



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.

**DECISIONS AND ORDERS ON
CONFIDENTIAL FILINGS AND ISSUES LIST,
AND PROCEDURAL ORDER NO. 3**

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.

On June 29, 2010, the Board issued Procedural Order No. 1 which set out a schedule for the proceeding, and which contained a draft issues list. On July 5, 2010, the Board issued Procedural Order No. 2 which amended the dates for parties to provide submissions on sections of the application for which OPG has requested confidential treatment. In accordance with Procedural Order No. 1, an Issues Conference was held on July 6, 2010, and on July 7, 2010 the Board issued a revised draft issues list which had been prepared by Board staff based on input received at the Issues Conference.

Confidential Filing

OPG has sought confidential treatment for certain Tax Information filed with the application in accordance with the Board's *Practice Direction on Confidential Filings* (the "Practice Direction"). OPG also filed Business Case Summaries ("BCS") and 2010-2014 Hydroelectric and Nuclear Business Plan information ("Business Plan") in redacted form with its application. This redacted material was not filed in accordance with the Practice Direction. Procedural Order No. 1 directed OPG to file the BCS and Business Plan in unredacted form, and to provide a description of the basis on which confidentiality is claimed. OPG filed unredacted documents and a letter providing reasons for confidential treatment of the Business Plan and BCS on July 2, 2010. OPG noted in its letter that it has continued to redact information related to unregulated hydroelectric facilities and certain benchmarking information.

Procedural Order No. 1 made provision for parties that submit a Declaration and Undertaking, to review the Tax Information, Business Plan and BCS. Procedural Order No. 1 also made provision for parties to make submissions on the confidentiality status of the Tax Information, Business Plan and BCS. Provision was also made for OPG to respond to any submission. Procedural Order No. 2 amended the dates for submissions of parties to July 12, 2010 and for OPG's reply submission to July 16, 2010.

On July 9, 2010, OPG informed parties that in the process of complying with Procedural No. 1, it had discovered that for several of the BCS for nuclear facilities, confidential treatment was no longer required due to the passage of time. On July 15, 2010, OPG filed these unredacted BCS. With this filing, the number of unredacted BCS has increased from 5, in the original application, to 22. The number of redacted BCS is currently 34.

Submissions on confidential filings were received from the Association of Major Power Consumers in Ontario ("AMPCO"), the Canadian Manufacturers & Exporters ("CME"), the Consumers Council of Canada ("CCC"), Pollution Probe and the School Energy Coalition ("SEC").

There were no objections to OPG's request for confidential treatment of the Tax Information. There were no objections to OPG's request for confidential treatment for BCS, with the exception of two projects: the Niagara Tunnel and the Darlington Refurbishment.

Niagara Tunnel

AMPCO submitted that it does not believe that the BCS for the Niagara Tunnel meets the criteria suggested by OPG for maintaining confidentiality. SEC stated that the Niagara Tunnel project involves more than a 60% cost overrun and is a matter of considerable public interest. SEC submitted that it is the Board's role to expose matters such as this to public scrutiny. SEC stated that nothing in the BCS appears to have potential to prejudice OPG.

In reply, OPG addressed the three aspects of the information in the Niagara Tunnel Project BCS for which it seeks confidential treatment.

1. OPG's contingency information is not known to the contractor, Strabag AG. Knowledge of the contingency information could prejudice OPG's competitive position and limit OPG's capacity to enforce contractual terms.
2. The target cost and schedule information is known to Strabag, however, in the event that OPG was required to negotiate arrangements with another party, prior knowledge of target cost and schedule would prejudice OPG's negotiating position.
3. Information related to community agreement is redacted. Public disclosure would compromise OPG's negotiating position.

Darlington Refurbishment

AMPCO submitted that the "Economic Feasibility Assessment of Darlington Refurbishment" and the redactions relating to the Darlington Refurbishment Project in the Nuclear Refurbishment Projects and Support Business Plan do not meet the test for confidentiality. Pollution Probe also provided a submission on the "Economic Feasibility Assessment of Darlington Refurbishment". Pollution Probe noted specific page references and stated that these redactions do not meet the exceptions detailed in the Board's Practice Direction. Pollution Probe stated that the information is a high level summary and would not be prejudicial to OPG if made public. As construction work in progress for Darlington will be reviewed in this proceeding, Pollution Probe states that high level numbers regarding the economic analysis, including levelized unit energy cost ("LUEC") ought to be public.

In reply, OPG addressed the two aspects of the information in the Darlington Refurbishment BCS for which it seeks confidential treatment.

1. OPG stated that point estimates of project costs, LUEC and contingencies could be used by potential suppliers to approximate project component costs. These

approximations could place OPG at a disadvantage relative to project suppliers, harm future negotiations and harm ratepayers. OPG stated that these data are not high level summaries. OPG referred to the applicability of Appendix B subsections (a) i, ii and iv, and (b) of the Practice Direction regarding confidential treatment for this information. OPG stated that it has publicly communicated a range or bounded estimate of the project cost and LUEC, which OPG stated will permit full review of the issues.

2. The second category of information relates to cost and contingency for project specific components. OPG stated that this information would give suppliers an advantage in future bids and ultimately be detrimental to ratepayers.

Business Plan

SEC noted its concern with ongoing redactions in the unredacted versions of the Business Plan, and stated that this filing was contrary to the Board's rules. OPG replied that the redactions in the Nuclear Business Plan relate to Canadian Electrical Association ("CEA") safety statistics. The CEA information is provided to OPG on the basis that it not be disclosed. The ongoing redactions in the Hydroelectric Business Plan relate to the unregulated facilities. As this is irrelevant to the payment amounts proceeding, OPG has continued to redact the information.

Decision

The Board finds that it is appropriate to retain the confidential status of the Tax Information for the reasons OPG provided with its application. As noted above, no parties objected to confidential treatment.

There are 34 redacted BCS, and the Board finds that it is appropriate to retain the confidential status of all these documents. While parties provided submissions opposing confidential treatment for the Niagara Tunnel BCS, the Board notes that OPG has not requested cost recovery of that project in this application. Parties also provided submissions opposing confidential treatment for the Darlington Refurbishment. The Board finds that it is appropriate to retain the confidential status at this time, however, the Board may reconsider this protection as the review of CWIP for Darlington Refurbishment progresses.

