



**EB-2010-0008**

**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.

### **PROCEDURAL ORDER NO. 1**

Ontario Power Generation Inc. (“OPG” or the “Applicant”) filed an application, dated May 26, 2010, with the Ontario Energy Board under section 78.1 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B (the “Act”) seeking approval for increases in payment amounts for the output of certain of its generating facilities, to be effective March 1, 2011. The Board has assigned the application file number EB-2010-0008.

The Board issued a Notice of Application and Oral Hearing on June 4, 2010. The Board received 11 requests for intervenor status. The Board approves these intervention requests. The Board also received 2 requests for observer status and approves these requests. A list of the parties to the proceeding is attached as Appendix A.

The following parties have also applied for cost award eligibility: Association of Major Power Consumers in Ontario, Consumers Council of Canada, Canadian Manufacturers & Exporters, Energy Probe Research Foundation, Green Energy Coalition, Pollution Probe, School Energy Coalition, and Vulnerable Energy Consumers Coalition. The Board finds that each of these parties is eligible to apply for an award of costs under the Board’s *Practice Direction on Cost Awards*.

A draft issues list is attached as Appendix B. An Issues Conference involving Board Staff, intervenors and OPG will be convened on **Tuesday, July 6, 2010**. The purpose of the Issues Conference is not to develop an agreed negotiated issues list. The objective of the Issues Conference is to review and discuss the draft issues list. Parties will also have the opportunity to provide input to Board staff. Based on the input received at the Issues Conference, Board staff will prepare a revised draft issues list that will be issued following the Issues Conference. Intervenors and OPG will have the opportunity to make written submissions on the revised draft issues list and propose changes for the Board's consideration. In proposing additional issues parties should provide justification and give consideration to whether the item is already included under one of the proposed issues. Similarly, parties proposing to remove or limit the scope of an issue on the draft list should provide justification. After reviewing these submissions, the Board will issue a final issues list. Only matters that are on the final issues list will be considered in this proceeding.

### **Confidential Filing**

OPG has sought confidential treatment for certain tax information ("Tax Information") filed with the application in accordance with the Board's *Practice Direction on Confidential Filings* ("the Practice Direction").

In accordance with section 5.1.5 of the Practice Direction, OPG has filed a copy of the cover letter requesting confidential status which identifies the documents that are being filed in confidence, together with a description of the basis on which confidentiality is claimed. As an interim measure, counsel and consultants for intervenors that wish to review the Tax Information may do so after signing a copy of the Board's Declaration and Undertaking (which can be found at Appendix D of the Practice Direction), and filing it with the Board. Parties that wish to make submissions on whether or not the Board should ultimately treat the Tax Information as confidential may make submissions on this issue in accordance with the steps described below. If the Board ultimately decides that the documents should not be afforded confidential treatment, OPG has requested that the Tax Information be withdrawn. The Board will issue a decision on the confidential status of the Tax Information after considering any submissions.

### **Redacted Material Filed**

OPG has filed the following material in its application with certain sections redacted:

- 2010-2014 Business Plan; and

- Business Case Summaries.

However, the material (“Business Plan and Business Case Summaries”) was not filed in accordance with section 5.1.5 of the Practice Direction. The Board notes that section 2.1.2 of the Filing Guidelines for OPG (EB-2009-0331) state that, “Unless otherwise directed by the Board, any request for confidential treatment of information by OPG must be made at the time of the filing and in accordance with the Board’s *Practice Direction on Confidential Filings*.” Further, and specifically with respect to the 2010-2014 Business Plan, section 2.2.3 of the Filing Guidelines for OPG state, “... if any claim for confidentiality is advanced with regard to any part of the Business Plan, a claim for confidentiality should be made in accordance with the Board’s *Practice Direction on Confidential Filings*.” The Board further is of the view that the unredacted Business Case Summaries should be filed.

OPG shall file the Business Plan and Business Case Summaries in unredacted form in accordance with the Practice Direction forthwith, so that the efficiency of the proceeding is not affected. The re-filing of the material will include the complete unredacted documents and a description of the basis on which confidentiality is claimed. As with the Tax Information noted above, counsel and consultants for intervenors will have the opportunity to submit a Declaration and Undertaking to review the unredacted versions of the documents. Parties that wish to make submissions on whether or not the Board should ultimately treat the redacted portions as confidential may make submissions on this issue in accordance with the steps described below.

