

July 14, 2010

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File 10606.00054

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
Suite 2701  
2300 Yonge Street  
Toronto ON M4P 1E4

Dear Ms Walli:

**Re: Ontario Power Generation Inc. - Payment Amounts - EB-2010-0008 - Issues List**

By Application dated May 26, 2010, Ontario Power Generation Inc. ("OPG") filed an application seeking approval for increases in payment amounts for the output of certain of its generating facilities, to be effective March 1, 2011. By Procedural Order dated June 29, 2010, the Board set out a schedule for the proceeding. On July 6, the Board held an Issues Conference for parties to discuss the draft issues list presented by Board Staff. A further draft issues list was circulated for comment. These are the submissions of the Consumers Council of Canada ("Council") on the draft issues list.

By way of general observation, we believe that, at this stage in the process, it is important for the issue list to be interpreted broadly. We anticipate that, through the settlement process, the issues can be more narrowly defined.

With respect to the issues under the heading "Capital Projects", it is not clear to what extent parties will be able to seek information about, and make submissions on, projects that will not come into rate base until after the test period. If projects do not come into rate base during the test years, but form part of the capital budget for those years, then the projects and their costs should be considered within the scope of the proceeding. For example, we submit that the costs associated with the Niagara Tunnel Project are within scope, although the proposed in-service date is beyond 2012. We request confirmation that this would be the case within the context of Issues 4.2 and 4.5.

With respect to Issue 6.2, we are not clear what is meant by the wording, "flowing from those results". We would expect that the scope of the issue is to what extent the benchmarking results should be used in determining OPG's overall revenue requirement. The same would apply to Issue 6.4.

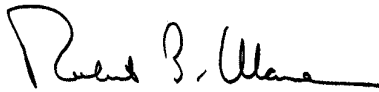
Issue 6.9 deals with the Centralized Support and Administrative Costs. We have assumed that the issue includes both an assessment of the level of costs and methodology used to allocate those costs to the regulated hydroelectric and nuclear business units.

We support the inclusion of Issue 9.1, "Is the design of regulated hydroelectric and nuclear payment amounts appropriate". Although we are not at this time proposing a different design, we would like to leave open the possibility. We also support the addition of Issue 10.7, to leave in the possibility that we may be proposing additional accounts.

Included in the current list are a series of issues related to incentive regulation. Although the Council is not opposed to the adoption of an incentive regulation for OPG in the future, we believe that a consideration of incentive regulation formulations and options should not be considered in this proceeding. We believe that these issues should be addressed in a separate proceeding, following the conclusion of this proceeding. The consideration of incentive regulation models would involve expert witnesses and evidence beyond what has been filed by OPG to date. We do see value in maintaining Issue 12.4 on the list, so parties can make submissions, at the time of final argument, as to the nature, and time frame, for a separate process to deal with an incentive regulation regime for OPG.

Yours very truly,

**WeirFoulds LLP**



Robert B. Warren

RBW/dh

cc: Ontario Power Generation Inc.  
Attention: Barbara Reuber  
Torys LLP  
Attention: Crawford Smith  
Attention: Charles Keizer  
Julie Girvan  
All Parties