With respect to the continued redactions within the Business Plans, the Board finds that the benchmarking data will not be redacted from the confidential version of the Nuclear Business Plan. The Board is of the view that its practices related to the handling of

confidential material are sufficient to alleviate any concerns which the CEA may have in respect of its benchmarking studies.

With respect to the redactions in the Hydroelectric Business Plan related to the unregulated business, the Board finds that these redactions from the confidential version of the exhibit are acceptable. Some parties have questioned whether in fact the redactions are limited to the unregulated business. To address this concern the Board will require OPG to file a fully unredacted version of the Hydroelectric Business Plan so that the Board may examine and determine whether the redactions are appropriate. This document will not be made available to the parties. The Board will issue correspondence to all parties following that review, and the Board will return the unredacted copy to OPG.

Issues List

Introduction

Submissions on the revised draft issues list were received from the following parties: OPG, SEC, the Power Workers' Union ("PWU"), Pollution Probe, AMPCO, Energy Probe Research Foundation ("Energy Probe"), CCC, the Vulnerable Energy Consumers Coalition ("VECC"), the Green Energy Coalition ("GEC"), and CME. The submission from CME was filed late and it consisted of submission on the issues, as well as reply on OPG's submission. VECC limited its submission to stating that the issues list encompassed the issues VECC intended to pursue in interrogatories. GEC limited its submission to stating that it had no concerns with the issues list.

Reply submissions were received from OPG, GEC, AMPCO, VECC and SEC. The Board has considered all submissions and reply submissions in establishing a final issues list which is attached as Appendix A. These are reviewed below, and referred to where required, along with the Board's rationale in addressing each of these requests.

Issues

1. GENERAL

- 1.1 Has OPG responded appropriately to all relevant Board directions from previous proceedings?

SEC suggested that the directions from the prior decisions could be listed on an individual basis, but agreed that all the directions are captured under issue 1.1.

The Board does not believe it is necessary to list the directions from prior decisions, and will not alter the wording of this issue.

1.2 Are OPG's economic and business planning assumptions for 2011-2012 an appropriate basis on which to set payment amounts?

It is OPG's position that the issue should not be on the list as the establishment of economic and business planning assumptions is the role of OPG management and not the role of the Board. In reply submission, SEC pointed out that this issue is a standard issue for most rate applications. Both GEC and SEC argued that the Board's role does include a review of the planning assumptions of OPG management as part of determination of just and reasonable rates.

The Board agrees that the establishment of economic and business planning assumptions is the role of OPG management. However, it is appropriate for the Board to review and understand those economic and business planning assumptions as these are the starting points for the proposals put forth in the application. Accordingly, issue 1.2 will remain on the issues list.

SEC submitted that another general issue should be included: *Would the disclosure and treatment in the Application of the impact of the transition to International Financial Reporting Standards be consistent with the Report of the Board dated July 28, 2009 in EB-2008-0408, if that Report expressly applied to the Applicant? To the extent that there are any differences between the reporting from the Applicant and the reporting contemplated in the Board's Report, what are those differences, and what steps, if any, should be taken to deal with those differences?*

In reply submission, OPG referred to the Board's Filing Guidelines for this application which provided OPG with the option of filing in Canadian Generally Accepted Accounting Principles ("CGAAP") or modified IFRS based format. OPG also stated that it does not have the information SEC is requesting as revenue requirement was only developed under CGAAP. OPG also pointed to delays in guidance from the International Accounting Standards Board ("IASB"), and delays in finalizing its own accounting policies and treatments under IFRS.

The Board will not add the IFRS issue suggested by SEC. OPG's application was filed in accordance with the Filing Guidelines. OPG chose to file based on CGAAP, and as the IASB guidance for rate regulated entities has been delayed the Board believes filing based on an IFRS format is premature.

2. RATE BASE

2.2 Is OPG's proposal to include CWIP in rate base for the Darlington Refurbishment Project appropriate?

AMPCO proposed that the issue be restated to replace "CWIP" with "accelerated cost recovery", however, no explanation was provided. OPG opposed the wording change, noting that the proposal was vague and that CWIP was straightforward.

The Board is satisfied with the phrasing of issue 2.2. If AMPCO wishes to query alternatives to CWIP, it may do so through interrogatories.

3. CAPITAL STRUCTURE AND COST OF CAPITAL

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?

Pollution Probe submitted that the wording is appropriate and compatible with the Board's previous decision. However, Pollution Probe also stated that "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." Pollution Probe sought confirmation from the Board of its understanding. In its reply submission, OPG stated that it was unsure what Pollution Probe meant in its submission. However, OPG accepted the wording of issue 3.3.

The Board's finding in the previous proceeding (EB-2007-0905) on separate capital structures for the regulated hydroelectric business and the nuclear business is found on page 161 of the decision with reasons.

The Board concludes that this is an approach worthy of further investigation which will be explored in OPG's next proceeding. In examining whether to set separate costs of capital, the Board intends only to examine whether separate capital

structures should be set for the regulated hydroelectric and nuclear businesses. The Board expects that the same ROE would be applicable to both types of generation. This is consistent with the general approach of setting a benchmark ROE and recognizing risk differences in the capital structure.

While the decision is clear that the Board's intention was to review capital structure, and not return on equity, it remains open to a party, including Pollution Probe, to file evidence on separate capital structures and ROEs in this proceeding.

SEC submitted that another section 3 issue should be included: *Should a formula be adopted by the Board to adjust the Applicant's cost of capital for prescribed facilities annually and, if so, what should that formula be?*

OPG opposes the addition of this new issue. In its reply, OPG stated that the last payment amounts decision "agrees that the adoption of a formula approach to setting ROE is appropriate in the circumstances." For this test period, OPG has adopted the Board's Cost of Capital Report (EB-2009-0084) for the determination of ROE.

The Board will not add SEC's proposal as a separate issue, as it is subsumed in issues 3.1 and 3.2. In addition, if parties wish to test OPG's proposal of establishing one set of cost of capital parameters for both test periods, they may do so through interrogatories and in the course of this proceeding.

4. CAPITAL PROJECTS

- 4.1 Do the costs associated with the regulated hydroelectric projects, and proposed for recovery, meet the requirements set out in O. Reg. 53/05? If not, were the additional costs prudent?