The Board has provided a schedule for the proceeding below.

The Board considers it necessary to make provision for the following matters related to this proceeding. The Board may issue further procedural orders from time to time.

**THE BOARD ORDERS THAT:**

1. An Issues Conference, involving Board Staff, intervenors and OPG will be convened to review and discuss the draft issues list (attached at Appendix B). The Issues Conference will take place in the Board’s hearing room at 2300 Yonge Street, 25<sup>th</sup> Floor, Toronto, commencing at 9:00 a.m. on **Tuesday, July 6, 2010**.

2. Following the Issues Conference, a revised draft issues list will be issued. OPG and intervenors may make submissions on the revised draft issues list and shall file any submissions with the Board and deliver them to all parties no later than **Tuesday, July 13, 2010.**
3. OPG may respond to the submissions of intervenors, and intervenors may respond to the submissions of OPG or other intervenors by filing those responses with the Board and delivering them to all parties no later than **Friday, July 16, 2010.**
4. Parties wishing to make submissions on the confidentiality status of the Tax Information and the Business Plan and Business Case Summaries shall file such submissions with the Board and deliver them to OPG and all other parties on or before **Tuesday, July 6, 2010.**
5. If OPG wishes to respond to any submissions on the confidentiality status of the Tax Information and the Business Plan and Business Case Summaries, it shall file such submissions with the Board and deliver them to the relevant intervenor and all other parties on or before **Tuesday, July 13, 2010.**
6. The schedule for the balance of the proceeding is summarized in the following table.

<b>Procedural Step</b>	<b>Required Date</b>
Board Staff Interrogatories Filed	Thursday, July 22, 2010
Intervenor Interrogatories Filed	Thursday, July 29, 2010
Interrogatory Responses Filed by OPG	Thursday, August 12, 2010
Technical Conference (Transcribed)	Thursday, August 19, 2010
Evidence Filed by Board Staff/Intervenors	Monday, August 23, 2010
Interrogatories Filed on Evidence of Board Staff/Intervenors	Monday, August 30, 2010
Interrogatory Responses Filed	Thursday, September 9, 2010
Settlement Conference	Commencing Tuesday, September 14, 2010
Oral Hearing	Commencing Monday, September 27, 2010

7. All conferences and hearings will take place in the Board's hearing rooms at 2300 Yonge Street, 25<sup>th</sup> Floor, Toronto, commencing at 9:00 a.m.

All filings to the Board must quote file number EB-2010-0008, be made through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca), and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca). If the web portal is not available you may email your document to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

### **ADDRESS**

Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27th Floor  
Toronto ON M4P 1E4  
Attention: Board Secretary

E-mail: [Boardsec@oeb.gov.on.ca](mailto:Boardsec@oeb.gov.on.ca)  
Tel: 1-888-632-6273 (toll free)  
Fax: 416-440-7656

**ISSUED** at Toronto, June 29, 2010

ONTARIO ENERGY BOARD

*Original signed by*

Kirsten Walli  
Board Secretary

**APPENDIX A**

**ONTARIO POWER GENERATION INC.  
2011-2012 PAYMENT AMOUNTS**

**EB-2010-0008**

**APPLICANT & LIST OF PARTIES**

**Ontario Power Generation Inc.  
EB-2010-0008  
APPLICANT & LIST OF PARTIES**

June 29, 2010

**APPLICANT**

**Rep. and Address for Service**

**Ontario Power Generation Inc.**

**Barbara S. Reuber**

Director, Ontario Regulatory Affairs  
Ontario Power Generation Inc.  
700 University Ave. H18-G2  
Toronto, ON M5G 1X6

Tel: 416-592-5419

Fax: 416-592-8519

[barbara.reuber@opg.com](mailto:barbara.reuber@opg.com)

[opgregaffairs@opg.com](mailto:opgregaffairs@opg.com)

**APPLICANT COUNSEL**

**Charles Keizer**

Torys LLP

79 Wellington St. W.

Suite 3000, Maritime Life Tower

P.O. Box 270, Toronto Dominion Centre

Toronto ON M5K 1N2

Tel: 416-865-0040

Fax: 416-865-7380

[ckeizer@torys.com](mailto:ckeizer@torys.com)

**Carlton Mathias**

Senior Counsel

Ontario Power Generation Inc.

