

July 13, 2010

**BY COURIER (2 COPIES) AND EMAIL**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, Suite 2700  
Toronto, Ontario M4P 1E4  
Fax: (416) 440-7656  
Email: boardsec@oeb.gov.on.ca

Dear Ms. Walli:

**Re: Pollution Probe – Issues List Submissions  
EB-2010-0008 – Ontario Power Generation – 2011-12 Payment Amounts**

Pursuant to *Procedural Order No. 1*, please find below Pollution Probe's submissions regarding the revised draft issues list for this proceeding. We also enclose for the Board's reference a copy of the executed confidentiality Declaration and Undertaking that the undersigned provided to Ontario Power Generation at the Issues Conference.

In short, subject to the following comments, Pollution Probe supports Issues 2.1, 2.2, 3.3, and 4.5 as proposed in the revised draft issues list. Pollution Probe takes no position with respect to the remainder of the revised draft issues list.

With respect to Issue 3.3, Pollution Probe submits that the current wording is appropriate and compatible with the Board's previous decision on this issue.<sup>1</sup> In particular, the Board determined that this issue would be examined in this proceeding. In addition, although the Board stated some intentions and expectations regarding the issue's likely focus and development, those comments did not appear to be determinative in a final sense for this proceeding (which the current wording of Issue 3.3 appears to account for).

If this understanding is incorrect, Pollution Probe would appreciate corresponding advice from the Board. Pollution Probe notes that it intends to again lead expert evidence from Dr. Roberts and Dr. Kryzanowski on this issue, and Pollution Probe wishes to take appropriate steps so that the experts' evidence will be helpful to the Board's understanding of this issue.

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<sup>1</sup> See EB-2007-0905, *Decision with Reasons* dated November 3, 2008, at pgs. 160-161.

With respect to the proposed deletion of Issues 4.8 and 4.9, Pollution Probe does not object to this deletion as long as it is clearly understood that those issues are subsumed into Issue 4.5 (or elsewhere). If that is not the case, Pollution Probe requests that Issues 4.8 and 4.9 be retained on the Issues List.

We trust that these submissions are of assistance. Please do not hesitate to contact the undersigned if you wish to discuss this matter further.

Yours truly,



Basil Alexander

BA/ba

Encl.

cc: Applicant and Intervenors per Appendix A to *Procedural Order No. 1*

BCS + Bus. Plan  
- CD only

- will provide  
Tax Returns  
CD when  
available

**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, Basil Alexander, am counsel of record or ~~a consultant~~ for  
Pollution Probe.

**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 Toronto this 6<sup>th</sup> day of July, 2010.

Signature: 

Name:

Company/Firm:

Address:

Telephone:

Fax:

E-mail:

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