



By Electronic Filing and By E-mail

August 10, 2009

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

Dear Ms Walli,

Ontario Power Generation ("OPG")
Application for an Accounting Order Regarding Variance and Deferral Accounts
Board File No.: EB-2009-0174
Our File No.: 339583-000049

We are writing to request that the Board direct OPG to provide a response to CME Interrogatory #1.

In that Interrogatory, we requested information which would show the extent to which the current Payment Amounts are expected to produce a revenue sufficiency or deficiency for 2010. OPG refuses to provide the information requested on the grounds that it is "not relevant to OPG's Accounting Order Application which is the subject of this proceeding". We disagree.

We submit that the information we have requested is relevant to a determination of whether any ratepayer protection conditions should be attached to the Accounting Order relief OPG seeks.

In CME Interrogatory #5, we asked whether OPG would agree to the establishment of an asymmetric Earnings Sharing Mechanism ("ESM") which will require it to refund to ratepayers any amount OPG earns in 2010 which exceeds the ROE for 2010 established in accordance with the adjustment mechanism approved by the Board in its November 3, 2008 Payment Amounts Decision. OPG will not agree to such conditions.

OPG's response to Board Staff Interrogatory #2 indicates that cumulatively, OPG is seeking to carry forward expense protection to December 31, 2010, of a debit amount estimated to be \$378.2M as of December 31, 2009, and \$283.5M as of December 31, 2010. If OPG is forecasting a material revenue sufficiency for 2010, then it would be unfair to ratepayers to grant OPG the extended expense protection that it seeks without ratepayer protection conditions of the type suggested in CME Interrogatory #5.

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Information we have requested in CME Interrogatory #1 is required to enable the Board to decide whether ratepayer protection conditions of the type suggested in CME Interrogatory #5 should be included in the Order OPG seeks.

We submit that the Board should seldom, if ever, make an Accounting Order which extends the protection of a complete set of deferral and variance accounts for a particular utility for a further year without any information on the utility's need for extended expense protection in that particular year. To grant a utility wholesale deferral and variance account protection in such circumstances is tantamount to regulating in the dark.

For all of these reasons, we urge the Board to reject OPG's contention that the information requested is irrelevant and direct OPG to forthwith respond to CME Interrogatory #1.

Please contact me if the Board requires any further information with respect to this request.

Yours very truly,

A handwritten signature in black ink, appearing to read "Peter C.P. Thompson", with a long horizontal flourish extending to the right.

Peter C.P. Thompson, Q.C.

PCT\slc

c. Barbara Reuber (OPG)
Intervenors EB-2009-0174
Paul Clipsham (CME)

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