourfront Group Inc. (“Harbourfront”) made presentations on the issues related to establishing Incentive Regulation (“IR”) for OPG’s Prescribed Generation Assets. On August 30th, 2012 the Board issued a letter inviting stakeholder comments on the issues and options presented (“first round of comments”). On September 19, 2012 the Board made provisions for a second round of comments that respond to the first round of comments.

1.1 PWU Comments

The Power Workers’ Union (“PWU”) appreciates the opportunity provided by the Board for a second round of comments.

Nothing in the stakeholders’ first round of comments changes the PWU’s position and comments on IR for OPG forwarded in its October 1, 2012 submission to the Board. The following are additional PWU comments based on a review of the first round of comments.

The PWU's impression is that generally there is high level of caution on the part of the stakeholders with the concept of IR for OPG, and especially so in the case of OPG's nuclear facilities. The PWU believes this reflects the stakeholders' understanding of the complexities of IR gained in the Board's forum.

If the Board is convinced that a policy paper or filing guidelines will be the outcome of this consultation, the PWU agrees with OPG's submission that OPG and stakeholders be provided the opportunity to make submissions before such policy statements or filing guidelines are finalized.

As indicated in the PWU's October 1, 2012 submission, the PWU is of the view that OPG's business plan should be the basis for setting incentives regardless of the approach used in determining the payment amounts for the output of OPG's prescribed facilities.

1.1.1 Nuclear Facilities

Most of the stakeholders explicitly indicated their support of OPG's proposal to hold off on IR for OPG's nuclear facilities until Pickering is out of service and Darlington is refurbished. Some parties, including the PWU, are not swayed on the suitability of IR for the nuclear facilities even then, if ever, given the pre-eminent need for safety in the operation of these facilities. Energy Probe, like the PWU identified the need for involvement by the Canadian Nuclear Safety Commission in the consideration of IR for OPG's nuclear facilities. The PWU notes that while the Retail Council of Canada cited the ScottMadden benchmarking study as the basis for the need to encourage efficiency improvements in OPG's nuclear operations, it is not insisting on the adoption of an IR mechanism as the only option in doing so.

If the Board agrees to delay IR for the nuclear facilities as proposed by OPG, given stakeholders' concern with IR for OPG's nuclear facilities expressed in the first round of comments, the PWU believes that the Board should defer making any decisions on IR for the nuclear facilities as an outcome of this consultation.

Circumstances will undoubtedly change between now and the time that Pickering is out of service and Darlington is refurbished that can change OPG's environment significantly. The new environment would need to be considered in terms of the reasonableness of imposing IR on OPG Nuclear as well as the suitability of IR approaches. Any decision of the Board made today on adopting IR and on IR options for OPG Nuclear may not be appropriate for OPG's environment in the future when Pickering has been removed from service and Darlington has been refurbished. In addition, IR is evolving as deficiencies in current IR approaches are addressed (i.e. Ofgem's RPI-X@20) and further evolution can be expected with time. The Board would want to consider future developments in IR trends in assessing IR for OPG Nuclear at a future time to avoid the inappropriate adoption of IR. As the PWU notes in its first October 1, 2012 submission the outcome of inappropriate IR for OPG nuclear can be dire.

1.1.2 Hydroelectric Facilities

Some stakeholders indicated that they find it premature to forward an IR approach for the hydroelectric facilities at this point in time, and suggested further consultation to assess the various approaches. In the PWU's view, given OPG's hydroelectric facilities' strong performance, there should be no urgency to the implementation of an IR approach for these facilities. In fact, OPG's business plan already embeds cost control that will require OPG Hydroelectric to increase efficiency even under cost of service ("COS") regulation. Furthermore, the Hydroelectric Incentive Mechanism ("HIM"), which is a targeted incentive mechanism, can continue to be reviewed within the ongoing COS framework.

OPG suggested using either the 'building block' approach proposed by LEI or a 'percentage of escalation approach' (e.g., GDP-IPI-FDD) such as that adopted by the Board for Enbridge Gas Distribution Inc. LEI provided a high level description of a building block approach. A comprehensive assessment of this approach would need to be undertaken before a decision on its reasonableness and practicality for OPG Hydroelectric can be made. In the case of the

percentage of escalation approach, a comprehensive assessment of how the appropriate percentage and escalation index might be determined would need to be undertaken. The assessment of both these approaches would therefore require substantive research and analysis and, if the Board is determined to adopt IR for OPG Hydroelectric, the Board should take the time required to do so to mitigate the risk of adopting a flawed IR mechanism.

As PA noted, its report was intended to initiate discussions on IR options for OPG. The Board should therefore not expect the outcome of this consultation to be a determination on an IR option for the hydroelectric facilities.

All of which is respectively submitted.