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**File No. 339583/000194**

July 8, 2015

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Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> floor  
Toronto, ON M4P 1E4

Dear Ms Walli,

<b>Ontario Power Generation Inc. (OPG)</b>	
<b>Deferral and Variance Accounts</b>	
<b>Board File No.:</b>	<b>EB-2014-0370</b>

Please consider this correspondence as the written argument of Canadian Manufacturers & Exporters (“CME”) on the single unsettled issue in this case.

As the Board is aware, on June 16, 2015, OPG filed a settlement proposal on behalf of all of the interested parties. That settlement agreement, which was accepted by the Board on June 23, 2015, settles all of the outstanding issues except one disputed issue. That remaining issue is whether certain deferral accounts for the period January 1, 2014 through to October 31, 2014 should be calculated on the basis of the difference between actual amounts and forecasted amounts included in the EB-2010-0008 revenue requirement, or instead, on the basis of the difference between actual amounts and forecasted amounts included in the EB-2013-0321 revenue requirement. OPG takes the position that these accounts should be cleared on the basis of the rates approved in EB-2010-0008 and the intervenors take the position that these accounts should be cleared on the basis of the rates approved in EB-2013-0321.

The ratepayer groups who intervened in this proceeding have made significant efforts to cooperate and avoid duplication in the assessment of this issue. In particular, we wish to acknowledge that SEC has taken a lead role, to which we are appreciative. To this end, we have had the opportunity to review the draft version of SEC’s written argument on this proceeding which we agree with and adopt. In preparing the comments that follow, we have attempted to ensure that our argument does not unnecessarily overlap or duplicate that of SEC.

As a preliminary observation, much of OPG’s argument addresses the “right to record” balances in the deferral accounts, which were provided for in EB-2010-0008 and EB-2012-0002. In our submission, the “right to record” is not at issue. Rather, the central issue is whether OPG is entitled to recover costs through deferral account clearance in this proceeding that were included in the revenue requirement approved by the Board in EB-2013-321. We submit that, as a matter of public policy and law, the answer must be “no”. As SEC argues at 1.2.1, “once the \$263 million in dispute was included in 2014 revenue requirement, OPG was no longer able to recover it through deferral and variance accounts.”

We urge the Board to employ a purposive approach to interpreting whether the Board in EB-2013-0321 intended that OPG continue to receive deferral and variance account protection based upon the EB-2010-0008 revenue requirement for January 1, 2014 through October 31, 2014. If OPG's position is accepted, it would recover more in this proceeding than they would have had the Board in the EB-2013-0321 approved the payment amounts effective January 1, 2014. The Board in EB-2013-0321 rejected OPG's request to recover the increased revenue requirement effective January 1, 2014. Instead, the increased revenue requirement was effective November 1, 2014. For ratepayers to pay more in deferral and variance accounts because the Board in EB-2013-0321 rejected OPG's request for a January 1, 2015 effective date would produce an absurd result.

In interpreting the Board's intention in EB-2013-0321, we agree with SEC that this Panel should review the plain wording of the Payment Amounts Order in that case. The key provisions are described at paragraphs 2.4.3 through 2.4.10 of SEC's argument. The EB-2013-0321 Payment Amounts Order establishes a Board-approved revenue requirement covering the period January 1, 2014 to November 1, 2014. If the Board agrees with the principle that amounts should not be included in both the revenue requirement and also recorded and then cleared through deferral and variance accounts, then OPG's position must be rejected.

This position is further supported by the fact that the Board in EB-2013-0321 expressly considered whether to use an effective date of January 1, 2014 or November 1, 2014. The Board imposed the effective date of November 1, 2014, and in so doing, intentionally reduced OPG's revenue deficiency from \$1,138.3 million over twenty-four months to \$664.0 million over fourteen months. The fact that the Board did this with full understanding of the financial ramifications is unassailable because it specifically allowed recovery of the \$312 million differential for pensions and OPEBs for January to October, 2014. Put another way, the Board in EB-2013-0321 allowed some costs as of January 1, 2014, while rejecting other costs from January 1 to October 31.

If OPG's position were to be accepted, then the Board's reduction of the revenue deficiency because of the effective date of November 1, 2014 in EB-2013-0321 would be rendered moot with respect to the costs captured by the deferral and variance accounts. In fact, to the opposite, rate payers would be worse off. In our submission, this could not have been the intention of the Board panel in EB-2013-0321.

For all of these reasons, we request that OPG's request to recover deferral and variance account amounts on the basis of the difference between actual amounts and forecast amounts underpinning the rates approved in EB-2010-0008 for the period January 1, 2014 through October 31, 2014 be rejected.

CME hereby requests that the Board order payment of our reasonably incurred costs for participating responsibly in this proceeding.

Yours very truly,



Vincent J. DeRose  
VJD/kt

- c. Garry Hendel and Carlton Mathias (OPG)  
Charles Keizer (Torys LLP)  
All Interested Parties EB-2014-0370  
Paul Clipsham and Ian Shaw (CME)

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