



**EB-2010-0279**

**IN THE MATTER OF** sections 25.20 and 25.21 of the *Electricity Act, 1998*;

**AND IN THE MATTER OF** a Submission by the Ontario Power Authority to the Ontario Energy Board for the review of its proposed expenditure and revenue requirements and the fees which it proposes to charge for the year 2011.

## **ISSUES DECISION AND PROCEDURAL ORDER NO. 2**

### **BACKGROUND**

On November 2, 2010, the Ontario Power Authority (the "OPA") filed with the Ontario Energy Board (the "Board") its proposed 2011 expenditure and revenue requirement and fees for review pursuant to subsection 25.21(1) of the *Electricity Act, 1998* (the "Act"). Pursuant to subsection 25.21(2) of the Act, the OPA is seeking the following approvals from the Board:

- approval of a net revenue requirement comprised of the proposed 2011 operating budget of \$64.1 million and a number of adjustments that result in a net amount of \$79.861 million;
- approval of a \$0.523/MWh usage fee, which is a decrease from the approved usage fee of \$0.551/MWh for 2010 and to recover its usage fees from export customers, in addition to Ontario customers;
- if necessary, interim approval of the usage fee described above, or such further or other interim orders as the Board may deem appropriate;

- approval of registration fees of up to \$10,000 per proposal for electricity supply and capacity procurements;
- approval of non-refundable application fees for the Feed-in-Tariff program of \$0.50/kW of proposed Contract Capacity, having a minimum of \$500 and to a maximum of \$5,000;
- approval of proposed 2011 capital expenditures of \$2.2 million;
- approval of its proposal to recover through fees the balances of the 2010 Forecast Variance Deferral Account;
- approval to continue to recover the balance of Retailer Settlement Deferral Accounts over three years;
- approval of establishment of the 2011 Retailer Contract Settlement Deferral Account, of the 2011 Retailer Discount Settlement Deferral Account, of the 2011 Government Procurement Costs Deferral Account and of the 2011 Forecast Variance Deferral Account, and approval or continuation of such further or other deferral accounts as the Board may deem appropriate; and
- all necessary orders and directions, pursuant to the *Ontario Energy Board Act, 1998* and the Board's Rules of Practice and Procedure, as may be necessary in relation to this submission, and execution of the approvals requested in the Business Plan.

The Board issued a Notice of Application dated November 24, 2010 with respect to this proceeding.

On December 13, 2010, the Board issued its original Decision on intervenor requests and Cost Eligibility. Supplemental Board Decisions on intervenor requests and Cost Eligibility were issued on December 14, 16 and 21, 2010. A list of the intervenors is attached as Appendix A.

At this point the Board expects to proceed by way of a written proceeding, including a written interrogatory process, a settlement conference, and an opportunity for written final submissions.

## ISSUES DECISION

Procedural Order No. 1 included a Draft Issues List and provided an opportunity for the OPA, Board staff and intervenors to file a submission on the draft issues list by December 15, 2010. Procedural Order No. 1 also set the date of December 17, 2010 for an Issues Day.

Written and / or oral comments on the Draft Issues List were received from the OPA, Board staff, Canadian Energy Efficiency Alliance (“CEEA”), Low-Income Energy Network, Vulnerable Energy Consumers Coalition (“VECC”), Pollution Probe, Energy Probe Research Foundation (“Energy Probe”), Canadian Manufacturers & Exporters (“CME”), Association of Power Producers of Ontario (APPrO), Hydro Quebec Energy Marketing (“Hydro Quebec”) and Green Energy Coalition (“GEC”).

The focus of the submissions on the Draft Issues List concerned the scope of the Board’s power to review the OPA’s proposed fees. These powers are described in section 25.21 of the *Electricity Act, 1998* (the “Electricity Act”):

**25.21(1)** The OPA shall, at least 60 days before the beginning of each fiscal year, submit its proposed expenditure and revenue requirements for the fiscal year and the fees it proposes to charge during the fiscal year to the Board for review, but shall not do so until after the Minister approves or is deemed to approve the OPA’s proposed business plan for the fiscal year under section 25.22.

### **Board’s powers**

(2) The Board may approve the proposed requirements and the proposed fees or may refer them back to the OPA for further consideration with the Board’s recommendations.

