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August 21, 2009

BY FAX & BY COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St, Suite 2701
Toronto ON M4P 1E4

Ms. Walli:

Board File No. EB-2009-0174

**Ontario Power Generation Inc. – Accounting Order Variance and Deferral Accounts
Argument of Energy Probe**

Pursuant to Procedural Order # 1, issued June 30, 2009, please find attached two hard copies of the Argument of Energy Probe Research Foundation (Energy Probe) in the EB-2009-0174 Ontario Power Generation Inc. proceeding for the Board's consideration. An electronic version of this communication will be forwarded in PDF format.

Should you require additional information, please do not hesitate to contact me.

Yours truly,

David S. MacIntosh
Case Manager

cc. Barbara Reuber, Ontario Power Generation Inc. (By email)
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Ontario Energy Board

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, (Schedule B);

AND IN THE MATTER OF an Application by Ontario Power Generation Inc. pursuant to section 78.1 of the *Ontario Energy Board Act, 1998* for an Order or Orders determining payment amounts for the output of certain of its generating facilities.

Final Argument On Behalf Of
Energy Probe Research Foundation

August 21, 2009

**Final Argument On Behalf Of
Energy Probe Research Foundation**

How these Matters came before the Board

1. On June 9, 2009, Ontario Power Generation Inc. (the “Applicant” or “OPG”), filed an application with the Ontario Energy Board (the “Board”) seeking an accounting order to address the treatment of its variance and deferral accounts, as approved in the EB-2007-0905 Payment Amounts proceeding, for the period after December 31, 2009.
2. Energy Probe Research Foundation (“Energy Probe”) participated as an intervenor in the EB-20067-0905 Payment Amounts proceeding, and was adopted as an intervenor in this proceeding as described in the Notice of Application and Hearing and Procedural Order No 1.
3. The EB-20067-0905 Decision With Reasons was issued by the Board on November 3, 2008. Section 7 dealt with Variance and Deferral Accounts in detail in respect of nuclear and hydroelectric accounts, both existing and new.
4. On December 2, 2008, the Board issued the Payments Amounts Order. The Independent Electricity Market Operator (the “IESO”) was ordered to make specified payments in accordance with the Payments Amounts Order to the Applicant commencing December 1, 2008, and continuing until December 31, 2009.

5. The Payments Amounts Order, in Appendix F: Variance and Deferral Accounts, provided direction to OPG on the treatment of each account, including the clearance of certain existing variance and deferral accounts, established under Ontario Regulation 53/05, for designated periods; the recording of actual costs/revenues incurred for certain existing variance and deferral accounts, for designated periods; to establish or continue certain variance and deferral accounts as of April 1, 2008; and, to establish six new accounts effective April 1, 2008, with the direction that the records supporting the entries in certain of these accounts are to be kept so that OPG can furnish full information when required.

6. Energy Probe notes that the Payments Amounts Order issued by the Board on December 2, 2008, was to a large degree predicated on the appearance before the Board by the Applicant in 2009 with a cost of service payment amounts application for 2010 rates.

7. Clearly, as the Applicant has informed the Board that it is deferring that application by one year, it now requires the accounting order described above, seeking an order approving:

- Continued amortization of the balances in certain nuclear deferral and variance accounts;
- Continuation of nuclear payment rider A;
- Establishment of a nuclear variance and deferral over/under recovery variance account; and
- The basis for recording entries in approved deferral and variance accounts after December 31, 2009.

Relief Sought by OPG

8. It had been the intention of Energy Probe in this proceeding to examine the rationale behind the one year deferral of the cost of service payment amounts application and to explore the ramifications of that decision to ratepayers.

9. In its letter from the Board Secretary in response to requests from CME, dated August 18, 2009, the Board made it clear that this type of examination was not within the scope of the current proceeding, as stated in the last paragraph of the first page of the letter:

The current payment amounts remain in place, pursuant to the Board's Order of December 2, 2008, until such time as they are changed, either as a result of OPG filing an application to change the payment amounts, or as a result of the Board initiating a proceeding on its own motion to determine whether the payment amounts remain just and reasonable.

10. Following that direction, Energy Probe again reviewed the evidence of the Applicant and its responses to the limited interrogatories filed.

11. Energy Probe has taken the opportunity to read the Submissions filed by Board staff, dated August 21, 2009, and supports their recommendations to the Board. Beyond that, Energy Probe will await the next payments proceeding to pursue its objectives and does not oppose the relief sought by the Applicant in this proceeding.

Costs

12. Energy Probe submits that it participated responsibly in this proceeding. Energy Probe requests the Board award 100% of its reasonably incurred costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

August 21, 2009

Energy Probe Research Foundation