



EB-2007-0905

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.

PROCEDURAL ORDER NO. 1

The Ontario Energy Board (the “Board”) received an application from Ontario Power Generation Inc. (“OPG” or the “applicant”) on November 30, 2007, 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 April 1, 2008. The Board has assigned the application file number EB-2007-0905.

The Board has decided to proceed by way of oral hearing to consider the application.

As part of its application, OPG has also requested an order from the Board declaring OPG’s current payment amounts interim and increasing the payment amounts as of April 1, 2008 (“interim order”). The Board has decided to hear oral argument on the following issues associated with OPG’s request for an interim order:

1. Can the Board declare the payment amounts prescribed by the *Payments Under Section 78.1 of the Act Regulation*, O. Reg. 53/05 (“Regulation 53/05”) to be interim?
2. Would an interim order of the Board declaring the current payment amounts to be interim and/or increasing the payment amounts as requested by OPG

- be considered the Board's first order for purposes of section 78.1 of the Act and section 4 of?
- a) If so, what are the implications for the application of the provisions of Regulation 53/05 that make reference to the Board's first order?
 - b) If not, on what basis can the Independent Electricity System Operator ("IESO") make payments to OPG in accordance with the interim order, having regard to the provisions of section 78.1(2) of the Act and of section 4 of Regulation 53/05?
3. If an interim order declaring the current payment amounts to be interim can be granted:
- a) Should the Board grant such an order?
 - b) If an interim order increasing the payment amounts as requested by OPG can be implemented by the IESO, should the payment amounts be increased and, if so, by what amount should the payment amounts increase?

Attached to this Procedural Order is a list of parties to this proceeding (Appendix A); a draft issues list (Appendix B); and a schedule for the proceeding (Appendix C).

The Board considers it necessary to make provision for the following procedural matters. This Procedural Order may be amended, and further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT:

1. Any party or Board staff that wishes to make written submissions on the draft issues list shall file the submissions with the Board and deliver a copy of the submissions to all other parties on or before **Friday, February 1, 2008**.

2. Any party or Board staff that wishes to make written submissions on the issues identified in this Procedural Order in relation to OPG's request for an interim order shall file the submissions with the Board and deliver a copy of the submissions to all other parties on or before **Friday, February 1, 2008**.
3. A hearing to consider the submissions with respect to the draft issues list is scheduled at the Board offices on **Wednesday February 6, 2008** at 9:30 a.m.
4. A hearing to consider the issues associated with OPG's request for an interim order is scheduled at the Board offices on **Thursday February 7, 2008** at 9:30 a.m.
5. Intervenors or Board staff who wish information and material from the applicant that is in addition to the evidence filed with the Board, and that is relevant to the hearing, shall request it by written interrogatories filed with the Board and delivered to the applicant on or before Monday **March 24, 2008**.
6. The applicant shall file with the Board complete responses to the interrogatories and deliver them to all parties no later than Friday, **April 11, 2008**.
7. Intervenors or Board Staff who wish to file evidence on the application must file that material with the Board, and deliver it to all other parties, by Friday **April 18, 2008**.
8. Intervenors, Board staff or the applicant who wish information and material from evidence filed by intervenors or Board staff that is in addition to the evidence filed with the Board, and that is relevant to the hearing, shall request it by written interrogatories filed with the Board and delivered to the party or Board staff that submitted the evidence, on or before Wednesday **April 23, 2008**.
9. Intervenors or Board staff shall file with the Board complete responses to the interrogatories and deliver them to all other parties no later than Wednesday **May 7, 2008**.

10. A technical conference will be held at the Board offices commencing at 9:00 a.m. on Tuesday **May 13, 2008** and continuing on Wednesday **May 14, 2008** for intervenors or Board staff who wish additional information from that provided in any interrogatory response. The technical conference will be transcribed.
11. The hearing to consider the application is scheduled to begin at the Board offices Monday **May 19, 2008** at 9:30 a.m. The hearing is scheduled to continue until Friday **June 20, 2008**.

All filings to the Board must quote file number EB-2007-0905, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format filed through the Board's web portal at www.errr.oeb.gov.on.ca. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please 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 you may e-mail your document to Boardsec@oeb.gov.on.ca. Those who do not have internet access are required to submit all filings on a CD or diskette 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, and be received no later than **4:45 p.m.** on the required date.

DATED at Toronto, January 23, 2008

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Appendix 'A'

EB-2007- 0905 Ontario Power Generation – Payment Amounts for OPG's Prescribed Facilities

List of Applicant and Intervenors

Updated – January 22, 2008.