OPG submitted that the issue should be restated as: *Do the costs associated with the regulated hydroelectric projects, that are subject to section 6(2)4 of O. Reg. 53/05 and proposed for recovery, meet the requirements of that section?* OPG believes that the reference to section 6(2)4 provides clarity. OPG also states that the question of prudent costs is subsumed within section 6(2)4. OPG points out that section 6(2)4 contemplates a prudency review by the Board if the costs were not approved by OPG's Board of Directors prior to the Board's first order.

SEC did not object to OPG's proposed wording, as long as the prudence of additional costs was subject to review.

The Board accepts OPG's proposed restatement of the issue, and notes that the structure of the Regulation confirms that a Board finding of prudence is required for any incremental costs. The final version of issue 4.1 is: Do the costs associated with the regulated hydroelectric projects, that are subject to section 6(2)4 of O. Reg. 53/05 and proposed for recovery, meet the requirements of that section?

4.2 Are the capital budgets and/or financial commitments for 2011 and 2012 for the regulated hydroelectric business appropriate and supported by business cases?

OPG submitted that the issue should be restated as: *Are the capital budgets for 2011 and 2012 for the regulated hydroelectric business reasonable and supported by business cases where specified in the Filing Guidelines established in EB-2009-0331?*

OPG added the reference to the Filing Guidelines because the application provides capital budgets for projects whether they close to rate base or not. The Filing Guidelines only specify provision of business case summaries for projects in excess of \$10 M. OPG proposed replacing "appropriate" with "reasonable". OPG referred to page 44 of the EB-2006-0501 Hydro One decision where, in the case of projects not closing to rate base, the Board's consideration is limited to the observation that the capital budget is reasonable. Accordingly, expenditures on these projects are not subject to a review based on prudence. OPG stated that it, "wishes to be clear that this issue should not be included if its inclusion is to provide an indirect means of subjecting projects that do not impact the test period payment amounts to a prudence review. As the OEB has recognized, prudence must be examined retrospectively."

The reference to financial commitments has been deleted because, other than projects that are subject to section 6(2)4, OPG does not believe there are any specific implications of financial commitments in the context of an evaluation of the reasonableness of capital budgets.

AMPCO, SEC, CCC and CME filed submissions on this issue. AMPCO proposed an alternate wording: *Are the capital budgets and/or financial commitments for 2011 and 2012 for the regulated hydroelectric business appropriate?* AMPCO submitted that the word "appropriate" should not be modified by reference to business cases. With respect

to the Niagara Tunnel Project, AMPCO stated that, "A review in the nature of a status update is required." In its reply submission AMPCO agreed with OPG's position that a prudence review is not the subject of this hearing. AMPCO stated that, "A thorough review of these issues could still take place to assist the Board in determining the reasonableness of OPG's capital budgets."

SEC submitted that, if the review of the Niagara Tunnel Project is encompassed within this issue then SEC has no concerns. If not, then a separate issue should be included in dealing with this project, as the earlier this project is looked at, the better. In its reply submission, SEC stated that for large multi year projects, as more costs are incurred, it becomes more difficult for the Board to deny recovery. SEC questioned OPG's position and whether it wanted to hear the Board's comments and concerns.

CCC submitted that if projects do not come into rate base during the test period but form part of the capital budget, the costs should be considered in the scope of the proceeding. CME stated that prudence falls within the ambit of matters pertaining to appropriateness and reasonableness, and submitted that OPG's proposed changes are inappropriate.

OPG replied that if AMPCO, SEC, CCC and CME are seeking only a status update on the Niagara Tunnel, OPG would have no dispute. The inquiry that OPG believes is inappropriate in this proceeding is a prudence review of the project's cost and performance. OPG stated that it is unproductive to assess prudence mid stream when costs and performance are still unknown. OPG stated that undertaking a prudence review of the Niagara Tunnel in this proceeding would effectively put the Board in the position of managing OPG's affairs. OPG noted that while the capital expenditures are large, there is no impact on OPG's financial viability or the safe, reliable provision of electricity.

In support of its position, OPG referred to the EB-2006-0501 Hydro One proceeding where Hydro sought assurance from the Board that the capital program was appropriate, subject to coming back at a later date to demonstrate that costs were reasonable and prudent. In that proceeding VECC submitted that the Board should not grant the assurance, and that any such conclusion should be no more than an observation. The Board agreed with VECC, that the costs of the Hydro One projects would be subject to approval in a future proceeding.

The Board will retain the current statement of issue 4.2 including the term “appropriate” and the reference to business cases. The Board will only make prudence determinations with respect to projects or costs that close to rate base in the test period. While the Board agrees that it would be appropriate to review other aspects of the capital budgets, the Board expects that this review will be more in the form of a status update. The Board does not intend to make any form of quantitative or qualitative finding with respect to projects and costs which close to rate base in the period after the test period.

- 4.4 Do the costs associated with the nuclear projects, and proposed for recovery, meet the requirements set out in O. Reg. 53/05? If not, were the additional costs prudent?

Submissions on this issue were the same as for issue 4.1. The Board will adopt the same approach for this issue as for issue 4.1. The wording of the issue will be: Do the costs associated with the nuclear projects, that are subject to section 6(2)4 and 6(2)4.1 of O. Reg. 53/05 and proposed for recovery, meet the requirements of that section?

- 4.5 Are the capital budgets and/or financial commitments for 2011 and 2012 for the nuclear business appropriate and supported by business cases?

Submissions on this issue were the same as for issue 4.2. Likewise, the Board will retain the current statement of issue 4.5.

The draft issues list attached to Procedural Order No. 1 contained an issue 4.8 related to new nuclear expenditures and an issue 4.9 related to nuclear refurbishment expenditures. These issues were not included in the revised draft issues list attached to Procedural Order No. 2. Pollution Probe seeks confirmation that former issues 4.8 and 4.9 are subsumed in other capital project issues.

The Board confirms that former issues 4.8 and 4.9 are subsumed in other capital project issues.

5. PRODUCTION FORECASTS

- 5.1 Is the proposed regulated hydroelectric production forecast appropriate?
5.2 Is the estimate of surplus baseload generation appropriate?

