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June 1, 2010

VIA RESS and COURIER

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

Dear Ms. Walli:

**Re: EB-2010-0008 – Ontario Power Generation Inc. 2011-2012 Payment  
Amounts for Prescribed Facilities**

Please find attached, for the public record, a copy of my letter of May 26, 2010 requesting confidential treatment of Ontario Power Generation Inc.'s ("OPG") 2005, 2006 and 2007 T2 and CT23 tax returns and supporting schedules (the "tax returns"). The tax returns are Exhibit F4 Tab 2 Schedule 1 Attachment 3 of OPG's prefiled evidence. Attachment A to the May 26 letter, which is a binder containing unredacted copies of the tax returns for which confidentiality is requested, is not provided.

OPG is also submitting this letter and a copy of the May 26 letter without Attachment A on the Regulatory Electronic Submission System ("RESS").

Respectfully submitted,

[Original signed by]

Barbara Reuber

Attach

cc: Charles Keizer (Tory's)  
Carlton Mathias

700 University Avenue, Toronto, Ontario M5G 1X6

Tel: 416-592-5419 Fax: 416-592-8519  
[barbara.reuber@opg.com](mailto:barbara.reuber@opg.com)

May 26, 2010

VIA COURIER

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

Dear Ms. Walli:

**Re: EB-2010-0008 – Ontario Power Generation Inc. 2011-2012 Payment  
Amounts for Prescribed Facilities**

In accordance with Rule 10 of the Ontario Energy Board's *Rules of Practice and Procedure* and section 5.1 of the Ontario Energy Board's *Practice Direction on Confidential Filings* (the "*Practice Direction*"), Ontario Power Generation Inc. ("OPG") requests the confidential treatment of its 2005, 2006 and 2007 T2 and CT23 tax returns and supporting schedules (the "Tax Returns").

Specifically, OPG proposes that the Tax Returns be filed as Exhibit F4 Tab 2 Schedule 1 Attachment 3 of its pre-filed evidence and seeks confidential treatment of the Tax Returns as described in further detail below. The description below applies to each year, 2005, 2006 and 2007, and to Ontario Power Generation Inc. and its subsidiary entities. For certain entities, tax returns were not required after 2006 and/or 2007 as they were amalgamated with OPG, in which case it is indicated in parentheses after the name of the entity:

1. Federal Corporation Income Tax Returns for Ontario Power Generation Inc., OPG - Huron A Inc., OPG - Huron B Inc., OPG - Huron Common Facilities Inc., OPG - Pickering Inc. (no return for 2007), OPG - Darlington Inc. (no return for 2007) and OPG - 700 University Inc. (no returns for 2006 and 2007):
  - Sch. 200 – T2 Corporation Income Tax Return
  - Sch. 1 – Net Income (Loss) for Income Tax Purposes
  - Sch. 2 – Charitable Donations and Gifts (if applicable)
  - Sch. 8 – Capital Cost Allowance (CCA)
  - Sch. 13 - Continuity of Reserves (if applicable)

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2. Ontario Corporations Tax and Annual Return for Ontario Power Generation Inc., OPG - Huron A Inc., OPG – Huron B Inc., OPG - Huron Common Facilities Inc., OPG - Pickering Inc. (no return for 2007), OPG – Darlington Inc. (no return for 2007) and OPG – 700 University Inc. (no returns for 2006 and 2007):

- CT23 – Corporations Tax and Annual Return
- ON Sch. 2 – Charitable Donations and Gifts (if applicable)
- ON Sch. 8 – Capital Cost Allowance
- ON Sch. 13 – Continuity of Reserves (if applicable)

In accordance with the *Practice Direction*, the reasons for the confidentiality request, including why the Tax Returns are considered confidential and the reasons why public disclosure of them would be detrimental, are set out in the last section of this letter below.

In accordance with the *Practice Direction*, this letter is being provided to the OEB along with six (6) copies of each of the unredacted Tax Returns and a non-confidential summary of them, as attachments “A” and “B”, respectively. Attachment A is a binder labeled “Exhibit F4-2-1 Attachment 3 Tax Returns for 2005-2007.”

As an interim measure and in the interests of efficiency, prior to the OEB making its final determination on OPG’s request for confidential treatment of the Tax Returns, OPG is content that the OEB makes provision that Board Staff and intervenors proceed as though OPG’s request has been granted. In so doing, OPG requests that the OEB provide that Board Staff and each intervenor requesting a copy of the Tax Returns complete and sign a Declaration and Undertaking in the form included at Attachment “C”, being the form set out in Appendix D of the *Practice Direction* and file it with the Board in order to be given a copy of the Tax Returns.