### **Same**

(3) In reviewing the OPA’s proposed requirements and proposed fees, the Board shall not take into consideration the remuneration and benefits of the chair and other members of the board of directors of the OPA.

### **Changes in fees**

(4) The OPA shall not establish, eliminate or change any fees without the approval of the Board.

**Hearing**

(5) The Board may hold a hearing before exercising its powers under this section, but it is not required to do so.

Parties agreed that the powers of the Board arising from section 25.21 do not extend to determining whether the goals expressed in Government directives are reasonable and appropriate. Accordingly, the Board will not permit discovery or submissions on the goals set out by the Government in directives and policy in this proceeding.

Parties also agreed that the powers of the Board arising from a section 25.21 review is limited to approving or rejecting the OPA's administration costs (i.e. the fees) and that the Board does not have the power to approve or reject the OPA's non-administrative program spending, such as generation procurement and Conservation and Demand Management ("CDM") procurement activities. The costs associated with these procurement programs are recovered through "charges" and not recovered through the OPA's fees that are approved by the Board. This limit to the Board's authority is made clear in section 25.20 (4) of the Electricity Act which states "The OPA's recovery of its costs and payments related to procurement contracts shall be deemed to be approved by the Board."

Where parties differed was regarding the extent to which the Board's approval of the OPA's administrative fees allows for an examination of the OPA's broader program spending. To that end, several parties, including Board Staff, GEC and CME, submitted that the Board should be guided by its electricity objectives under section 1 of the *Ontario Energy Board Act, 1998* (the "OEB Act"):

**Board objectives, electricity**

1. (1) The Board, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives:

1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.
2. To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.

3. To promote electricity conservation and demand management in a manner consistent with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.
4. To facilitate the implementation of a smart grid in Ontario.
5. To promote the use and generation of electricity from renewable energy sources in a manner consistent with the policies of the Government of Ontario, including the timely expansion or reinforcement of transmission systems and distribution systems to accommodate the connection of renewable energy generation facilities.

### **Facilitation of integrated power system plans**

(2) In exercising its powers and performing its duties under this or any other Act in relation to electricity, the Board shall facilitate the implementation of all integrated power system plans approved under the *Electricity Act, 1998*.

The Board finds that its mandate in relation to the review of the OPA's fees application comes from section 25.21 of the Electricity Act. The Board agrees that section 1 of the OEB Act informs the Board in the exercise of that mandate. However, Section 1 is not, in the Board's view, a source of independent or incremental responsibility that can override the direction that has been provided by the legislature in relation to the Board's mandate as set out in section 25.21 of the Electricity Act. This is confirmed by the wording of section 1 itself, which refers to the objectives as guiding the Board "in carrying out its responsibilities under" the OEB Act or any other Act.

The Board finds that its mandate in this case is limited to approval of the OPA's administrative fees, which comprise approximately 3% of the OPA's total annual spending. However, the Board is of the view that an assessment of the OPA's administrative fees must require an examination and evaluation of the management, implementation, and performance of the OPA's charge-funded activities. This is necessary because the OPA's administrative and non-administrative activities that are funded by fees and charges, respectively, are unavoidably linked. It is the Board-approved fees that give the OPA the means to acquire and allocate the resources (e.g., staff) that are required to undertake its various responsibilities, resulting in charge-funded activities. The Board finds that an assessment of the performance of the OPA's charge-funded activities is a necessary, legitimate and reasonable tool for determining the effectiveness of the OPA's utilization of its Board approved fees.

For example, and only as an example, on April 23, 2010 the OPA was directed by the government to design, deliver and fund province-wide CDM programs. The Board approves the fees used by the OPA to obtain the administrative resources (e.g., project management resources, staff complement, etc.) required to fulfill the directive. Therefore, part of assessing whether the OPA's proposed fees are reasonable and appropriate will necessitate an examination of the effectiveness of the OPA's delivery of CDM programs. It could be the case, for example, that the programs are behind schedule or not delivering results commensurate with the fees being allocated to CDM activities. In this case, the Board could reject the OPA's proposed fees and recommend that the OPA return with adjusted proposed fees that allow for higher or lower staff levels or more robust internal control mechanisms as the circumstances might warrant.