OPG submitted that issue 5.2 should not be included because it is subsumed in issue 5.1. Surplus baseload generation is just one of the inputs used to determine the production forecast.

CME made a submission on a group of subsumed issues, with issue 5.2 as one of that group. CME submitted that no harm ensues by leaving the item on the list, and that it could lead to more organized presentation of interrogatories and the associated responses.

In reply submission, SEC stated that the issue was helpful, but agreed that it was part of issue 5.1.

The Board agrees that issue 5.2 is subsumed in issue 5.1 and will therefore remove issue 5.2.

5.3 Is the proposed nuclear production forecast appropriate?

5.4 Are the estimates of fleet level uncertainty and forced loss rates for the individual nuclear plants reasonable?

Submissions on issue 5.4 were similar to those for issue 5.2. The Board agrees that issue 5.4 is subsumed in issue 5.3 and will therefore remove issue 5.4.

6. OPERATING COSTS

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

The PWU submitted that the issue should be restated as: *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?*

The PWU stated that the appropriateness of the costs must be reviewed relative to service performance in addition to bill impacts. In its reply submission, SEC stated that the proposed amendments do not appear to add anything as consideration of service reliability and asset condition are normal parts of the analysis.

The PWU has noted only two of many factors that are considered in the assessment of an OM&A budget. The Board will therefore retain the current statement of issue 6.1 so that it is clear that all relevant factors should be considered.

6.2 Are the benchmarking results and targets flowing from those results for OPG's regulated hydroelectric facilities reasonable?

OPG submitted that the issue should be restated as: *Are the benchmarking results for OPG's regulated hydroelectric facilities reasonable?* OPG stated that the setting of business targets is the responsibility of OPG's management and not the Board. Further, the setting of business targets is based on many factors including benchmarking, and for these reasons, OPG's proposed issue has removed the reference to targets.

AMPCO proposed the following additional issue: *Is OPG's benchmarking methodology appropriate?* AMPCO stated that it would be necessary for the Board to understand the analysis and the judgments which underpin the analysis such as the criteria for the selection of cohorts. In AMPCO's reply submission, it noted its disagreement with OPG's proposed issue, and confirmed its position that a full review of benchmark methodology is an essential part of the hearing.

CCC stated its expectation that the scope of the issue is to what extent the benchmarking results should be used in determining OPG's overall revenue requirement. CCC was not clear what was meant by the wording, "flowing from those results."

In response to the submissions of AMPCO and CCC, OPG replied that payment amounts are based on forecast cost and production, and that benchmarking assists with assessment of reasonableness of the forecasts.

In reply submission, SEC noted that if the Board is only looking at the benchmarking, and not what OPG is doing about it, it may be just wasting its time. SEC agreed that the setting of business targets is the responsibility of OPG management. However, SEC stated that the review of the targets for reasonableness and prudence is the Board's responsibility and a necessary issue in the proceeding.

The Board considers the review of benchmarking an important aspect of the OPG proceeding. It is appropriate to review methodology, results and targets. The final version of issue 6.2 is: Is the benchmarking methodology reasonable? Are the benchmarking results and targets flowing from those results for OPG's hydroelectric facilities reasonable?

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

The PWU made the same submission on this issue as for issue 6.1. For the same reasons, the Board will retain the current statement of issue 6.3.

In its submission, SEC proposed two additional OM&A issues related to Pickering:

To what extent, if any, should the OM&A included in rates for the Pickering units be based on benchmark costs as opposed to forecast costs? If any benchmark costs are to be used, what benchmarking information is available and appropriate for application to revenue requirement in the Test Period?"

Does the Applicant have a viable plan to produce electricity from Pickering A and Pickering B at an overall reasonable cost over their remaining lives?

In its reply position, OPG stated that SEC is trying to re-litigate its proposals on benchmarking and Pickering A viability from the last proceeding. OPG stated that the Board rejected these requests in the last proceeding and that SEC's proposed additions to the issues list should be rejected.

The Board will not add the two issues proposed by SEC. The Board finds that these matters are within the scope of the current proceeding, but the specific issues are subsumed in issues 6.3 and 6.4.

6.4 Are the benchmarking results and targets flowing from those results for OPG's nuclear facilities reasonable?

Submissions on this issue were the same as for issue 6.2. For the same reasons, the final version of issue 6.4 will be: Is the benchmarking methodology reasonable? Are the

benchmarking results and targets flowing from those results for OPG's nuclear facilities reasonable?

6.5 Has OPG responded appropriately to the observations and recommendations in the benchmarking report?

OPG submitted that the issue should be restated as: *Has OPG responded appropriately to the recommendations in the benchmarking report?* OPG stated that the focus should be on the recommendations, not the observations themselves.

CME replied that OPG's revision is unnecessary. In reply submission SEC stated that the suggestion that observations simply cannot be considered by the Board at all is not a reasonable one.

The Board notes that the Phase 1 benchmarking report provided only observations comparing OPG to comparators. Hence, removal of "observations" might imply that that the results of the Phase 1 report were out of scope. Accordingly, the Board will retain the current phrasing of issue 6.5.

6.9 Are the "Centralized Support and Administrative Costs" (which include Corporate Support and Administrative Service Groups, Centrally Held Costs and Hydroelectric Common Services) and the allocation of the same to the regulated hydroelectric business and nuclear business appropriate?

OPG submitted that the issue should be restated as: *Are the "Centralized Support and Administrative Costs" (which include Corporate Support and Administrative Service Groups, Centrally Held Costs and Hydroelectric Common Services) allocated to the regulated hydroelectric business and nuclear business appropriate?* OPG stated that this wording tracks the wording used in the last payments case and the issue has not, in substance changed.

SEC submitted that two new issues related to corporate costs should be added to the list: *Is the Applicant's response to the Board's direction in the First Payment Amounts Decision, to file an independent review of its corporate cost allocations, appropriate? Is it appropriate to make any changes to the corporate cost allocations proposed by the Applicant in light of the Applicant's response to the direction?*

In the previous case, intervenors requested a variance account for Regulatory Affairs costs because they were expected to be lower in the period following. The request was denied. SEC believes that an issue should be added to deal with the combined result of a lack of a variance account and the Extension Decision (EB-2009-0174), and whether it should affect any amounts ordered in this proceeding.

