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RESS, EMAIL AND COURIER

Board Secretary
Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON
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Attention: Ms. Kirsten Walli

Dear Ms. Walli:

**Re: EB-2010-0008 - Ontario Power Generation Inc. ("OPG")
Reply Submissions Regarding Confidential Information**

In accordance with Rule 10 of the Ontario Energy Board's ("OEB") Rules of Practice and Procedure, Section 5.1 of the OEB's Practice Direction on Confidential Filings (the "Practice Direction") and Procedural Order No. 1 dated June 29, 2010, OPG, by way of letters dated May 26, 2010, July 2, 2010 and July 15, 2010, has requested that certain information be treated as confidential. Pursuant to Procedural Orders No. 1 and No. 2, parties were provided the opportunity to make submissions on whether the information should remain designated as confidential.

Submissions in this regard were made by Pollution Probe, AMPCO, School Energy Coalition ("SEC"), Consumers Council of Canada ("CCC") and Canadian Manufacturers and Exporters ("CME"). No party objected to OPG's request for confidential treatment of its tax information. CCC and CME had no objections to OPG's request for confidential treatment of certain information in the nuclear and regulated hydroelectric business case summaries and business plans. The following are OPG's responses to Pollution Probe's, AMPCO's and SEC's submissions on business case summaries and business plans.

The submissions below relate to two questions. The first is whether the information OPG has proposed as confidential information should be granted confidential treatment under the Practice Direction. This question relates to the Darlington Refurbishment and Niagara Tunnel Project business case summaries and the Nuclear Refurbishment, Project and Support business plan. The second is whether the redactions that OPG has retained in the information submitted on July 2, 2010 can be sustained. This question relates to the Hydroelectric and Nuclear Operations business plans.

Business Case Summary - Darlington Refurbishment

The business case summary related to the Darlington Refurbishment Project set out at Exhibit D2-2-1, Attachment 4 is submitted to the OEB in support of OPG's decision to proceed with the definition stage of the Darlington Refurbishment Project and to begin the associated capitalization of cost. In this stage, OPG will carry out a number of activities including scope finalization, engineering, planning and estimating, procurement of long lead items and contract establishment. The OEB's consideration of the confidential aspect of the information presented in the business case summary must be considered in the context of the very early stage of work on the project, which includes activities that will be commercially sensitive and activities that will ultimately lead to more precise cost estimates and project economic parameters.

The information in the business case summary considered to be confidential and redacted from the filed business case summary falls into two categories. The first relates to a point estimate of total costs and the levelized unit energy cost ("LUEC") derived from those costs. The second category relates to project-specific components that include both dollar and contingency amounts.

With respect to the point estimates, one can, in conjunction with other information, determine from total cost and LUEC point estimates a number of insights into the preliminary costing of the project. It is OPG's expectation that the project will include bids from large, sophisticated companies with expertise in nuclear refurbishments. Such companies include, for example, designers of nuclear reactors or large, sophisticated engineering firms. These companies have sufficient subject matter expertise to discern from the point estimate of total costs, an approximation of project component costs, based upon the major components of a project typical of a refurbishment. These approximations could, in the future, place OPG at a substantial disadvantage relative to project suppliers and harm OPG's position in future negotiations and thereby potentially harm ratepayers. As a result, the information in question is not simply a "high level summary", but rather reflects a key project cost component. With respect to LUEC, the business case summary includes the necessary information on project schedule and expected energy outputs to allow a determination of associated project costs. In this regard, the considerations enumerated in Appendix B to the Practice Direction, subsections (a), i, ii and iv and (b) are engaged in protecting this information as confidential.

For purposes of public disclosure related to the Darlington Refurbishment Project, OPG has communicated a range or bounded estimate of project cost and of LUEC. Such a range encompasses various confidence levels and will permit a full review of the issues on the public record from a number of scenarios and perspectives. As noted above, this disclosure is in keeping with an assessment of the project at the definition stage, where the economics will become more refined, and avoids the commercial risk associated with disclosure of the point estimate information.

Release of point estimates of project costs, LUEC and contingencies at this preliminary stage of the project creates a risk of confusion related to the Darlington Refurbishment Project. As indicated in the pre-filed evidence, the outages in support of Darlington refurbishment are expected to commence in 2016. As with any large and technically complex project at an early stage, particularly where the start date is several years out, the cost estimates associated with this project are very preliminary. OPG is concerned that the public release of this information will permit it to be used in other forums without being accompanied by the information necessary to set the context for the estimate - that the project is at an early stage with no "release quality" estimate; that OPG has not authorized the expenditure of these amounts; that authorization will only take place in a staged manner once further due diligence has been

conducted; and that OPG is not requesting recovery of these amounts from ratepayers at present. Further, keeping the point estimate of project costs and LUEC confidential in this proceeding will in no way impede the OEB's review.

The second category of information relates to project specific components, both dollar and contingency amounts, which are set out at various tables in Exhibit D2-2-1, Attachment 4. This information would give suppliers clear understanding of the potential costing aspects of individual components that would advantage them in any future bids or contract negotiations. The disclosure of this information would be to the detriment to OPG's cost efficiency efforts and ultimately to ratepayers. Again, the subsections of Appendix B to the Practice Direction set out above favour protecting this information as confidential.

OPG notes that AMPCO provided no support as for its position that all redacted information related to the business case study be disclosed. It is apparent that no consideration was given by AMPCO as to the nature of the information and how it could be used.