Applicant	Rep. and Address for Service
Ontario Power Generation	Barbara Reuber Director, Ontario Regulatory Affairs H18 G2 700 University Avenue Toronto ON M5G 1X6 Tel: 416-592-5419 Fax: 416-592-6379 Email: opgregaffairs@opg.com
	Applicant's Counsel
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AND	
Ontario Power Generation	Josephina D. Erzetic Assistant General Counsel H18 A24 700 University Avenue Toronto ON M5G 1X6 Tel: 416-592-5885 Fax: 416-592-1466 Email: j.erzetic@opg.com

Intervenor	Rep. and Address for Service
1. Association of Major Power Consumers in Ontario	Adam White President Sterling Tower 372 Bay Street, Suite 1702 Toronto ON M5H 2W9 Tel: 416-260-0225 Fax: 416-260-0442 E-mail: awhite@ampco.org
AND	
Borden Ladner Gervais LLP	J. Mark Rodger Partner Scotia Plaza 40 King Street West Toronto ON M5H 3Y4 Tel: 416-367-6190 Fax: 416-361-7088 E-mail: mrodger@blgcanada.com
AND	
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AND	
Henley International Inc.	Dr. Lawrence Murphy 11-1019 North Shore Blvd. East Burlington ON L7T 1X8 Tel: 905-639-7233 E-mail: l.murphy@cogeco.ca

Intervenor	Rep. and Address for Service
2. Consumers Council of Canada (Council)	Julie Girvan Consultant 2 Penrose Road Toronto ON M4S 1P1 Tel: 416-322-7936 Fax: 416-322-9703 E-mail: jgirvan@ca.inter.net
AND	
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3. Electricity Distributor Association (EDA)	Richard Zebrowski VP, Policy & Corporate Affairs 3700 Stelles Ave. West Suite 1100 Vaughan ON L4L 8K8 Tel: 905-265-5300 Fax: 905-265-5301 Email: rzebrowski@eda-on.ca
4. Energy Probe Research Foundation	David MacIntosh 225 Brunswick Avenue Toronto ON M5S 2M6 Tel: 416-964-9223 Ext. 235 Fax: 416-964-8239 E-Mail: DavidMacIntosh@nextcity.com

Intervenors	Rep. and Address for Service
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AND	Kimble Ainslie c/o Energy Probe 225 Brunswick Avenue Toronto ON M5S 2M6 Tel: 416-964-9223 Ext. 223 Fax: 416-964-8239 E-Mail: KimbleAinslie@nextcity.com
5. Green Energy Coalition	David Poch Counsel to the GEC 1649 Old Brooke Road Maberly ON K0H 2B0 Tel: 613-264-0055 Fax: 613-264-2878 E-mail: dpoch@eelaw.ca

Intervenor	Rep. and Address for Service
6. Hydro One Networks	Glen E. MacDonald Senior Advisor – Regulatory Research & Administration 483 Bay Street 8th Floor, South Tower Toronto ON M5G 2P5 Tel: 416-345-5913 Fax: 416-345-5866 E-mail: regulatory@HydroOne.com
7. Independent Electric System Operator (IESO)	Ms. Helen Lainis Senior Regulatory Analyst 655 Bay Street, Suite 410 P.O. Box 1 Toronto, ON M5G 2K4 Tel: (905) 855-4106 Fax: (905) 855-6372 E-mail: helen.lainis@ieso.ca
8. Ontario Mining Association	Cheryl Brownlee 520-5755 Yonge Street Toronto ON M2J 4J1 Tel: 416-364-9301 ext. 223 Fax: E-mail: cbrownlee@oma.on.ca
9. Ontario Power Authority (OPA)	Miriam Heinz 120 Adelaide Street West Suite 1600 Toronto ON M5H 1T1 Tel: 416-967-7474 Fax: 416-967-1947 Email: Miriam.heinz@opa.com

Intervenor	Rep. and Address for Service
10. Pollution Probe Foundation	Jack Gibbons Public Interest Economics 625 Church Street, Ste. 402 Toronto ON M4Y 2G1 Tel: 416-926-1907 x 240 Fax: 416-926-1601 Email: jgibbons@pollutionprobe.org
AND	
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11. Power Workers Union (PWU)	John Sprackett Staff Officer, President's Office 244 Eglinton Avenue East Toronto ON M4P 1K2 Tel: 416-322-4787 Fax: 416-481-7914 E-mail: sprocket@pwu.ca
AND	

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12. School Energy Coalition (SEC)	Bob Williams Coordinator Ontario Education Services Corporation c/o Ontario Public School Boards Association 439 University Avenue, 18 th Floor Toronto ON M5G 1Y8 Tel: 416-340-2540 Fax: 416-340-7571 E-mail: bwilliams@opsba.org
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AND	
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EB-2007- 0905
Ontario Power Generation –
Payment Amounts for OPG’s Prescribed Facilities

List of Applicant and Observers

Updated – January 10, 2008.