700 University Avenue

H18-A24

Toronto ON M5G 1X6

Tel: 416-592 4964

Fax: 592 1466

[carlton.mathias@opg.com](mailto:carlton.mathias@opg.com)

**INTERVENORS**

**Rep. and Address for Service**

**Ontario Power Generation Inc.**

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**APPLICANT & LIST OF INTERVENORS**

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**June 29, 2010**

**Association of Major Power  
Consumers in Ontario**

**David Crocker**

Davis LLP  
1 First Canadian Place, Suite 5600  
PO Box 367  
100 King Street West  
Toronto ON M5X 1E2  
Tel: 416-941-5415  
Fax: 416-777-7431  
[dcrocker@davis.ca](mailto:dcrocker@davis.ca)

**Tom Adams**

Energy and Environmental Consulting  
12 Sidford Court  
Toronto ON M6S 2J4  
Tel: 416-834-7442  
Fax: 416-260-0442  
[tom.adams.energy@gmail.com](mailto:tom.adams.energy@gmail.com)

**Shelley Grice**

Consultant  
AITIA Analytics Inc.  
c/o AMPCO  
372 Bay Street  
Suite 1702  
Toronto ON M5H 2W9  
Tel: 647-880-9942  
Fax: 416-260-0442  
[shelley.grice@rogers.com](mailto:shelley.grice@rogers.com)



**Ontario Power Generation Inc.**

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**APPLICANT & LIST OF INTERVENORS**

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**June 29, 2010**

**Canadian Manufacturers &  
Exporters**

**Paul Clipsham**

Director of Policy, Ontario Division  
Canadian Manufacturers & Exporters  
6725 Airport Rd.  
Suite 200  
Mississauga ON L4V 1V2  
Tel: 905-672-3466 Ext: 3236  
Fax: 905-672-1764  
[paul.clipsham@cme-mec.ca](mailto:paul.clipsham@cme-mec.ca)

**Peter Thompson, Q.C.**

Borden Ladner Gervais LLP  
100 Queen St.  
Suite 1100  
Ottawa ON K1P 1J9  
Tel: 613-787-3528  
Fax: 613-230-8842  
[pthompson@blgcanada.com](mailto:pthompson@blgcanada.com)

**Vincent DeRose**

Borden Ladner Gervais LLP  
100 Queen St.  
Suite 1100  
Ottawa ON K1P 1J9  
Tel: 613-787-3589  
Fax: 613-230-8842  
[vderose@blgcanada.com](mailto:vderose@blgcanada.com)

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**Consumers Council of Canada   Robert B. Warren**

Counsel  
WeirFoulds LLP  
The Exchange Tower  
Suite 1600, P.O. Box 480  
130 King Street West  
Toronto ON M5X 1J5  
Tel: 416-947-5075  
Fax: 416-365-1876  
[rwarren@weirfoulds.com](mailto:rwarren@weirfoulds.com)

**Julie Girvan**

Consultant  
Consumers Council of Canada  
62 Hillside Ave. East  
Toronto ON M4S 1T5  
Tel: 416-322-7936  
Fax: 416-322-9703  
[jgirvan@ca.inter.net](mailto:jgirvan@ca.inter.net)

**Energy Probe Research  
Foundation**

**Peter Faye**

Counsel  
Independant Participants - General Public  
42 Eastwood Crescent  
Markham ON L3P 5Z7  
Tel: 905-294-2013  
Fax: Not Provided  
[pfaye@rogers.com](mailto:pfaye@rogers.com)

**Lawrence Schwartz**

Consulting Economist  
82 Ridge Hill Drive  
Toronto ON M6C 2J8  
Tel: 416-785-4985  
Fax: Not Provided  
[lschwartz5205@rogers.com](mailto:lschwartz5205@rogers.com)

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**Energy Probe Research  
Foundation**

**Norman Rubin**

Senior Consultant  
Energy Probe Research Foundation  
478 Brunswick Avenue  
Toronto ON M5R 2Z5  
Tel: 416-964-3761  
Fax: Not Provided  
[normrubin.energyprobe@gmail.com](mailto:normrubin.energyprobe@gmail.com)

**David MacIntosh**

Case Manager  
Energy Probe Research Foundation  
225 Brunswick Avenue  
Toronto ON M5S 2M6  
Tel: 416-964-9223 Ext: 235  
Fax: 416-964-8239  
[DavidMacIntosh@nextcity.com](mailto:DavidMacIntosh@nextcity.com)