Business Case Summary - Niagara Tunnel

OPG maintains its request for confidentiality with respect to all redactions to the Niagara Tunnel Project Business Case Summary at Exhibit D1-1-2, Attachment 1 (NTP BCS). As set out above, the OEB must consider the issue of confidentiality in the proper context. The Niagara Tunnel Project is not yet complete and the costs in question are not yet final. When the project is complete, it is OPG's expectation that the cost and schedule information for which OPG now seeks confidential treatment will be made public. The NTP BCS redactions fall in three major areas:

1. Contingency information
 2. Target cost and schedule information
 3. Reference to an agreement with the municipality
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1. OPG's contingency information is not known to Strabag AG. Were Strabag AG to come to know the value of these contingencies, it could prejudice OPG's competitive position at large and could diminish OPG's capacity to enforce its existing contractual rights in the case of a dispute with Strabag AG. Confidential treatment of this type of information is specifically contemplated by Appendix B, subsections a), i, ii, and iv and (b) of the Practice Direction.
 2. Both the target cost and schedule information contained within the NTP BCS are known to Strabag AG. However, given that the project is not expected to be in-service until 2013, circumstances may arise where OPG is required to negotiate or re-negotiate arrangements with a new or existing supplier or subcontractor who is not privy to the target cost and schedule information. Public disclosure of this information would prejudice OPG's negotiating position in a way similar to public disclosure of OPG's contingencies as described above.

Similarly, with respect to the redacted information within the second bullet on page 11 of the NTP BCS, public disclosure of this information could be highly prejudicial to Strabag AG in that it could impact Strabag's ability to negotiate its cost mark-ups in the future. Lastly, in Appendix C of the NTP BCS, there are several redactions that relate to specific "burn rates"

associated with contractor resources. Confidential treatment of this information should be granted for the same reasons set out above respecting prejudice to OPG's competitive position and its negotiating positions, and in the case of Strabag's cost mark-ups, prejudice to its competitive position.

3. The final category of redacted information is in relation to a community agreement. With respect to a redaction near the bottom of page 11 of the NTP BCS, public disclosure of OPG's acknowledgement of the potential occurrence would seriously compromise OPG's negotiating position were such an occurrence to come to pass. In this instance, Appendix B, subsections a), i and ii and (b) of the Practice Direction favour confidential treatment of the subject information

OPG notes that AMPCO provided no basis to support its request for the disclosure of the redacted information.

Business Plan – Nuclear

With respect to the excerpt from Nuclear Refurbishment, Projects and Support Business Plan 2010 – 2014 at Exhibit D2-2-1, Attachment 1, AMPCO has submitted (presuming that there is a typo in its submission) that the proposed redactions in the document do not meet the test for confidentiality. AMPCO offers no support for its assertion. In response to AMPCO, OPG states that the redacted information in this particular business plan excerpt is the same project – specific component dollar amount and contingency information which OPG has submitted be redacted from the Darlington Refurbishment Project BCS, as set out above. The proposed redactions in Exhibit D2-2-1, Attachment 1 should be afforded confidential treatment by the OEB for the same reasons as the information should be protected as confidential in the BCS.

The redacted portion of the Nuclear Operations 2010 – 2014 Business Plan at Exhibit F2-1-1, Attachment 1, is limited to just two numerical figures that relate to the best quartile and median results for the All Injury Rate ("AIR") performance metric. This information is provided to OPG by the Canadian Electrical Association ("CEA") on the basis that it not be disclosed. OPG, as a member of this industry association, is bound by the confidentiality provisions concerning the use of information obtained from other members. The general CEA admonition that OPG cited in its letter of July 2, 2010 (which SEC does not find credible) is directly quoted from the CEA policy respecting the use of benchmarking data in regulatory settings. While the CEA policy allows member to provide composite benchmarks, the best quartile and median information which OPG has redacted is the kind of information which CEA does not regard as appropriate for publication, even in a regulatory setting.

OPG respects its industry commitments and cannot unilaterally breach its agreed obligations. This information has provided a useful tool and OPG does not want to risk being blocked from further participation in CEA benchmarking or lose the ability to benchmark that particular metric. Continuing participation in CEA benchmarking is important to OPG. Disclosure of this redacted information, even under the OEB's confidentiality guidelines, could therefore be highly prejudicial to OPG. Contrary to the assertions made by SEC, the use by OPG of information that relates to other industry members is a sensitive matter that must be respected by all those participating in benchmarking activities.

Business Plan - Hydroelectric

As noted in OPG's July 2, 2010 letter, OPG has continued to redact certain information in its confidential and unredacted Hydroelectric 2010-2014 Business Plan (Exhibit F1-1-1, Attachment 1) filed with the OEB on July 2, 2010. These redactions relate solely to the unregulated facilities and reflect no aspect of the regulated business. This can be readily discerned from the unredacted text remaining after the redaction is made. For example, this information includes timelines, in-service dates and costs for specific unregulated hydroelectric development projects. Because this redacted information is wholly irrelevant to OPG's payment amounts proceeding, OPG has continued to redact this information in the confidential version filed.

Conclusion

There have been various assertions made as to the impact on the proceeding of maintaining information as confidential. OPG submits that maintaining the information in question as confidential will not impede the proceeding's progress. The process set out in the Practice Direction has been established for the purpose of facilitating the conduct of proceedings in a way that balances the need for regulatory efficiency with the need to protect certain information from disclosure. For parties to suggest that OPG's request for confidential treatment of information should be denied on account of the potential for inconvenience resulting from the OEB's established procedures for confidential information is inappropriate, especially where parties have provided no grounds for disclosure. OPG does not believe that treatment of the information as confidential will have any material impact on the conduct of the proceeding. The OEB's Practice Direction permits a full and rigorous review.

Yours truly,

[Original signed by]

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cc: Carlton D. Mathias
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