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23 October 2009

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-2009-0331 – Consultation on OPG Filing Requirements/Issues – GEC submission

GEC offers the following suggested *additions* to the Board Staff proposals:

Re Proposed filing guideline 2.5.1: In addition to a review of the issue of separate capital structures, it is expected that OPG will provide risk adjusted capital structure values for the two divisions.

Proposed issue: If the Board finds that separate capital structures for the two divisions are preferable, what are the appropriate values?

Rationale: the Board (at page 160 of its prior Decision) commented on the benefits of separate capital structures but noted that the evidence at that time was not sufficiently robust to set parameters. Accordingly, OPG should be required to address this numerical analysis gap (and not merely file evidence on the merits of the proposal) to enable implementation if the Board concludes it appropriate.

Re Proposed filing guideline 2.2.2: Where OPG continues to make expenditures on items disallowed or at a level beyond that allowed by the Board in past orders, i.e. where OPG has elected to fund such activity in whole or part from other (i.e. shareholder) funds, a report of the extent and rationale for such expenditures in the historic, bridge and test and periods should be filed.

Rationale: Requiring this explicit reporting will enable consideration of the merit of continuing disallowance and the efficacy of the regulatory process, and will enhance transparency for the public and the shareholder. For example, it would allow the Board and parties to distinguish between continued failure at cost control versus an OPG conscious choice to continue an activity or level of expenditure despite disallowance. The transition from the review mode (of Ontario Hydro) to the regulation mode (for OPG regulated facilities) was a legislative recognition of the need for more accountability. Accordingly, the government is relying upon

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the process to expose and control inefficiencies and inappropriate activity. It is thus important to be able to make explicit the impact that regulatory disallowances make on an ongoing basis to allow the shareholder and the public for whom it acts to determine if the control is in fact being obtained or if there is need for further controls. While the Board's jurisdiction is to set the payments and does not extend to the control of non-payment funded spending, the appropriate scope of payment funded activity would be informed by this disclosure as would cost allocation between regulated and non-regulated activities. Further, such disclosure would serve the Board's ability to assess and report upon the value of its process.

Sincerely,

David Poch

Cc: all parties