

November 3, 2009

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Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2701
2300 Yonge Street
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Dear Ms Walli:

**Re: Ontario Power Generation Inc./EB-2009-0331
Consultation on Next Prescribed Payment Amounts Application**

On September 24, 2009 the Ontario Energy Board ("Board") announced that it was initiating a consultative process to discuss the filing requirements for Ontario Power Generation's ("OPG") next payment amounts application and the most efficient means by which issues and evidence might be reviewed and tested in the course of that proceeding. The Board directed Board Staff to draft a scoping paper identifying the subject areas which will be reviewed at OPG's next proceeding and setting out the issues likely to arise and the evidence likely to be filed for each subject area.

On October 22, 2009, the Board held a stakeholder meeting to provide a forum for discussion on subject areas, proposed issues and the revised filing guidelines. The Board is seeking further comment on the following issues:

- With respect to the Staff Scoping Paper, what are the issues that parties are likely to want to explore for each subject area?
- With respect to the Filing Guidelines, what if any additional evidence should be filed? Please explain why it is relevant and necessary

Preliminary Comments:

The Consumers Council of Canada ("Council") participated in the stakeholder meeting on October 22, 2009, and found the process useful. To the extent parties can agree on issues, and the evidence required to support OPG's proposals, the application process will be more effective and efficient. However, given the fact that OPG will not be filing its evidence until the end of the first quarter of 2010, finalization of the issues list cannot proceed until that evidence is reviewed by the intervenors and the Board. It is our understanding that the Board will ensure

that intervenors and OPG will have an opportunity to propose additional issues later in the process.

Board Staff has set out, in its scoping paper, a series of proposed procedural steps. The Council has the following comments to make regarding those proposals:

- The proposal as it now stands has the filing date of Board Staff or intervenor evidence before the interrogatory process. Often parties cannot make a determination as to whether they see a need to file evidence until after the interrogatory process has been completed. In addition, experts, in preparing evidence, may require additional evidence from the applicant. We propose that the schedule allow for the filing of evidence following, not preceding, the interrogatory stage.
- As we discussed at the stakeholder session, we do not see the need for two rounds of interrogatories as well as a technical conference. Our preference would be one round of interrogatories to be followed by a technical conference. In our view a technical conference provides a more efficient way than a second round of interrogatories, to elicit information about the evidence.

Issues:

As noted above we will not be able to make final submissions on the issues until we have reviewed the pre-filed evidence . Having said that, the Council has the following comments on the issues set out in the Board Staff scoping paper:

- With respect to rate base, the issue as it is now framed only refers to whether rate base is appropriately determined in accordance with regulatory accounting requirements. The Council agrees with the submission of the School Energy Coalition ("SEC") that the issue should be more broadly framed, "Is the rate base for each Test Year appropriate?" The issue proposed by Board Staff appears to focus more on how rate base is accounted for, and not the more substantive issues of whether the expenditures are required and at the levels proposed by OPG.
- With respect to ROE, it is not clear as to whether OPG will be proposing to set its ROE on the basis of the formula or by some other method. The Council suggests that the issue should be framed to reflect OPG's actual proposal.

- Board Staff has included an issue, "Are the corporate costs allocated to the regulated hydroelectric and nuclear businesses appropriate?". This issue is not only about the allocation, but the overall level of the costs as well. The issue as it is now framed could be interpreted narrowly as only looking at the allocation. The Council submits that the quantum of the costs is also a relevant issue for consideration by the Board.
- With respect to deferral and variance accounts, the Council submits that intervenors may propose the establishment of a new account(s). Accordingly, we would like to ensure that issue 12(e) would allow for a consideration of such account(s) by the Board.

Evidence:

The Council generally supports the proposed filing guidelines. With respect to the evidence, we have a few brief comments:

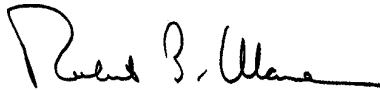
- As noted at the meeting, we think it would be useful for OPG to review the interrogatories from the last proceeding and include as a part of its pre-filed evidence those that were frequently referred to during the hearing process. This will ensure that intervenors have such relevant information in advance of the interrogatory process, rather than having to ask for it again. We will attempt to identify any such material, and make OPG aware of what we would find useful in this regard.
- It is our understanding that OPG intends to set out in its submission how it intends to present evidence on staffing, salaries, full-time equivalents etc. We will review those proposals and comment accordingly.
- As noted at the meeting we see value in having, at whatever level is possible, comparisons of actual and Board-approved budgets. This type of analysis will assist parties in assessing the reasonableness of the Test Year budgets. We acknowledge that Board-approved numbers are not available in all cases, but where they are the comparisons should be required and variance analysis provided.
- We agree with the SEC that the 2010-2014 Business Plan should be filed as a part of the pre-filed evidence.

- In assessing the overall level of rate base it is important to have actual in-service dates for the Bridge and Historical Years, and projected in-service dates for all projects included in the Test Year capital budgets. We would ask OPG to comment on how they intend to report in-service dates for all of its major projects.

If, in the future, we have further suggestions regarding the issues or the evidence, we will make parties aware of those suggestions. The Council supports making the OPG proceeding as streamlined as possible.

Yours very truly,

WeirFoulds LLP



Robert B. Warren

RBW/dh

cc: All Parties

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