**Green Energy Coalition**

**David Poch**

Barrister  
Independant Participants - General Public  
1649 Old Brooke Road  
Maberly ON K0H 2B0  
Tel: 613-264-0055  
Fax: 613-264-2878  
[dpoch@eelaw.ca](mailto:dpoch@eelaw.ca)

**Paul Chernick**

Resource Insight Inc.  
5 Water Street  
Arlington MA 02476  
Tel: 781-646-1505 Ext: 207  
Fax: 781-646-1506  
[pchernick@resourceinsight.com](mailto:pchernick@resourceinsight.com)

**Ontario Power Generation Inc.**

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**Hydro One Networks Inc.**

**Anne-Marie Reilly**

Senior Regulatory Coordinator  
Hydro One Networks Inc.  
483 Bay Street  
8th Floor - South Tower  
Toronto ON M5G 2P5  
Tel: 416-345-6482  
Fax: 416-345-5866  
[regulatory@hydroone.com](mailto:regulatory@hydroone.com)

**Ontario Power Authority**

**Miriam Heinz**

Regulatory Coordinator, Corporate Affairs/Legal  
Ontario Power Authority  
120 Adelaide Street West, Suite 1600  
Toronto ON M5H 1T1  
Tel: 416-967-7474  
Fax: 416-967-1947  
[Miriam.Heinz@powerauthority.on.ca](mailto:Miriam.Heinz@powerauthority.on.ca)

**Pollution Probe Foundation**

**Jack Gibbons**

Public Interest Economics  
625 Church St. Suite 402  
Toronto ON M4Y 2G1  
Tel: 416-926-1907 Ext: 240  
Fax: 416-926-1601  
[jgibbons@pollutionprobe.org](mailto:jgibbons@pollutionprobe.org)

**Gordon Roberts**

York University  
Schulich School of Business - Finance Area  
4700 Keele Street  
Toronto ON M3J 1P3  
Tel: 416-485-3459  
Fax: Not Provided  
[groberts@schulich.yorku.ca](mailto:groberts@schulich.yorku.ca)

**Ontario Power Generation Inc.**

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**Pollution Probe Foundation**

**Lawrence Kryzanowski**

Concordia University  
1455 De Maisonneuve Blvd. West  
MB12-229, JMSB  
Montreal PQ H3G 1M8  
Tel: 514-848-2424 Ext: 2782  
Fax: 514-848-4500  
[lawrence.kryzanowski@concordia.ca](mailto:lawrence.kryzanowski@concordia.ca)

**Murray Klippenstien**

Klippensteins, Barristers & Solicitors  
160 John St. Suite 300  
Toronto ON M5V 2E5  
Tel: 416-598-0288  
Fax: 416-598-9520  
[murray.klippenstein@klippensteins.ca](mailto:murray.klippenstein@klippensteins.ca)

**Basil Alexander**

Klippensteins, Barristers & Solicitors  
160 John St. Suite 300  
Toronto ON M5V 2E5  
Tel: 416-598-0288  
Fax: 416-598-9520  
[basil.alexander@klippensteins.ca](mailto:basil.alexander@klippensteins.ca)

**Power Workers' Union**

**John Sprackett**

Staff Officer, President's Office  
Power Workers' Union  
244 Eglinton Avenue E.  
Toronto ON M4P 1K4  
Tel: 416-322-4787  
Fax: 416-481-7914  
[spracket@pwu.ca](mailto:spracket@pwu.ca)

**Ontario Power Generation Inc.**

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**Power Workers' Union**

**Judy Kwik**

Senior Consultant  
Elenchus Research Associates (ERA)  
34 King Street E. Suite 610  
Toronto ON M5C 2X8  
Tel: 416-348-8777  
Fax: 416-348-9930  
[jkwik@elenchus.ca](mailto:jkwik@elenchus.ca)

**Alfredo Bertolotti**

Consultant  
Elenchus Research Associates (ERA)  
34 King Street East  
Suite 610  
Toronto ON M5C 2X8  
Tel: 416-348-0666  
Fax: 416-348-9930  
[abertolotti@elenchus.ca](mailto:abertolotti@elenchus.ca)