To be clear, while the Board would undertake an examination of CDM programs, it would not be the Board's role to approve or reject the CDM directive nor would it be the Board's role to approve or reject the OPA's charges to recover the costs of procuring CDM as required by the directive.

It is also not the Board's intention or role to attempt to micro-manage the OPA's work. But ratepayers have a legitimate expectation, in light of the Board's authority to review the OPA fees, that its work will be efficiently and effectively carried out, and in line with the specific mandates it has received from Government.

### **Specific Issues**

With respect to issue 1.1 and its equivalents (i.e., issues 2.1, 3.1, 4.1, and 5.1), the OPA argued that this issue is subsumed in issue 1.6 and its equivalents, and that there was no need to include both issues. GEC argued that if this change was accepted that the word "efficiency" from issues 1.6 and its equivalents be moved to issue 1.1 and its equivalents. The Board agrees with the OPA that these issues can be merged and agrees with GEC that the word "efficiency" be included in the revised issues 1.1 and its equivalents.

With respect to issue 1.3 and its equivalents, the OPA submitted that these issues should be removed from the issues list because they lie beyond the Board's mandate. GEC disagreed, arguing that the Board has the jurisdiction to review the initiatives in order to determine that the initiatives are properly framed and articulated such that the initiatives will fulfill the OPA's legal mandate (e.g., Ministerial directives). GEC

suggested alternative wording to issue 1.3 and its equivalents to clarify the scope of the Board's review. The Board finds that determining whether the OPA's proposed initiatives are consistent with and directly related to its mandate and obligations is a matter of relevance for this proceeding. The Board agrees with the wording suggested by GEC and has revised issue 1.3 and its equivalents accordingly.

With respect to issue 1.4 and its equivalents respecting budget allocations among initiatives, the OPA stated it "is not organized or structured in a manner that supports budgeting for costs on a project-by-project basis and it would be neither prudent nor productive for it to attempt to forecast its costs according to expectations of staff costs for specific projects for the coming year." The OPA argued further that this issue should be removed because the Board had decided in the OPA's previous fees application that it was satisfied with the way that the OPA had presented its budget.

Several parties, including Board Staff, CEEA, and Pollution Probe disagreed with the OPA on issue 1.4 and its equivalents. Board Staff argued that the OPA's current inability to track budgets across initiatives was not, in itself, a reason for excluding the issue. Board staff observed that parties may wish to argue that allocations should be tracked, or that certain initiatives should be allocated a higher portion of the overall administrative budget. CEEA argued that it was not possible to assess whether the budget for a specific Strategic Initiative was reasonable and appropriate without probing the allocation of the budget among initiatives. In addition, Pollution Probe noted that the Board is not bound by previous decisions.

The Board appreciates the OPA's argument that because the OPA's administrative activities are driven by government directives and policies, its priorities and activities can change significantly and suddenly. These circumstances require the OPA to maintain a certain amount of flexibility. However, the Board is of the view that the allocation of the OPA's budget among its objectives and initiatives is germane to this proceeding and that this issue should remain on the issues list. The Board is of the view that an organization with the OPA's sophistication and responsibilities should be able to provide information as to how its budget is allocated among initiatives, for the purpose of assessing whether the proposed fees are reasonable and appropriate.

With respect to issue 1.5 and its equivalents, the OPA argued that the terms "clearly defined" and "measurable" be removed because of the potential for different interpretations over the meanings of the words and that the terms "reasonable" and "appropriate" were broad enough to address additional issues. CEEA disagreed with

the OPA's position, arguing that differences in opinion between parties regarding the meanings of the words were not relevant because the Board would make its own decision on interpretation.

The Board agrees with the OPA that the words "reasonable" and "appropriate" are broad enough to capture "clearly defined" and "measurable" and has revised issue 1.5 and its equivalents accordingly.

With respect to issue 6.3, the OPA argued that the substance of issue 6.3 is captured under issue 6.1. The OPA further argued that because the items of concern in issue 6.3 are related to the performance and efficiency of programs that are a function of spending included in "charges", these items are not within the scope of this case. The Board agrees with the view that the areas of concern under issue 6.3 are captured by the broad wording under issue 6.1. However, as stated above, the Board is of the view that an assessment of the outcomes of charge-based programs can and will be used as part of the process to determine the appropriateness and reasonableness of the OPA's proposed fees and are therefore within the scope of this review.

