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September 5, 2017

## VIA RESS AND COURIER

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

Dear Ms. Walli:

### **Re: EB-2016-0152 – Payment Amounts for Ontario Power Generation Inc.’s Prescribed Facilities – Submissions on Intervenor Cost Claims**

Ontario Power Generation (“OPG”) has completed its review of the cost claims that were submitted by those intervenors eligible to apply for an award of costs in EB-2016-0152 as specified in Procedural Order No. 9. These cost claims cover the period up to and including May 29, 2017.

OPG respects the OEB’s authority to order cost awards. OPG makes no submissions on specific cost claims made by individual intervenors. Rather, OPG restricts its submissions to general comments, which focus on a limited number of issues.

In aggregate, intervenors’ cost claims total approximately \$1.6 million.<sup>1</sup> This amount represents the largest total claim for any of OPG’s payment amounts applications. Given the significant potential cost to ratepayers associated with these cost claims, OPG is supportive of a rigorous OEB review in accordance with OEB’s Practice Direction on Cost Awards.

An appraisal of costs involves many considerations. Among other things, intervenors’ contributions can be measured in terms of the number of issues they made submissions on throughout the proceeding and by the quality of those submissions. If, in the OEB’s view, an intervenor’s cost claim is incommensurate with their relative contribution to the regulatory proceeding, OPG submits the OEB should disallow a portion of their costs.

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<sup>1</sup> Since this amount represents cost claims for the period up to and including May 29, 2017, it does not yet account for the full cost of the EB-2016-0152 proceeding.

OPG provides comments on intervenor submissions related to the following segments of the proceeding:

1. Pre-hearing conference: The number of preparation hours submitted by each intervenor varied widely, ranging from less than one hour to greater than 60 hours. OPG submits that the amounts on the high end may not be justified.

2. Interrogatories: Certain intervenors required a significant number of hours to prepare for interrogatories yet submitted a relatively small number of interrogatories that were limited to a narrow set of issues. While OPG makes no submission on what is an appropriate number of interrogatories per intervenor, the ratio of hours of preparation per interrogatory does identify some anomalies that call into question the reasonableness of certain intervenors' preparation time claims.

3. Oral Hearing: Intervenors' preparation time for the oral hearing also varied significantly. Certain individuals spent more than two hours of preparation time for each hour of attendance, which the OEB determined was inappropriate in its Decision and Order on Cost Awards in Toronto Hydro's EB-2014-0116 proceeding<sup>2</sup>. Moreover, certain intervenors submitted claims for a significant number of hours to prepare for and to attend the oral hearing despite focusing on a relatively minor set of issues and/or duplicating areas that were already covered by other intervenors during the hearing.

4. Argument: In OPG's view, the preparation time claimed by some intervenors for the Argument stage of the proceeding appeared to be excessive both in relation to the limited scope of issues addressed in their written submissions and in consideration of whether those submissions were able to meaningfully contribute to the Board's understanding of one or more of the issues.

All of which is respectfully submitted.

[Original signed by – Bryan Icyk on behalf of]

Saba Zadeh

cc: John Beauchamp via email  
Charles Keizer (Torys) via email  
Crawford Smith (Torys) via email

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<sup>2</sup> EB-2014-0116 Decision and Order on Cost Awards, p. 3.