**Richard Stephenson**

Counsel  
Paliare Roland Rosenberg Rothstein LLP  
250 University Av. Suite 510  
Toronto ON M5H 3E5  
Tel: 416-646-4325  
Fax: 416-646-4335  
[richard.stephenson@paliareroland.com](mailto:richard.stephenson@paliareroland.com)

**School Energy Coalition**

**Wayne McNally**

SEC Coordinator  
Ontario Public School Boards' Association  
c/o Ontario Public School Boards Associa  
439 University Avenue  
18th Floor  
Toronto ON M5G 1Y8  
Tel: 416-340-2540  
Fax: 416-340-7571  
[wmcnally@opsba.org](mailto:wmcnally@opsba.org)

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**School Energy Coalition**

**Jay Shepherd**

Jay Shepherd Professional Corporation  
120 Eglinton Avenue East  
Suite 500  
Toronto ON M4P 1E2  
Tel: 416-804-2767  
Fax: 416-214-5424  
[jay.shepherd@canadianenergylawyers.com](mailto:jay.shepherd@canadianenergylawyers.com)

**Mark Garner**

Consultant  
Independant Participants - General Public  
c/o Jay Shepherd Professional Corporatio  
120 Eglinton Avenue East, Suite 500  
Toronto ON M4P 1E2  
Tel: 647-408-4501  
Fax: Not Provided  
[markgarner@rogers.com](mailto:markgarner@rogers.com)

**Vulnerable Energy Consumers  
Coalition**

**Michael Buonaguro**

Counsel  
Public Interest Advocacy Centre  
34 King St. E., Suite 1102  
Toronto ON M5C 2X8  
Tel: 416-767-1666  
Fax: 416-348-0641  
[mbuonaguro@piac.ca](mailto:mbuonaguro@piac.ca)

**James Wightman**

Consultant  
Econalysis Consulting Services Inc.  
34 King St. E. Suite 1102  
Toronto ON M5C 2X8  
Tel: 416-348-0640  
Fax: 416-348-0641  
[jwightman@econalysis.ca](mailto:jwightman@econalysis.ca)

**APPENDIX B**

**ONTARIO POWER GENERATION INC.  
2011-2012 PAYMENT AMOUNTS**

**EB-2010-0008**

**DRAFT  
ISSUES LIST**



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

**DRAFT ISSUES LIST**

**1. GENERAL**

- 1.1 Has OPG responded appropriately to all relevant Board directions from previous proceedings?
- 1.2 Are OPG's economic and business planning assumptions for 2011-2012 appropriate?

**2. RATE BASE**

- 2.1 What is the appropriate amount for rate base?
- 2.2 Is OPG's proposal to include CWIP in rate base for the Darlington Refurbishment Project appropriate?

**3. CAPITAL STRUCTURE AND COST OF CAPITAL**

- 3.1 What is the appropriate capital structure and rate of return on equity?
- 3.2 Are OPG's proposed costs for its long-term and short-term debt components of its capital structure appropriate?
- 3.3 Should the same capital structure and cost of capital be used for both OPG's regulated hydroelectric and nuclear businesses? If not, what capital structure and/or cost of capital parameters are appropriate for each business?

**4. CAPITAL PROJECTS**

**Regulated Hydroelectric**

- 4.1 Do the costs associated with the regulated hydroelectric projects, and proposed for recovery, conform to and/or meet the requirements set out in O. Reg. 53/05? If not, were the additional costs prudent?
- 4.2 Are the proposed regulated hydroelectric capital expenditures and/or financial commitments appropriate and supported by business cases?
- 4.3 Are the proposed in-service additions for regulated hydroelectric projects appropriate?

**Nuclear**

- 4.4 Do the costs associated with the nuclear projects, and proposed for recovery, conform to and/or meet the requirements set out in O. Reg. 53/05? If not, were the additional costs prudent?
- 4.5 Are the proposed nuclear capital expenditures and/or financial commitments appropriate and supported by business cases?
- 4.6 Are the proposed in-service additions for nuclear projects appropriate?
- 4.7 Is the capitalization approach used for Pickering Units 2 and 3 appropriate?
- 4.8 Are the test period new nuclear expenditures, if any, appropriate?
- 4.9 Are the test period nuclear refurbishment expenditures appropriate?

**5. PRODUCTION FORECASTS**

**Regulated Hydroelectric**

- 5.1 Is the proposed regulated hydroelectric production forecast appropriate?
- 5.2 Is the estimate of surplus baseload generation appropriate? What economic and supply conditions are forecast to generate the surplus baseload generation outlook?