CCC submitted that it assumed that the issue includes assessment of the level of costs and methodology to allocate the costs. In its reply, CME stated that OPG's rewording is unnecessary, but non substantive. VECC replied to the submissions for OPG and CME. VECC stated that OPG's proposed change narrows the issue and would make costs out of scope and only relate to allocation methodology. CME subsequently filed correspondence that supported VECC's position. SEC's reply submission was similar to VECC's.

OPG replied that SEC's proposed issue relating to the review of corporate cost allocation is unnecessarily complex. OPG stated that its proposed wording is consistent with CCC's submission that the issue should include an assessment of both the level of costs and the methodology to allocate them.

With respect to SEC's proposed issue related to Regulatory Affairs costs, OPG stated the test period costs can be reviewed under issue 6.9. OPG noted that the Board declined to establish a variance account for Regulatory Affairs costs in EB-2007-0905 and that the Board rejected SEC's request to examine OPG's 2010 costs in the Accounting Order for 2010 (EB-2009-0174).

The Board finds that the current phrasing of the issue adequately encompasses both the quantum of corporate costs and the allocation of the corporate costs.

7. OTHER REVENUES

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

SEC submitted that the Board should confirm that a review of the appropriateness of continuing to use a three year average for SMO and WT revenues and that a review of the actuals, including 2010, relative to the imposed forecast, are included in issue 7.1.

SEC also noted that in the first decision, the Board refused to include Congestion Management payments as a revenue offset. SEC would like to explore the ROE in a past year, with and without the Congestion Management payments and the constrained on or off situations that caused them. SEC wants to explore what costs, if any, of being constrained are included in the forecast revenue requirement, and, if they are, whether the payments should also be included, or whether the costs should be taken out of revenue requirement, in either case to achieve symmetry. If this is included in issue 7.2, SEC is not concerned. If it is not, SEC would like to add an issue dealing with the appropriateness of congestion management payments being a revenue offset.

OPG replied that SEC seeks to re-litigate the Board's rejection of its position in the last proceeding. CMSC are not incremental revenue, but compensation for lost revenue and unforecast costs of operational changes imposed by the IESO. SEC points to no new circumstances that warrant review of CMSC.

The Board agrees with SEC that an examination of the costs and revenues associated with Congestion Management payments is within the scope of issue 7.2, as is any other potential revenue offset. Although the Board did not include Congestion Management payments as a revenue offset in the last proceeding, it is open to parties to re-visit this issue if there is a reasonable expectation of additional relevant evidence which should be considered.

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?

OPG submitted that the issue should be restated as: *Has OPG appropriately applied the revenue requirement methodology for recovering nuclear liabilities in relation to nuclear waste management and decommissioning costs approved by the OEB in EB-2007-0905?*

OPG stated that in developing and approving its own revenue requirement treatment for the nuclear liabilities associated with Pickering and Darlington in EB-2007-0905, the Board rejected requests that the approved methodology be labeled interim. OPG has based its requested payment amounts on the methodology established by the Board. The last decision noted that if other regulatory bodies issue decisions addressing asset retirement obligations (“ARO”) prior to the next payment amounts proceeding, then OPG and other parties would have an opportunity to revisit the issue, but no such external events have occurred to warrant revisiting this issue. OPG states that there is no reason to re-open this issue in this proceeding.

AMPCO, SEC and CME supported retaining the issue as originally worded. AMPCO noted that, “The Issues List should allow an opening because the passage of time has appeared to allow for the development of other relevant precedents.” In its reply, AMPCO submitted that the original wording should be retained. CME stated that, “Parties are always at liberty to explore the same issue in consecutive proceedings.” SEC submitted that methodology is a live issue and cited IFRS and the consideration of ARO by FERC in support of its position. SEC proposed adding the following to issue 8.1: *Have any regulatory or other bodies issued position or policy papers, or made decisions, with respect to Asset Retirement Obligations that the Board should consider in determining whether to retain the existing methodology or adopt a new or modified methodology?*

In reply submission, OPG noted that SEC and CME recognized that the issue of methodology would be revisited if other regulatory bodies issued decisions relating to ARO. OPG stated that CME has not indicated if it is aware of such decisions or had searched for them. In relation to SEC’s submission, OPG stated that IFRS has no bearing on the issue as the application has been filed on a CGAAP basis. SEC stated that ARO has been considered at FERC, but OPG is not aware of new ARO developments at FERC. AMPCO stated that “the passage of time has appeared to allow for the development of other relevant precedents” but didn’t provide any.

SEC suggested that there should be a new issue related to the Ontario Nuclear Funds Agreement (“ONFA”) Reference Plan. SEC noted that ONFA requires a new Reference Plan no later than December 2011. In SEC’s view the possibility of a change to the plan should be included in the nuclear liabilities issues. Energy Probe made a similar submission.

OPG replied that it continues to operate under the existing reference plan. The new plan will not be in place for a year and an issue should not be added to the list.

The Board does not agree with OPG's position that this matter is closed from the outset. The decision from the previous case stated:

Before the hearing on OPG's next payment amounts application is completed, the National Energy Board, Provincial regulatory bodies, FERC, or other bodies may issue position or policy papers or release decisions dealing with AROs. If such external developments occur, OPG, intervenors, and Board staff will have the opportunity in that hearing to submit evidence and argue for a different approach to AROs.

It is open to parties to explore whether there have been any developments in this area and any party may file evidence on AROs in this proceeding. The Board finds that SEC's proposed phrasing of the issue is appropriately focused on new and modified methodologies and precludes methodologies reviewed in the last proceeding. Accordingly, the final issue 8.1 is: Have any regulatory or other bodies issued position or policy papers, or made decisions, with respect to Asset Retirement Obligations that the Board should consider in determining whether to retain the existing methodology or adopt a new or modified methodology?

The Board finds that queries on the ONFA Reference Plan do not require a separate issue and may be asked under issue 8.2.

8.2 Is the revenue requirement amount for nuclear liabilities related to nuclear waste management and decommissioning costs appropriately determined?

Energy Probe's submission under issue 8.2 is noted in issue 8.1 above.