On a final determination, should the OEB grant OPG’s request for confidentiality, OPG proposes that the OEB order the Tax Returns be disclosed, subject to any conditions the OEB may find appropriate, to only those persons that by then have already signed, or that subsequently sign, the Declaration and Undertaking referenced in the paragraph above.

In addition, OPG requests that any reference to the Tax Returns, if determined to be confidential information, will be conducted *in camera* so as to preserve their confidential nature.

In the event that the confidentiality request is refused and OPG in turn requests that the Tax Returns be withdrawn in accordance with section 5.1.12 of the *Practice Direction*, all persons in possession of the said information will be required to destroy or return to the OEB Secretary for destruction the confidential information in accordance with section 6.1.6 of the *Practice Direction*.

### **Reasons for Confidential Treatment of the Tax Returns**

The Tax Returns should be protected as confidential and not placed on the public record because they include a significant amount of information that relates to the unregulated aspects of OPG’s business, both at the OPG corporate level and with

respect to unregulated entities, which are not relevant to OPG's payment amounts case and which OPG consistently treats as confidential financial information.

The Tax Returns are also the type of information that the OEB has previously assessed to be confidential with respect to entities that are regulated by it.

Disclosure of the Tax Returns to the public and to any persons who do not acknowledge the information to be confidential and undertake to keep it confidential and to use it exclusively for their duties in respect of OPG's payment amounts application, would prejudice OPG's competitive position and significantly interfere with its negotiations in a variety of aspects of its business.

Respectfully submitted,

[Original signed by]

Barbara Reuber  
Director, Ontario Regulatory Affairs

cc: Charles Keizer (Tory's)  
Carlton Mathias

## **ATTACHMENT B**

### **NON-CONFIDENTIAL SUMMARY OF CONFIDENTIAL INFORMATION**

The confidential information is comprised of OPG's 2005, 2006 and 2007 T2 and CT23 tax returns and supporting schedules. In particular, the confidential information is comprised of the following:

- (i) The 2005, 2006 and 2007 Federal Corporation Income Tax Returns for Ontario Power Generation Inc., including:
  - Sch. 200 – T2 Corporation Income Tax Return;
  - Sch. 1 – Net Income (loss) for Income Tax Purposes;
  - Sch. 2 – Charitable Donations and Gifts;
  - Sch. 8 – Capital Cost Allowance (CCA);
  - Sch. 13 – Continuity of Reserves.
- (ii) The 2005, 2006 and 2007 Ontario Corporations Tax and Annual Return for Ontario Power Generation Inc., including:
  - CT23 – Corporations Tax and Annual Return;
  - ON Sch. 2 – Charitable Donations and Gifts;
  - ON Sch. 8 – Capital Cost Allowance;
  - ON Sch. 13 – Continuity of Reserves.
- (iii) The 2005, 2006 and 2007 Federal Corporation Income Tax Returns for OPG – Huron A Inc., including:
  - Sch. 200 – T2 Corporation Income Tax Return;
  - Sch. 1 – Net Income (loss) for Income Tax Purposes;
  - Sch. 8 – Capital Cost Allowance (CCA).
- (iv) The 2005, 2006 and 2007 Ontario Corporations Tax and Annual Return for OPG – Huron A Inc., including:
  - CT23 – Corporations Tax and Annual Return;
  - ON Sch. 8 – Capital Cost Allowance.
- (v) The 2005, 2006 and 2007 Federal Corporation Income Tax Returns for OPG – Huron B Inc., including:
  - Sch. 200 – T2 Corporation Income Tax Return;
  - Sch. 1 – Net Income (loss) for Income Tax Purposes;
  - Sch. 8 – Capital Cost Allowance (CCA).
- (vi) The 2005, 2006 and 2007 Ontario Corporations Tax and Annual Return for OPG – Huron B Inc., including:
  - CT23 – Corporations Tax and Annual Return;
  - ON Sch. 8 – Capital Cost Allowance.