As a matter of general application, the Board considers that each of the Issues contained in the Issues List should be considered to extend to and be relevant to all of the mandates and directives governing OPA's work.

Further, the Board agrees with GEC and OPA that all references in Strategic Objective #2 to the "integrated plan" should be considered to refer to "directives" received by the OPA from the government.

Issue 7.2 is related to the extension of the usage fee to exporters. APPrO supported the current wording of the issue and in its written submission stated that it would be appropriate for the Board to set the interim usage fee at the current level of \$.551/MWh. APPrO also asked that the interim fee be charged only to those customers that were currently charged the fee; in other words that the interim rates not apply to export customers. The Board accepted this proposal at Issues Day and approved a usage fee of \$0.551/MWh on an interim basis, effective January 1, 2011, pending a final decision in this proceeding.

The final Issues List has been approved by the Board and is attached as Appendix B. The Board considers it necessary to make provision for the following procedural

matters. The Board may issue further procedural orders from time to time.

**THE BOARD ORDERS THAT:**

1. Intervenors and Board Staff who wish information and material from the Applicant that is in addition to the evidence filed with the Board shall request it by written interrogatories filed with the Board, and delivered to the Applicant, on or before **January 25, 2011**.

All Interrogatories and responses must include a reference to the section of the application which identifies the specific evidence on which the interrogatory is based.

2. The Applicant shall file with the Board complete responses to the interrogatories and deliver them to the intervenors and observers no later than **February 8, 2011**.
3. A Settlement Conference will be held at 2300 Yonge, Toronto on the 25<sup>th</sup> floor in the ADR Room commencing **February 10, 2011 at 9:30 a.m. to 4:00 p.m.** and, if necessary, continuing on **February 11 and 14, 2011 at 9:30 a.m.** at the same location.
4. If there is a settlement or a partial settlement agreement forthcoming from the Settlement Conference then that agreement shall be filed with the Board no later than 4:00 p.m. on **February 22, 2011**.

If you have a user ID, please submit your interrogatories or submission through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca) in searchable/unrestricted PDF format. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca). You may also send your submission by e-mail to the following address: [boardsec@gov.on.ca](mailto:boardsec@gov.on.ca). Additionally, two paper copies are required and should be sent to the addresses below. Those who do not have Internet access are asked to submit their interrogatories or submissions on a CD in PDF format, along with three paper copies by 4:00pm on the date indicated, and copy all parties. Parties must also include the Case Manager, Michael Bell [michael.bell@oeb.gov.on.ca](mailto:michael.bell@oeb.gov.on.ca) and Board Counsel, Michael Millar [michael.millar@oeb.gov.on.ca](mailto:michael.millar@oeb.gov.on.ca) on all electronic correspondence related to this case.

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**DATED** at Toronto, January 11, 2011.

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary

**APPENDIX "A"**  
**PROCEDURAL ORDER NO. 2**

**EB-2010-0279**  
**ONTARIO POWER AUTHORITY**

**APPLICANT AND LIST OF INTERVENORS**  
**DATED: JANUARY 11, 2011**

**Ontario Power Authority  
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**APPLICANT & LIST OF INTERVENORS**

January 11, 2011

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Ontario Power Authority  
EB-2010-0279

**APPLICANT & LIST OF INTERVENORS**

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**Ontario Power Authority  
EB-2010-0279**

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**APPENDIX "B"**  
**PROCEDURAL ORDER NO. 2**

**EB-2010-0279**  
**ONTARIO POWER AUTHORITY**

**BOARD APPROVED ISSUES LIST**  
**DATED: JANUARY 11, 2011**

**ONTARIO POWER AUTHORITY (“OPA”)  
FISCAL 2011 REVENUE REQUIREMENT SUBMISSION FOR REVIEW  
BOARD APPROVED ISSUES LIST  
EB-2010-0279**