SEC submitted that there is a 2.23 million bundle threshold for used fuel management liability, which at one time was forecast to be reached in 2011. Unless the effect of this is already in Issue 8.1 or 8.2, SEC believes that an issue should be added dealing with the potential impact of this, as follows: *Has the liability threshold for the Applicant on used fuel bundles, 2.23 million bundles, been reached or will it be reached in the test period? If so, what are the implications on the liability for, and revenue requirement of, nuclear waste management?* OPG replied that the submission from SEC is in the form of an interrogatory and should not be included in the issues list.

The Board finds that SEC's proposed issue is subsumed in issue 8.2

9. DESIGN OF PAYMENT AMOUNTS

9.1 Is the design of regulated hydroelectric and nuclear payment amounts appropriate?

OPG submitted that the issue should not be included on the list because the matter was decided in the last proceeding. CCC supports the inclusion of issue 9.1. While CCC is not proposing a different design at this time, it would like to leave open the possibility. CME submitted that no harm ensues by leaving issue 9.1 on the list. In reply submission, SEC stated that the structure of payment amounts does not only come into play because OPG wants it considered. It also arises as a matter of law because of the Board's statutory mandate to set these rates.

The Board agrees with the submissions of CCC, CME and SEC and finds that it is appropriate to have a general payment amount design issue.

9.2 Is the hydroelectric incentive mechanism appropriate?

OPG submitted that the issue should be restated as: *Has the hydroelectric incentive mechanism encouraged appropriate operating decisions? If not, how should the incentive mechanism be modified?* OPG stated that in the last proceeding the Board instructed OPG to report back on the impact of the incentive structure on OPG's operating decisions. OPG's position is that the focus of the Board's inquiry in this proceeding should be on the operation of the approved hydroelectric mechanism. Only if that mechanism is found to be deficient, should modifications be considered.

SEC submitted that the issue should be restated as: *Has the Applicant responded appropriately to the Board's direction in the First Payment Amounts Decision to file a review of the incentive mechanism? Has the incentive produced the results intended by the Board? What changes, if any, to the incentive mechanism are appropriate in light of the experience to date?* SEC also submitted a new issue on mitigation: *To what extent, if any, should the Applicant implement mitigation of any rate increases determined by this Board? If mitigation should be implemented, what is the appropriate mechanism that should be used?* This second issue is addressed along with CME's issue related to Consumer Impacts and Affordability.

In reply submission, AMPCO stated that it preferred the broader wording rather than changes suggested by OPG. CME replied that OPG's proposed rewording was non-substantive. VECC replied to the submissions of OPG and CME. OPG's rewording suggests that only if the incentive failed could the Board entertain changes. In VECC's view the appropriate issue is the appropriateness of the methodology, leaving open the issue of whether it is required at all. CME subsequently filed correspondence that supported VECC's position.

OPG replied that SEC's proposed wording is cumbersome and that the Board should adopt the issue proposed by OPG in its initial submission.

On this issue, SEC replied that there is no point in reviewing the incentive mechanism if the question of whether the mechanism is appropriate is off the table. The Board's intention was that the new mechanism would be subjected to scrutiny in this proceeding, and the Board should ensure that is the case.

The Board finds that the issue as phrased is sufficiently broad to enable all the parties to query the topic of hydroelectric incentive mechanism.

10. DEFERRAL AND VARIANCE ACCOUNTS

10.1 Is the nature or type of costs recorded in the deferral and variance accounts appropriate?

SEC submitted that it does not appear that the Review Decision (EB-2009-0038) was in a position to consider whether there would be an impact on the baseline calculated for the purposes of the Income and Other Taxes Variance Account. SEC seeks confirmation that interrogatories on this matter are included under issue 10.1. In reply, OPG submitted that this question is captured under issue 10.1

The Board agrees that the matter is captured under issue 10.1.

10.2 Is the proposed inclusion of costs related to Pickering B continued operations in the Capacity Refurbishment Variance Account appropriate?

OPG submitted that issue 10.2 should not be included on the list because it is a sub-issue of issue 10.1. CME submitted that no harm ensues by leaving this issue on the

list. In reply submission, SEC noted that, while this issue is probably included in issue 10.1, SEC believes it is useful to keep it as a separate issue.

The Board finds that issue 10.2 is subsumed in issue 10.1 and it will be removed from the final Issues List.

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?

SEC submitted that it is not obvious that changes to the terms of existing deferral and variance accounts are included in issue 10.5. SEC proposed adding the following to the end of issue 10.5: *What changes, if any, should be made to the terms of any deferral or variance accounts that are continued?* OPG replied that the addition is unnecessary as “it is beyond dispute that the Board in approving accounts, whether new or continued, may change their terms prospectively.”

The Board finds that SEC’s proposed issued is subsumed in issue 10.5.

SEC made a number of proposals for additional issues. The Board finds that all of SEC’s proposed issues, with the exception of the ones noted below, are subsumed under issues 10.3 and 10.4.

In its submission, SEC proposed two new issues on the impact of the Extension Decision: (1) In its letter of August 18, 2009 in relation to EB-2009-0174, the Board said, in denying earnings sharing for 2010, “CME may wish to raise at the next payments proceeding the issue of OPG’s 2010 results, and whether those results should be considered in the disposition of the deferral and variance accounts”. SEC noted that it is unable to determine if any of the issues on the draft list include this. If it is not included, SEC believes that a specific issue should be added which has sufficient scope to consider forecast earnings by OPG on the prescribed facilities in 2010.

(2) SEC also proposed a new issue on reviewing the necessity to capture 2010 variances relating to SMO or WTs. In the First Payment Amounts Decision, the Board decided, at page 49, not to order a variance account for revenues relating to SMO or water transactions. In light of the Extension Decision, SEC is concerned with whether

something is needed to capture 2010 variances, and whether going forward a new variance account should be added for this purpose given the potential for additional extensions.

In reply submission, OPG stated that SEC made a specific request to review 2010 earnings in the EB-2009-0174. OPG stated that the Board rejected the request. OPG stated that the two issues requested by SEC above, are requests to review 2010 earnings “under the guise of a variance account review.” OPG stated that the draft issues list fully covers appropriate review of deferral and variance accounts, and that a general review of 2010 earnings “is precluded by the prohibition against retroactive ratemaking.”