**Nuclear**

- 5.3 Is the proposed nuclear production forecast appropriate?
- 5.4 Are the estimates of forced loss rates for the individual nuclear plants reasonable?

**6. OPERATING COSTS**

**Regulated Hydroelectric**

- 6.1 Is the test period Operations, Maintenance and Administration budget for the regulated hydroelectric facilities appropriate?
- 6.2 Are the benchmarking results and targets for OPG's regulated hydroelectric facilities reasonable?

**Nuclear**

- 6.3 Is the test period Operations, Maintenance and Administration budget for the nuclear facilities appropriate?
- 6.4 Are the benchmarking results and targets for OPG's nuclear facilities reasonable?
- 6.5 Is the forecast of nuclear fuel costs appropriate?

- 6.6 Are the test period expenditures related to continued operations at Pickering B appropriate?

**Corporate Costs**

- 6.7 Are the 2011 and 2012 human resource related costs (wages, salaries, benefits, incentive payments, FTEs and pension costs) appropriate?
- 6.8 Are the “Centralized Support and Administrative Costs” and the allocation of the same to the regulated hydroelectric business and nuclear business appropriate?
- 6.9 Has OPG responded appropriately to the findings in the Human Resources and Finance Benchmarking Reports?

**Other Costs**

- 6.10 Are the amounts proposed to be included in the test period revenue requirement for other operating cost items, including depreciation expense, income and property taxes, appropriate?
- 6.11 Are the asset service fee amounts charged to the regulated hydroelectric business and nuclear business appropriate?

**7. OTHER REVENUES**

**Regulated Hydroelectric**

- 7.1 Are the proposed test period regulated hydroelectric business revenues from ancillary services, segregated mode of operation and water transactions appropriate?

**Nuclear**

- 7.2 Are the proposed test period nuclear business non-energy revenues appropriate?

**Bruce Nuclear Generating Station**

- 7.3 Are the test period costs related to the Bruce Nuclear Generating Station, and costs and revenues related to the Bruce lease appropriate?

## **8. NUCLEAR WASTE MANAGEMENT AND DECOMMISSIONING LIABILITIES**

- 8.1 Is the revenue requirement methodology for recovering nuclear liabilities in relation to nuclear waste management and decommissioning costs appropriate? If not, what alternative methodology should be considered?
- 8.2 Is the revenue requirement amount for nuclear liabilities related to nuclear waste management and decommissioning costs appropriately determined?

## **9. DESIGN OF PAYMENT AMOUNTS**

- 9.1 Has the hydroelectric incentive mechanism encouraged appropriate use of the regulated hydroelectric facilities to supply energy in response to market prices?

## **10. DEFERRAL AND VARIANCE ACCOUNTS**

- 10.1 Is the nature or type of costs recorded in the deferral and variance accounts appropriate?
- 10.2 Is the proposed inclusion of costs related to Pickering B continued operations in the Capacity Refurbishment Variance Account appropriate?
- 10.3 Are the balances for recovery in each of the deferral and variance accounts appropriate?
- 10.4 Is the disposition methodology appropriate?
- 10.5 Is the proposed continuation of deferral and variance accounts appropriate?
- 10.6 Should the proposed variance account related to IESO non-energy charges be established?

## **11. REPORTING AND RECORD KEEPING REQUIREMENTS**

- 11.1 What reporting and record keeping requirements should be established for OPG?

## **12. METHODOLOGIES FOR SETTING PAYMENT AMOUNTS**

The Board Report, *A Regulatory Methodology for Setting Payment Amounts for the Prescribed Generation Assets of Ontario Power Generation Inc.*, EB-2006-0064, November 30, 2006, stated that, “The Board will implement an incentive regulation formula when it is satisfied that the base payment provides a robust starting point for that formula.”

- 12.1 What incentive regulation formulations and options should be considered?

- 12.2 When would it be appropriate for the Board to establish incentive regulation, or other form of alternative rate regulation, for setting payment amounts?
- 12.3 What issues will require further examination to establish appropriate base payment amounts as the starting point for an incentive regulation or other form of alternative rate regulation plan?
- 12.4 What processes should be adopted to establish the framework for incentive regulation, or other form of alternative rate regulation, that would be applied in a future test period?