- 1.0 Strategic Objective #1 – POWER SYSTEM PLANNING – Plan for and facilitate the development of a cost effective, reliable and sustainable electricity system.**
- 1.1 Has the OPA provided reasonable and appropriate information regarding the achievement and efficiency on the performance of its 2010 Strategic Objective #1 milestones and initiatives:
- a) Responding to the Minister's Directives on planning;
  - b) Supporting the implementation of the Feed-in Tariff Program;
  - c) Supporting the implementation of electricity projects aligned with the Integrated Plan;
  - d) Continuing to integrate conservation into planning Ontario's electricity system; and
  - e) Supporting the development of Community Integrated Plans and options for Ontario's remote communities.
- 1.2 Is the Operating Budget of \$6.070 million for Strategic Objective #1 reasonable and appropriate?
- 1.3 Does Strategic Objective #1 adequately reflect the tasks that the OPA is charged with by statute and directives in 2011, and do the initiatives capture the range of activity required to achieve that end?
- 1.4 Is the budget for Strategic Objective #1 appropriately allocated among the initiatives being pursued?
- 1.5 Are the 2011 milestones associated with Strategic Objective #1 reasonable and appropriate for the purposes of determining the achievement and efficiency of the OPA's performance?
- 2.0 Strategic Objective #2 – CONSERVATION – Together with our partners, plan, procure and support the development of verified conservation/energy-efficiency resources as identified in the integrated plan and its subsequent iterations. Build capability and enable partners to achieve targets and contribute to a culture of conservation in Ontario.**
- 2.1 Has the OPA provided reasonable and appropriate information regarding the achievement and efficiency on the performance of its 2010 Strategic Objective #2 milestones and initiatives:

- a) Undertaking conservation planning and program design in partnership with LDCs;
  - b) Facilitating the procurement of verified energy efficiency/conservation resources through ratepayer-funded programs;
  - c) Building capability of the conservation services industry, the customer and the supply chain to accelerate conservation;
  - d) Increasing conservation awareness and measuring progress in building a culture of conservation province-wide;
  - e) Transforming the way electricity is used; planning for changes to codes and standards; and
  - f) Supporting innovation in emerging technologies and conservation programs.
- 2.2 Is the Operating Budget of \$16.421 million for Strategic Objective #2 reasonable and appropriate?
- 2.3 Does Strategic Objective #2 adequately reflect the tasks that the OPA is charged with by statute and directives in 2011, and do the initiatives capture the range of activity required to achieve that end?
- 2.4 Is the budget for Strategic Objective #2 appropriately allocated among the initiatives being pursued?
- 2.5 Are the 2011 milestones associated with Strategic Objective #2 reasonable and appropriate for the purposes of determining the achievement and efficiency of the OPA's performance?
- 3.0 Strategic Objective #3 – SUPPLY PROCUREMENT AND CONTRACT MANAGEMENT – Plan and design standardized tariff-based, competitive and bilateral procurement processes and enter into procurement contracts for generation resources. These procurement and contracts will meet the requirements identified in the integrated plan, ministerial directives and legislation, and incorporate world-class contracting and settlement practices that support investment in electricity. Identify barriers and limitations; develop and/or define methods and solutions to deliver enhanced generation developments, through innovation, analysis, assessment and benchmarking with a view to efficiency and environmental sustainability.**
- 3.1 Has the OPA provided reasonable and appropriate information regarding the achievement and efficiency on the performance of its 2010 Strategic Objective #3 milestones and initiatives:

- a) Continue to evolve and refine the FIT Program and manage FIT contracts;
  - b) Maintain nuclear generation in the province;
  - c) Procurement;
  - d) Managing newly executed large-scale gas-fired facilities;
  - e) Contract management and financial settlements;
  - f) Reducing barriers to involvement in renewable energy projects for community groups, municipalities and First Nation and Métis communities by establishing funding mechanisms;
  - g) Monitoring and Analysis of Policy and Current Procurement and Contract Management Processes;
  - h) Investigate approaches for dealing with carbon mitigation; and
  - i) Facilitate and Contract for New Combined Heat and Power and Distributed Generation.
- 3.2 Is the Operating Budget of \$11.172 million for Strategic Objective #3 reasonable and appropriate?
- 3.3 Does Strategic Objective #3 adequately reflect the tasks that the OPA is charged with by statute and directives in 2011, and do the initiatives capture the range of activity required to achieve that end?
- 3.4 Is the budget for Strategic Objective #3 appropriately allocated among the initiatives being pursued?
- 3.5 Are the milestones associated with Strategic Objective #3 reasonable and appropriate for the purposes of determining the achievement and efficiency of the OPA's performance?
- 4.0 Strategic Objective #4 – ORGANIZATIONAL CAPACITY – Develop and maintain organizational capacity to achieve the strategic objectives and be recognized as a strategic partner.**
- 4.1 Has the OPA provided reasonable and appropriate information regarding the achievement and efficiency on the performance of its 2010 Strategic Objective #4 milestones and initiatives:

