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VIA RESS FILING AND COURIER

July 13, 2010

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Board Secretary
Ontario Energy Board
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Dear Ms. Walli

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

Attached please find the Power Workers' Union's comments on the Draft Issues List for the above proceeding.

Yours very truly,
PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Original Signed by

Richard P. Stephenson

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Encl.

cc: *via email:*
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**Ontario Power Generation Inc.
2011-2012 Payment Amounts for
Prescribed Generating Facilities**

Power Workers' Union's Comments on the Revised Draft Issues List

The following are the Power Workers' Union's ("PWU") comments on the Revised Draft Issues List for EB-2010-0008.

6. OPERATING COSTS

Regulated Hydroelectric

6.1 Is the test period Operations, Maintenance and Administration budget for the regulated hydroelectric facilities appropriate?

6.3 Is the test period Operations, Maintenance and Administration budget for the nuclear facilities appropriate?

The PWU recommends that the Board provide context in issues 6.1 and 6.3 for the appropriateness of Operations, Maintenance and Administration ("OM&A") costs. The appropriateness of the proposed OM&A costs (input) must be reviewed relative to the service performance (output) that they are expected to provide in addition to factors such as consumer bill impact. Service performance can be assessed in terms of the reliability of the generating units and asset condition. Adding specificity that the issues apply to OPG's proposed OM&A budgets for the test years 2011 and 2012 in addition to providing context for "appropriateness", the PWU suggests that issues 6.1 and 6.3 be re-worded as follows:

6.1 Are OPG's proposed budgets for Operations, Maintenance and Administration in 2011 and 2012 for its regulated hydroelectric facilities appropriate, including consideration of service reliability and asset condition?

6.3 Are OPG's proposed budgets for Operations, Maintenance and Administration in 2011 and 2012 for its nuclear facilities appropriate, including consideration of service reliability and asset condition?

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.*, EG-2006-0064, November 30, 2006, stated that, “The Board will implement an incentive regulation formula when it is satisfied that the base payment amount 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?**

The PWU strongly recommends the removal of Issue 12. The PWU’s reasons for its recommendation are provided below.

Issue 12.1

Issue 12.1 speaks to the consideration of incentive regulation (“IR”) formulations and options for OPG. Consideration of an IR approach and the development of an IR framework, as the Board must realize from its experience in the development of an Incentive Regulation Mechanism (“IRM”) for the electricity distribution sector is complex, time consuming and can be contentious. Included in the consideration of an incentive regulatory approach is the determination of the availability of data required to develop the IRM. In addition to these complexities, service reliability performance must be an integral part of the considerations of an IR framework in order to discourage cost cuts that sacrifice service reliability and asset health in response to the IRM. The question of what IR formulations and options should be considered for OPG requires intensive consultation efforts to develop an IRM that correctly reflects OPG’s cost circumstances and productivity potential while ensuring ongoing reliability and asset condition at fair payment amounts for consumers.

Given the ambitious schedule for this proceeding provided in Procedural Order No. 1 the efforts that would be required in properly considering IR formulations and options would not be doable within this proceeding. The PWU is concerned that including this issue in the current proceeding will result in, or put OPG on the path toward an oversimplified flawed IR approach either through the settlement process or through an expedited review of options in a hearing process initiated as a cost of service review. Consideration of IR for OPG in this expedited manner jeopardizes the ongoing reliability and health of the assets for which OPG has stewardship on behalf of the province's consumers. In the PWU's view consideration of an IRM and the timing of its implementation must be guided by fundamental regulatory principles in a process that provides opportunity for debate.

While Issue 12.1, unlike issues 12.2 and 12.3 does not make reference to "other form of alternative rate regulation", the PWU's position on issue 12.1 on an IR approach for OPG applies equally to any other form of alternative regulation.

Issue 12.2

Issue 12.2 asks when it would be appropriate to establish IR, or another form of alternative regulation, for setting payment amounts. In its EB-2006-0064 report the Board correctly identifies the need for base payments that will provide a robust starting point for an IR formula. In the PWU's view robustness of base payments would require a minimum degree of environmental stability. There are several significant initiatives that detract from OPG's base payment amounts as robust starting points for IR including: the Niagara Tunnel; Pickering B life extension; Darlington refurbishment; and proposed base rates based on a top down approach to budgeting in order to achieve targeted cost savings.

Not only does the appropriate time for establishing IR or other form of alternative regulation depend on having base payments that provide a robust starting point, it also depends on the IR or other form of alternative regulation selected as some formulation may require time series data, which given OPG's short history as a regulated entity, may not be available yet. Therefore, the determination of when it would be appropriate

to establish IR or other form of alternative regulation for OPG also depends on the approach selected and it is therefore not possible to address Issue 12.2 without having addressed Issue 12.1.

Issue 12.3

As in the case of Issue 12.2, addressing Issue 12.3 requires examination of significant initiatives/issues that OPG is or will be facing as well as an understanding of the selected IRM approach or other form of alternative regulation. Examination of Issue 12.3 in this proceeding is therefore not possible given that there is insufficient time to dedicate to the proper consideration of formulations and options for IR or other form of alternative regulation (i.e. Issue 12.1).

Issue 12.4

The PWU submits that a process to be adopted to establish the framework for IR, or other form of alternative rate regulation, that would be applied to OPG in a future test period ought not to be determined in this proceeding. Doing so may bind the process in a manner that limits the flexibility required in a development process. Therefore, Issue 12.4 should not be examined in this proceeding.

PWU Comments on a Process for the Consideration of IR or Other Form of Alternative Regulation for OPG

At the July 6, 2010 Issues Conference Board staff suggested that parties that oppose the inclusion of Issue 12 on the issues list for this proceeding, provide the Board with their views on a suitable process for the consideration of IR or other form of alternative regulation for OPG outside of this proceeding. The following is the PWU's submission.

In the PWU's view a suitable process would be a consultation process initiated by the Board. As is frequently the case in the Board's consultation processes, the start point would be a Discussion Paper prepared by an expert consultant that sets out and reviews the options and references IRMs and other forms of alternative regulation adopted for the regulation of generators in other jurisdictions. The Discussion Paper should also provide input on the determination of the appropriateness of implementing

an IR approach or other form of alternative regulation for OPG taking into account significant impacts of the environment within which OPG is currently operating. A technical conference could then help OPG and interested parties obtain a better understanding of the options and the impact of current environmental conditions on the implementation of the options. Interested parties should then be provided opportunity to comment on the appropriateness of the options as alternative regulatory approaches for OPG and the impact of current environmental conditions. These comments might be structured around a series of questions prepared by Board staff to enhance the value of the input received in the consideration of IR or other form of alternative regulation for OPG.

If the Board, following its review of stakeholders' input believes further investigations into IR options and other forms of alternative regulation and the impact of current environmental conditions is in order, the working group approach used in the development of 3rd Generation IRM for the electricity LDCs is well suited to these deliberations. A proceeding could then be held to review: an appropriate IR or alternative form of regulation framework; when it would be appropriate for the Board to establish IR or other form of alternative rate regulation; and, to examine issues to establish appropriate base payment amounts as the starting point for an IR or other form of alternative rate regulation plan.

All of which is respectfully submitted.