With respect to the first issue proposed by SEC, the Board finds that an additional issue is not required. Parties can pursue the line of enquiry contemplated by the Board in its letter of August 18, 2009 under the existing issues. With respect to the second proposal, the need for new accounts to capture variances in the period beyond the current test period may be reviewed under issue 10.7 and that review may include an examination of circumstances in 2010. However, the Board will not be reviewing 2010 with a view to retroactively imposing variance accounts where none were originally ordered.

11. REPORTING AND RECORD KEEPING REQUIREMENTS

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

OPG submitted that issue 11.1 should not be included on the list because a proceeding on OPG’s application for payment amounts is not the appropriate forum for establishment of RRRs. OPG stated that evidentiary requirements for RRR were not included in the Filing Guidelines. Including RRR issue may lead to delays and inefficiencies as OPG may require an opportunity to prepare and file evidence. OPG suggested that a separate proceeding, as was done with the gas and electric distributors, should be initiated if the Board decides to consider RRRs for OPG.

CME submitted that no harm ensues by leaving this issue on the list. AMPCO replied that it disagreed with OPG. AMPCO suggested that the issue might best be dealt with by written submission, but should remain part of the proceeding. In its reply, SEC noted that OPG argues for a separate, presumably generic, proceeding for RRR. As OPG is

the only generator whose payment amounts are regulated, it appears to SEC that a separate proceeding is not necessary as it would have no generic aspect to it.

The Board agrees with the parties that a consideration of future reporting requirements is appropriately conducted in the current proceeding, and the issue will remain. The Board does not expect to receive evidence in addition to what is contained in OPG's application. It is the Board's expectation that there will be interrogatories and argument on the matter.

12. METHODOLOGIES FOR SETTING PAYMENT AMOUNTS

- 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?

OPG submitted that none of the issues in section 12 should be included. OPG submitted that the Board should convene a separate proceeding to determine an appropriate alternative regulatory mechanism ("ARM") for OPG, the information necessary to implement the approved mechanism and the appropriate starting point for the payment amounts based on the specific ARM selected. The ARM proceeding could commence soon after the issuance of the OEB's final order.

OPG stated that it is premature, inconsistent, inefficient and unfair to include the issue of IRM in this proceeding. IRM was not raised in the notice for the filing guidelines consultation, nor was it present in the staff Scoping Paper and was never discussed in the consultation itself. In its submission, OPG provided a list of parties who participated in the 2006 payment amount methodology consultation, but who are not parties in the current proceeding.

OPG has not filed evidence on this issue. Including this issue would cause serious delays, requiring OPG and perhaps other parties, to develop and file evidence. This

may take several months. OPG stated that the IRM methodology should be established in the context of the business environment that OPG's prescribed facilities will face over the next five years. This context is not considered in the current application, which extends only to the end of 2012.

The PWU strongly recommended the removal of issue 12. Given the ambitious schedule of this proceeding, the efforts required in properly considering these issues would not be doable within this proceeding. The Board should initiate a separate consultation process.

CCC submitted that the consideration on IRM formulation and options should not be considered in this proceeding. However, CCC sees value in maintaining issue 12.4 on the list so parties can make submissions at the time of final argument regarding the nature and time frame for a separate process.

AMPCO submitted that this issue is best dealt with by way of written submissions and argument. If fully considered in this proceeding, this issue might divert the focus from other elements of the proceeding.

SEC submitted that this issue should remain on the list. While the Board may determine that the appropriate result is some form of consultation process and Board policy paper, the issue should still remain on the issues list for the Board to consider all of its options. SEC noted that at the very least, "the Board will have to consider in setting payment amounts for the test period whether those payment amounts will form the basis for IRM, or whether, as has already happened once, the Applicant may simply fail to seek new payment amounts for some period of time after the current test period."

CME suggested a more general issue: *What process for determining how and when OPG should be transitioned to Incentive Regulation is appropriate?* CME suggested that parties would be free to pose interrogatories of OPG. CME suggested that this matter could be considered at the Settlement Conference.

OPG replied that SEC's proposal reverses the logical order for developing an ARM and stated that SEC offered no persuasive reason why these issues should be considered in this proceeding rather than an ARM proceeding. OPG stated that CME suggested a reworded issue so that CME can pose interrogatories on matters on which OPG has not

submitted evidence or developed a position. OPG's position is that a separate ARM proceeding is more effective.

In reply, SEC stated that the Board should focus on "is now the time". SEC agreed that it is unlikely that this proceeding will result in an IRM system for OPG payment amounts. However SEC suggested placing preconditions on future extensions of this decision – again referring to the last 2008-2009 cost of service which extended to 2010. SEC believes the issues should be retained but with the understanding that the Board may make a more narrowly focused decision.

The Board has decided to narrow the scope of the IRM related issues. The Board accepts that an IRM framework for OPG will not result from this hearing, and does not wish to trigger the filing of extensive expert evidence, or otherwise see disproportionate amounts of hearing time spent on this issue.

The Board is interested, however, in considering what next steps might be appropriate with respect to OPG and IRM. The Board indicated an interest in this issue in the first OPG payments case, and is interested in exploring the issue further in the current case. In that light, draft issues 12.2 and 12.4 will form part of the final issues list. The Board expects that these issues can reasonably be accommodated within the current proceeding.

Consumer Impacts and Affordability

In its submission, CME proposed a new issue and sub-issues related to consumer impacts and affordability. CME noted that OPG has provided pre-filed evidence on consumer impact. The proposed issues are:

- 1. Are the consumer impacts of OPG's plans appropriate?*
- 2. What measures for evaluating consumer impacts and affordability are appropriate?*
- 3. What measures to reduce consumer impacts and to enhance affordability are appropriate?*

CME plans to lead evidence on this issue in the Hydro One Transmission proceeding (EB-2010-0002) and is considering the same for this proceeding, pending OPG's responses to interrogatories.

OPG replied to SEC's proposed issue on mitigation (under issue 9.2) and CME's proposed issues. OPG opposes the inclusion of mitigation and consumer impacts issues. OPG states that consideration of impacts occurs after payment amounts are set, then the necessity for mitigation is considered. The consumer bill impact for the current application is 1.7% and well below the Board threshold for mitigation. With respect to the second CME issue, OPG stated that it is impossible to determine what is meant by affordability and how this would be measured in aggregate.

The Board finds that CME's proposed issues will be subsumed within a single issue that will be added to the General category. The issue will be: Is the overall increase in 2011 and 2012 revenue requirement reasonable given the overall bill impact on consumers?

Procedural Matters

The schedule for filing interrogatories and responses to interrogatories as set out in Procedural Order No. 1 is unchanged. Parties should make every attempt to frame interrogatories on the confidential material such that the interrogatories can be filed on the public record. All interrogatories should refer to an issue on the issues list and to the evidence. In filing the interrogatory responses, OPG shall organize the filing of the responses by issue and within each issue by party.

Requests for Intervenor and Observer Status

The Association of Power Producers of Ontario ("APPrO") is a registered observer in this proceeding. On July 5, 2010, APPrO informed the Board that it has reconsidered its involvement in the proceeding and that it wished to change its status from observer to intervenor. APPrO stated that it accepts the record to date and that it does not intend to seek an award of costs.

The Society of Energy Professionals (the "Society") filed a Notice of Motion and Letter of Intervention on July 14, 2010. The Society stated that it was filing its intervention request late because OPG did not serve the notice of application on the Society, as directed by the letter of direction. The Society stated that it does not anticipate filing for cost awards. On July 16, 2010, OPG filed correspondence stating that, for the record, the Society had been served the notice of application as required by the letter of direction. OPG also confirmed that it does not oppose the Society being granted intervenor status.

APPrO and the Society are granted intervention status subject to any parties' objection to the late intervention request. The Board will not, however, allow these parties to make submissions relating to any determinations it has already made. The Board finds that the Society is not eligible for cost awards.

On July 19, 2010, the Board received a late request from the Ministry of Energy and Infrastructure for observer status in this proceeding. The request is granted.

An updated list of parties to this proceeding is attached. The Board notes that there are currently two observers for this proceeding, the Ministry of Energy and Infrastructure and the Independent Electricity System Operator.

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. The final Issues List (attached as Appendix "A") is approved for this proceeding.

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, 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. Parties shall use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.gov.on.ca. If the web portal is not available, parties may email their documents 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

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ISSUED at Toronto, July 21, 2010

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A

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

EB-2010-0008

FINAL ISSUES LIST

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

FINAL 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 an appropriate basis on which to set payment amounts?
- 1.3 Is the overall increase in 2011 and 2012 revenue requirement reasonable given the overall bill impact on consumers?

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, that are subject to section 6(2)4 of O. Reg. 53/05 and proposed for recovery, meet the requirements of that section?
- 4.2 Are the capital budgets and/or financial commitments for 2011 and 2012 for the regulated hydroelectric business 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, that are subject to section 6(2)4 and 6(2)4.1 of O. Reg. 53/05 and proposed for recovery, meet the requirements of that section?
- 4.5 Are the capital budgets and/or financial commitments for 2011 and 2012 for the nuclear business appropriate and supported by business cases?
- 4.6 Are the proposed in-service additions for nuclear projects appropriate?
- 4.7 Is the proposed treatment for the Pickering Units 2 and 3 isolation project costs appropriate?

5. PRODUCTION FORECASTS

Regulated Hydroelectric

- 5.1 Is the proposed regulated hydroelectric production forecast appropriate?

Nuclear

- 5.2 Is the proposed nuclear production forecast appropriate?

6. OPERATING COSTS

Regulated Hydroelectric

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

Nuclear

- 6.3 Is the test period Operations, Maintenance and Administration budget for the nuclear facilities appropriate?
- 6.4 Is the benchmarking methodology reasonable? Are the benchmarking results and targets flowing from those results for OPG's nuclear facilities reasonable?
- 6.5 Has OPG responded appropriately to the observations and recommendations in the benchmarking report?
- 6.6 Is the forecast of nuclear fuel costs appropriate?

- 6.7 Are the proposed expenditures related to continued operations at Pickering B appropriate?

Corporate Costs

- 6.8 Are the 2011 and 2012 human resource related costs (wages, salaries, benefits, incentive payments, FTEs and pension costs) appropriate?
- 6.9 Are the “Centralized Support and Administrative Costs” (which include Corporate Support and Administrative Service Groups, Centrally Held Costs and Hydroelectric Common Services) and the allocation of the same to the regulated hydroelectric business and nuclear business appropriate?
- 6.10 Is OPG responding appropriately to the findings in the Human Resources and Finance Benchmarking Reports?

Other Costs

- 6.11 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?
- 6.12 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 Have any regulatory or other bodies issued position or policy papers, or made decisions, with respect to Asset Retirement Obligations that the Board should consider in determining whether to retain the existing methodology or adopt a new or modified methodology?
- 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 Is the design of regulated hydroelectric and nuclear payment amounts appropriate?
- 9.2 Is the hydroelectric incentive mechanism appropriate?

10. DEFERRAL AND VARIANCE ACCOUNTS

- 10.1 Is the nature or type of costs recorded in the deferral and variance accounts appropriate?
- 10.2 Are the balances for recovery in each of the deferral and variance accounts appropriate?
- 10.3 Is the disposition methodology appropriate?
- 10.4 Is the proposed continuation of deferral and variance accounts appropriate?
- 10.5 Should the proposed variance account related to IESO non-energy charges be established?
- 10.6 What other deferral and variance accounts, if any, should be established for the test period?

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 When would it be appropriate for the Board to establish incentive regulation, or other form of alternative rate regulation, for setting payment amounts?
- 12.2 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?

**Ontario Power Generation Inc.
EB-2010-0008**

APPLICANT & LIST OF INTERVENORS

July 21, 2010

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EB-2010-0008

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July 21, 2010

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Ontario Power Generation Inc.

EB-2010-0008

APPLICANT & LIST OF INTERVENORS

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July 21, 2010

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**Ontario Power Generation Inc.
EB-2010-0008**

APPLICANT & LIST OF INTERVENORS

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July 21, 2010

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**Ontario Power Generation Inc.
EB-2010-0008**

APPLICANT & LIST OF INTERVENORS

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July 21, 2010

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**Ontario Power Generation Inc.
EB-2010-0008**

APPLICANT & LIST OF INTERVENORS

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July 21, 2010

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