Finance

- a) Implement new systems;
- b) Enhancing partnerships with internal customers; and
- c) Enhance risk management processes.

Human Resources

- a) Recruitment and Selection;
- b) Performance Management;
- c) Reward and Recognition;
- d) Training and Development;
- e) Career Planning, Succession Planning and Management;
- f) Organizational Development.

Business Services

- a) Expand and improve consultancy role; and
- b) Installation and support of key information technology.

Legal, Aboriginal and Regulatory Affairs

- a) Continue to provide effective legal counsel to the organization in the areas of contract development, procurement processes and contract management
- b) Provide support and guidance for OPA participation in regulatory proceedings; and
- c) Maintain and enhance positive relationships with First Nations and Métis communities.

- 4.2 Is the Operating Budget of \$24.653 million for Strategic Objective #4 reasonable and appropriate?
- 4.3 Does Strategic Objective #4 adequately reflect the tasks that the OPA is charged with by statute and directives in 2011, and do the initiatives capture the range of activity required to achieve that end?
- 4.4 Is the budget for Strategic Objective #4 appropriately allocated among the initiatives being pursued?
- 4.5 Are the milestones associated with Strategic Objective #4 reasonable and appropriate for the purposes of determining the achievement and efficiency of the OPA's performance?
- 5.0 Strategic Objective #5 – COMMUNICATIONS – Be a trusted and respected source of information in the electricity sector.**
- 5.1 Has the OPA provided reasonable and appropriate information regarding the achievement and efficiency on the performance of its 2010 Strategic Objective #5 milestones and initiatives:

- a) Identifying key stakeholders and developing a greater understanding of their information needs and associated action plans;
- b) Delivering enhanced community relations to meet communities' needs to be more informed about electricity matters;
- c) Gaining broad public and stakeholder understanding of sustainable electricity policy and conducting ongoing research to inform improvements in understanding of OPA's role;
- d) Conducting enhanced consultation with existing and new stakeholders on electricity system planning; and
- e) Ensuring superior communications support for major organizational initiatives?

5.2 Is the Operating Budget of \$5.791 million for Strategic Objective #5 reasonable and appropriate?

5.3 Does Strategic Objective #5 adequately reflect the tasks that the OPA is charged with by statute and directives in 2011, and do the initiatives capture the range of activity required to achieve that end?

5.4 Is the budget for Strategic Objective #5 appropriately allocated among the initiatives being pursued?

5.5 Are the milestones associated with Strategic Objective #5 reasonable and appropriate for the purposes of determining the achievement and efficiency of the OPA's performance?

## **6.0 Efficiency Metrics**

6.1 Do the efficiency metrics submitted by the OPA provide a reasonable and appropriate basis for assessing the general performance and efficiency with which the OPA operates and delivers on its mandate?

6.2 Do the efficiency metrics submitted by the OPA provide a reasonable and appropriate basis for assessing changes in the scope, volume, and complexity of OPA operations?

## **7.0 Proposed Fees**

7.1 Is the proposed usage fee reasonable and appropriate?

7.2 Is the proposal to recover OPA fees from export customers reasonable and appropriate?

7.3 Are the proposed registration fees per proposal for electricity supply and capacity procurement reasonable and appropriate?

7.4 Are the proposed application fees for the Feed-in-Tariff program reasonable and appropriate?

**8.0 Deferral and Variance Accounts**

8.1 Is the proposed disposition of the various Deferral and Variance Accounts reasonable and appropriate?

8.2 Are the proposed Deferral and Variance Accounts appropriate?

**9.0 Previous Settlement Agreements and Decisions**

9.1 Has the OPA responded appropriately to previous Settlement Agreements and Decisions?