Applicant	Rep. and Address for Service
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Applicant’s Counsel

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AND

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**Ontario Energy Board
Payment Amounts for OPG's Prescribed Facilities
List of Observers – Appendix 'A' – EB-2007-0905**

Observer	Rep. and Address for Service
1.	William Shore P. O. Box 846 Sutton West ON L0E 1R0 Tel: 905-722-5396 Fax: 905-722-956 Email: wshore@xplonet.com
2. Ministry of Energy	Richard Rogacki Senior Policy Advisor 880 Bay Street Toronto ON M7A 2C1 Tel: 416-325-6916 E-mail: Richard.Rogacki@ontario.ca

Appendix 'B'

EB-2007-0905

Ontario Power Generation Inc.

Payment Amounts for Prescribed Generating Facilities 2008 and 2009 Revenue Requirement

Draft Issues List

RATE BASE (Exhibit B)

- 1.1 Is the rate base appropriately determined in accordance with regulatory and accounting requirements? *(B1/T1/S1) (B1/T1/S1)*

CAPITAL STRUCTURE AND COST OF CAPITAL (Exhibit C)

- 2.1 What is the appropriate capital structure for OPG's regulated hydroelectric business and nuclear business for the 2008 and 2009 test years? Should the same capital structure be used for both businesses? *(C1/T1/S1, C1/T2/S1, C2/T1/S1)*
- 2.2 What is the appropriate return on equity (ROE) for OPG's regulated hydroelectric business and nuclear business for the 2008 and 2009 test years? Should the ROE be the same for both businesses? *(C1/T1/S1, C1/T2/S1, C2/T1/S1)*
- 2.3 Is it appropriate to establish a formula for an adjustment mechanism? Is the formula proposed appropriate? *(C1/T1/S1, C1/T2/S1, C2/T1/S1)*
- 2.4 Are OPG's proposed costs for its long-term and short-term debt components of its capital structure appropriate? *(C1/T1/S2, C1/T1/S3, C1/T2/S2, C1/T2/S3)*
- 2.5 How should the reduction in OPG's financial risk resulting from deferral and variance accounts be considered when determining the appropriate return on equity?

CAPITAL PROJECTS (Exhibit D)

- 3.1 Are the costs and financial commitments OPG is seeking to recover under section 6(2)⁴ incurred to increase the output of, refurbish or add operating capacity to a prescribed facility? *(D1/T1/S1 and D2/T1/S1)*

¹ All section references are to O.Reg. 53/05.

- 3.2 If so, are the costs and financial commitments within project budgets approved for that purpose by the board of directors of OPG?
- 3.3 If the costs and financial commitments are not within project budgets approved by the board of directors of OPG, are the costs and financial commitments prudent?
- 3.4 In section 6(2)4, what is a “firm financial commitment” and a “pre-engineering commitment”?
- 3.5 Is the additional capital spending (beyond the levels being recovered under section 6(2)4)) appropriate?
- 3.6 Are the capitalization policy thresholds and business case requirements appropriate? *(A2T2S1)*

PRODUCTION FORECASTS (Exhibit E)

- 4.1 Is the methodology used by OPG to generate the proposed hydroelectric and nuclear business production forecasts appropriate?
- 4.2 Has the methodology been appropriately applied to create the production forecasts?

OPERATING COSTS (Exhibit F)

- 5.1 Are the Operation, Maintenance and Administration (“OM&A”) budgets for the prescribed hydroelectric and nuclear business appropriate? *(F1/T1/S1, F2/T1/S1)*
- 5.2 Are the proposed depreciation rates and resulting expense appropriate? *(B1T1S1)*
- 5.3 Are the 2008 and 2009 budgets for human resource related costs (wages, salaries, benefits, incentive payments and pension costs) including employee levels, appropriate? *(F3/T4/S1)*
- 5.4 Are the corporate costs allocated to the regulated hydroelectric and nuclear businesses appropriate? *(F3/T1/S1, F3/T1/S2, F4/T1/S1)*
- 5.5 Are the asset service fee amounts charged to the regulated hydroelectric and nuclear businesses appropriate? *(F3/T3/S1, F3/T3/S2, F4/T1/S1)*

- 5.6 Are the amounts proposed to be included in 2008 and 2009 revenue requirements for other operating cost items appropriate? (F3/T2/S1, F3/T2/S2, F4/T1/S1)
- 5.7 Is the forecast of nuclear fuel costs appropriate? (F2/T5/S1, F2/T5/S2)
- 5.8 Is the methodology for deriving the nuclear outage OM&A budget and the forecast of outage OM&A costs appropriate? (F2/T4/S1, F2/T4/S2)
- 5.9 Are the levels of OM&A purchased services appropriate? (F2/T6/S1, F3/T5/S1, F3/T5/S2).