- (vii) The 2005, 2006 and 2007 Federal Income Tax Returns for OPG – Huron Common Facilities Inc., including:
  - Sch. 200 – T2 Corporation Income Tax Return;
  - Sch. 1 – Net Income (loss) for Income Tax Purposes;
  - Sch. 8 – Capital Cost Allowance (CCA).
- (viii) The 2005, 2006 and 2007 Ontario Corporations Tax and Annual Return for OPG – Huron Common Facilities Inc., including:
  - CT23 – Corporations Tax and Annual Return;
  - ON Sch. 8 – Capital Cost Allowance.
- (ix) The 2005 and 2006 Federal Income Tax Returns for OPG – Pickering Inc., including:
  - Sch. 200 – T2 Corporation Income Tax Return;
  - Sch. 1 – Net Income (loss) for Income Tax Purposes;
  - Sch. 8 – Capital Cost Allowance (CCA).
- (x) The 2005 and 2006 Ontario Corporations Tax and Annual Return for OPG-Pickering Inc., including:
  - CT23 – Corporations Tax and Annual Return;
  - ON Sch. 8 – Capital Cost Allowance.
- (xi) The 2005 and 2006 Federal Income Tax Returns for OPG – Darlington Inc., including:
  - Sch. 200 – T2 Corporation Income Tax Return;
  - Sch. 1 – Net Income (loss) for Income Tax Purposes;
  - Sch. 8 – Capital Cost Allowance (CCA).
- (xii) The 2005 and 2006 Ontario Corporations Tax and Annual Return for OPG – Darlington Inc., including:
  - CT23 – Corporations Tax and Annual Return;
  - ON Sch. 8 – Capital Cost Allowance.
- (xiii) The 2005 Federal Income Tax Returns for OPG – 700 University Inc., including:
  - Sch. 200 – T2 Corporation Income Tax Return;
  - Sch. 1 – Net Income (loss) for Income Tax Purposes;
  - Sch. 8 – Capital Cost Allowance (CCA).
- (xiv) The 2005 Ontario Corporations Tax and Annual Return for OPG – 700 University Inc., including:
  - CT23 – Corporations Tax and Annual Return;
  - ON Sch. 8 – Capital Cost Allowance.

## **ATTACHMENT C**

### **Form of Declaration and Undertaking**

**EB-2010-0008**

**IN THE MATTER OF** the Ontario Energy Board Act, 1998;

**AND IN THE MATTER OF** an Application by Ontario Power Generation Inc.  
for an order or orders approving payment amounts for prescribed  
generating facilities commencing March 1, 2011

#### **DECLARATION AND UNDERTAKING**

I, \_\_\_\_\_, am counsel of record or a consultant for  
\_\_\_\_\_.

#### **DECLARATION**

I declare that:

1. I have read the *Rules of Practice and Procedure* of the Ontario Energy Board (the "Board") and all Orders of the Board that relate to this proceeding.
2. I am not a director or employee of a party to this proceeding for which I act or of any other person known by me to be a party in this proceeding.
3. I understand that this Declaration and Undertaking applies to all information that I receive in this proceeding and that has been designated by the Board as confidential and to all documents that contain or refer to that confidential information ("Confidential Information").
4. I understand that this Declaration and Undertaking is a condition of an Order of the Board, that the Board may apply to the Superior Court of Justice to enforce it.

#### **UNDERTAKING**

I undertake that:

1. I will use Confidential Information exclusively for duties performed in respect of this proceeding.

2. I will not divulge Confidential Information except to a person granted access to such Confidential Information or to the Board.
3. I will not reproduce, in any manner, Confidential Information without the prior written approval of the Board. For this purpose, reproducing Confidential Information includes scanning paper copies of Confidential Information, copying the Confidential Information onto a diskette or other machine-readable media and saving the Confidential Information on to a computer system.
4. I will protect Confidential Information from unauthorized access.
5. I will, promptly following the end of this proceeding or within 10 days after the end of my participation in this proceeding:
  - (a) return to the Board Secretary, under the direction of the Board Secretary, all documents and materials in all media containing Confidential Information, including notes, charts, memoranda, transcripts and submissions based on such Confidential Information; or
  - (b) destroy such documents and materials and file with the Board Secretary a certification of destruction in the form prescribed by the Board pertaining to the destroyed documents and materials.

For this purpose, the end of this proceeding is the date on which the period for filing a review or appeal of the Board's final order in this proceeding expires, or, if a review or appeal is filed, upon issuance of a final decision on the review or appeal from which no further review or appeal can or has been taken.
6. I will inform the Board Secretary immediately of any changes in the facts referred to in this Declaration and Undertaking.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature:  
Name:  
Company/Firm:  
Address:  
Telephone:  
Fax:  
E-mail: