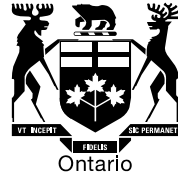


**Ontario Energy
Board**
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

**Commission de l'énergie
de l'Ontario**
C.P. 2319
27e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone; 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273



BY E-MAIL

September 23, 2010

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Ontario Power Generation Inc.
2011-2012 Payment Amounts for Prescribed Generation Facilities
Board File Number EB-2010-0008**

Pursuant to Procedural Order No. 9, please find enclosed Board Staff's submission. Please forward the following to Ontario Power Generation Inc. and all other registered parties to this proceeding.

Yours truly,

Original signed by

Violet Binette
Project Advisor, Applications & Regulatory Audit

ONTARIO ENERGY BOARD

STAFF SUBMISSION

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

EB-2010-0008

September 23, 2010

Introduction

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.

The Board issued the final issues list in this proceeding on July 21, 2010. Issue 12, Methodologies for the setting of payment amounts, is as follows:

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?

Board staff and other parties filed interrogatories related to issue 12, and OPG responded on August 12, 2010. Board staff filed a report prepared by Power Advisory LLC on August 31, 2010 entitled *Update to Report on Methodologies for Setting Ontario Power Generation Payment Amounts* (the “PA Report”) as evidence in relation to issue 12 in this proceeding. Interrogatories on the PA Report were filed by the Association of Major Power Consumers in Ontario, OPG and the Power Workers’ Union. Board staff filed responses on September 14, 2010.

On September 15, 2010, OPG filed a notice of motion in respect of the PA Report. OPG seeks an order excluding the evidence, and all related interrogatories and responses, from this proceeding. OPG also seeks an order prohibiting the attendance of the authors of Power Advisory LLC as witnesses in this proceeding. OPG states that the evidence is beyond the scope of the issues list.

The PA Report

On July 6, 2006, Board staff issued a staff discussion paper, *Regulatory Options for Setting Payments for the Output from OPG's Prescribed Generation Assets*. The Board Report, *A Regulatory Methodology for Setting Payment Amounts for the Prescribed Generation Assets of Ontario Power Generation Inc.*, was issued on November 30, 2006. Both the staff discussion paper and Board Report were informed by a May 19, 2006 report prepared by London Economics International LLC, *Alternatives for Regulating Prices Associated with Output from Designated Generation Assets*.

A request for proposal to update the London Economics Report was issued by the Board on June 6, 2010. The scope of work set by the RFP was as follows:

- Section 2 of the London Economics Report summarizes methodologies for setting payment amounts, including cost of service, incentive regulation and regulation by contract. The successful bidder will determine if this section is still current, and will update accordingly.
- Section 3 of the London Economics Report provides case studies of other jurisdictions. The successful bidder will determine if the status has changed in these jurisdictions and will provide a summary of the changes. More recent relevant case studies from other jurisdictions may be added.
- Section 6 of the London Economics Report reviews the implications of the methodologies for Ontario. The successful bidder will review the analysis and update where required.

The contract to update the London Economics Report was awarded to Power Advisory LLC. Parties to this proceeding were advised of the RFP during the consultation on the draft issues list, and copies of the RFP were made available to all interested parties.

As OPG notes in its notice of motion, the original draft issues list for “methodologies for setting payment amounts” included 4 sub issues, which was subsequently refined to 2 sub issues in the final issues list. The Board stated in its decision on July 21, 2010 that,

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.

While the PA Report does in part address IRM frameworks, Board staff had already alerted parties to the existence of the report, and filed it as evidence in this proceeding. Further, the cover letter to the filing stated that:

Board staff anticipates that the Power Advisory report will serve as a reference for the potential subsequent proceeding related to possible forms of alternative rate regulation for OPG. However, Board staff is filing the report in the current proceeding in the event any party wishes to refer to it within the context of issues 12.1 and 12.2, and will call the report's authors as witnesses if necessary.

In response to OPG interrogatory #1, Board staff identified the sections of the Power Advisory report that are in response to issues 12.1 and 12.2.

Board staff concedes that many parts of the PA Report do not directly relate to issues 12.1 and 12.2. As noted above, Board staff filed the report largely to provide background to the issue and to serve as a reference for parties. In addition, certain parts of the PA Report (as identified in the response to OPG interrogatory #1) are relevant to issues 12.1 and 12.2.

Board staff submits that the PA Report (and associated interrogatory responses) should not be struck from the record. However, the Board panel should ensure that any cross examination or final submissions relating to the PA Report relate directly to issues 12.1 and 12.2. Board staff also will not call the report's authors as witnesses unless another party has cross examination questions directly relevant to the Board approved issues list.

- All of which is respectfully submitted -