OTHER REVENUES (Exhibit G)

- 6.1 Are the proposals for the treatment of revenues from Segregated Mode of Operation, water transactions and congestion Management Settlement Credits appropriate? (G1/T1/S1)
- 6.2 Are the forecasts of ancillary services revenues appropriate? (G1/T1/S1)
- 6.3 Are the forecasts of revenues from Heavy Water and tritium sales and services, radioisotope and nuclear inspection and maintenance services appropriate? (G2/T1/S1)
- 6.4 Are there revenues that OPG earns from the prescribed assets that should be included in the application?
- 6.5 Are OPG's forecasts of costs related to the Bruce Nuclear Generating Station, and costs and revenues related to the Bruce lease, accurate?

NUCLEAR WASTE MANAGEMENT AND DECOMMISSIONING (Exhibit H)

- 7.1 The proposed rate base includes the estimated net book value of OPG's nuclear fixed assets, which in turn includes amounts related to OPG's obligations to decommission the nuclear plants and manage nuclear waste. The proposed revenue requirement includes depreciation of those nuclear fixed asset costs and a return on rate base. Is this method of recovering nuclear fixed asset removal and nuclear waste management costs appropriate? Or should alternative recovery mechanisms be considered (for example, calculating the cost of a portion of the debt component of OPG's capital structure by reference to the discount rates used to measure nuclear liabilities)? [H1/T1/S2]

DESIGN OF PAYMENT AMOUNTS (Exhibit I)

- 8.1 Are OPG's suggested changes to the hydroelectric incentive payment system appropriate? (I1/T1/S1)
- 8.2 Is the fixed payment of 25% of revenue requirement an appropriate design for the nuclear facilities? (I1/T2/S1)

DEFERRAL AND VARIANCE ACCOUNTS (Exhibit J)

Forecast Variance Account Section 5(1)

- 9.1 Are the costs and the revenues recorded in the variance account established under section 5(1) (the "forecast variance account") due to deviations from the forecasts set out in "Forecast Information for Facilities Prescribed under Ontario Regulation 53/05"²? Were the costs incurred and the revenues earned or foregone on or after April 1, 2005?
- 9.2 Do each of the costs and revenues recorded in the forecast variance account correspond to changes in electricity production associated with sections 5(1)(a), (b), (c), (d) or (e)?
- 9.3 Were the revenues recorded in the forecast variance account earned or foregone; were the costs prudently incurred; and were the revenues and costs accurately recorded as required by section 6(2)1?

Pickering Deferral Account Section 5(4)

- 9.4 Are all of the non-capital costs recorded in deferral account established under section 5(4) incurred after January 1, 2005, and associated with either the planned return to service of all of the units at the Pickering A Nuclear Generating Station or units the board of directors of OPG determined should be placed in safe storage?

Nuclear Liability Deferral Account section 5.1(1)

- 9.5 Are the revenue requirement impacts of any change in OPG's nuclear decommissioning liability, arising from an approved reference plan approved after April 1, 2005, accurately recorded in the nuclear liability deferral account established under subsection 5.1(1), as required by section 6(2)7?

² This document is posted and available on the Ontario Energy Board's website: www.oeb.gov.on.ca.

Recovery Methods for Existing Variance and Deferral Account Balances

- 9.6 Are OPG's proposed recovery methods including periods of recovery for the deferral and variance account balances appropriate? *(J1/T2/S1)*

2008-2009 Deferral and Variance Accounts

- 9.7 What deferral and variance accounts, other than those mandated by Reg. 53/05, should be established for 2008 and 2009?

DETERMINATION OF PAYMENT AMOUNTS (Exhibit K)

- 10.1 Are regulatory income and capital taxes appropriately determined in accordance with regulatory and tax legislation requirements? *(K1/T1/S2)*
- 10.2 Is the allocation of OPG's corporate loss carry forwards to its regulated business appropriate? *(K1/T1/S2)*
- 10.3 Are OPG's pro-rating methods for test year costs, revenues and production appropriate? *(K1/ T1/S1)*

Appendix 'C'

EB-2007-0905

Ontario Power Generation Inc.

**Payment Amounts for Prescribed Generating Facilities
2008 and 2009 Revenue Requirement**

Schedule of Events

Event	Date
Submission on issues and interim payment	01-Feb-08
Issues Day/Interim payment Hearing (2 days)	06-Feb-08
Interrogatories issued	24-Mar-08
Applicant's responses to interrogatories received	11-Apr-08
Intervenor and Board Staff evidence filed	18-Apr-08
Interrogatories on intervenor and Board Staff evidence issued	23-Apr-08
Intervenors' and Board Staff's responses to interrogatories received	07-May-08
Technical conference (2 days)	13-May-08
Oral Hearing (ends June 20)	19-May-08