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.

WRITTEN SUBMISSIONS OF THE APPLICANT, ONTARIO POWER GENERATION INC. RE: DRAFT ISSUES LIST

Introduction

1. In Procedural Order No. 1, the Ontario Energy Board (OEB) sought submissions on the draft issues list by February 1, 2008. In these submissions, OPG has proposed some revisions to the wording of certain issues, which are black-lined below. OPG has also provided a brief rationale for each proposed change. The numbers below correspond to the issue numbers in the draft Issues List.

Proposed Changes

2. Issue #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 OPG's regulated hydroelectric and nuclear businesses? If not, what capital structure is appropriate for each business? *(C1/T1/S1, C1/T2/S2, C2/T1/S1)*

OPG, as a prescribed generator, has applied for a single capital structure for its prescribed facilities. OPG has proposed some amendments to the wording of this issue to reflect a neutral question, rather than one which presumes that a separate examination of the capital structure for the regulated hydroelectric and nuclear businesses is necessary.

3. Issue #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 OPG's regulated hydroelectric and nuclear businesses? If not, what is the appropriate ROE for each business? (C1/T1/S1, C1/T2/S1, C2/T1/S1)

OPG has applied for a single ROE for its prescribed facilities. As with issue 2.1, the wording of the issue should reflect a neutral question, rather than one which assumes that separate ROEs are necessary.

4. Issue #2.5 ~~How should the reduction in~~ What are the implications of the deferral and variance accounts on OPG's financial risk? ~~resulting from deferral and variance accounts~~ How should the implications be considered when determining the appropriate return on equity?

Rather than presuming that the existing or requested deferral and variance accounts result in a reduction in OPG's financial risk, OPG submits that the issue should be framed in a neutral manner to allow all of the implications of the deferral and variance accounts on OPG's financial risk to be considered.

5. Issue #3.6 Are the costs that flow from the capitalization policy ~~thresholds and business case requirements~~ and the capital project approval process appropriate? (A2T2S1)

OPG submits that the focus of the issue should be on the broader issue of the capital costs for which it is seeking approval rather than the sub-issue of the processes from which these costs flow. The issue which the Board must address in rendering a decision on the application is that of the costs themselves. In the Board's decision regarding *Hydro One Bruce to Milton Transmission Reinforcement Project*, the Board indicated that an Issues List has two purposes: "1) it defines the scope of the proceeding, and 2) it articulates the questions which the Board must address in reaching a decision on the application. The Board does not believe it is appropriate to define the Issues List in complete detail. For many of the issues, the Board expects that sub-issues will arise … It is not possible to identify all of those detailed issues now so early in the process. The Board is therefore hesitant to include detailed sub-issues on the Issues List if the matters are otherwise included in a broader issue."

> *Hydro One Bruce to Milton Transmission Reinforcement Project,*
> EB-2007-0050, September 26, 2007, p.2.

6. Issue #5.3 Are the 2008 and 2009 ~~budgets for~~ human resource related costs (wages, salaries, benefits, incentive payments, FTEs

and pension costs) ~~including employee levels,~~ appropriate? (F3/T4/S1)

This issue refers to Exhibit F3-4-1 which provides supporting information for the budgeted labour costs and not the budgets themselves. It is the human resource related costs themselves that is at issue for the hearing and which the Board must address in reaching a decision on the application. "Employee levels" are in the nature of a sub-issue that, in OPG's submission, is not appropriate to include at this stage of the process.

7. Issue #5.9 Are the ~~levels of~~ OM&A purchased services <u>costs</u> appropriate <u>in the context of the OM&A budgets for the regulated facilities</u>? (F2/T6/S1, F3/T5/S1, F3/T5/S2).

The issue associated with OM&A purchased services relates to the cost effectiveness and efficiency of the use of purchased services in the context of the OM&A budgets for the regulated facilities. The examination of OM&A expenses in issue 5.1 includes all OM&A expenses, including purchased services. The examination of "levels of" OM&A purchased services is a sub-issue to the broader issue defined in issue 5.1. It therefore need not be identified as a separate issue.

8. Issue #6.4 Are there revenues <u>and related costs, other than those included in the application,</u> that OPG earns <u>or incurs</u> from the prescribed assets that should be included in the application?

The proposed wording clarifies that the issue relates to revenues and related costs other than those already included in the application.

9. Issue #7.1 The proposed rate base includes … 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/S1]

OPG submits the issue should reflect a neutral wording that permits exploration of alternatives. Examples are unnecessary. Further, this example is based on an approach to the issue that has not been advanced by any party and which is not supported by any evidence. OPG is unclear as to the mechanism that is being proposed in the example and, while OPG is of the view that the example should be removed, OPG would need greater clarification if the example is retained.

10. Issue #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)?

The variance account established under section 5(1) of O. Reg. 53/05 relates to deviations from both financial forecasts and electricity production forecasts as set out in the document referenced in the Regulations. The Regulations list five elements of the variance account, 5 (1) (a) through (e). Of these five elements, only 5(1) (a) and 5(1) (e) relate to changes in electricity production. OPG has not recorded anything in the variance accounts relating to elements (b) or (d). Section 5(1) (c) addresses variances in revenues for ancillary services from the forecasts as set out in the document referenced in the Regulations. It is does not relate to electricity production and is appropriately addressed in issue 9.1.

11. Issue #9.6 Are OPG's proposed recovery methods including periods of recovery for the deferral and variance account balances consistent with the requirements of O. Reg. 53/05 sections 6(2)1, 6(2)3 and 6(2)7 and otherwise appropriate? (J1/T2/S1)

The referenced sections of O. Reg. 53/05 specify the periods of recovery for some of the variance and deferral accounts in J1/T1/S1 and should, therefore, be specified in this issue.

12. Issue #10.2 Is the ~~allocation~~ proposed treatment of OPG's ~~corporate~~ loss carry forwards for the regulated business ~~to its regulated business~~ appropriate? (K1/T1/S1)

OPG files tax returns on a legal entity basis, which includes both regulated and unregulated operations. The tax losses presented in the evidence are calculated under the principle that the regulated operations are a notional stand-alone entity, and therefore they are not equal to the amounts in OPG's corporate tax returns. The proposed wording changes are intended to make this distinction clear.

13. Issue #10.3 Are OPG's ~~pro-rating~~ methods for removing Q1 2008 ~~test year~~ costs, revenues and production appropriate? (K1/T1/S1)

The test period for OPG's application is April 1, 2008 to December 31, 2009. The need to remove Q1 2008 costs, revenues and production arises as a result of the date prescribed for purposes of section 78.1(2) of the *Ontario Energy Board Act, 1998* as set out in O.Reg. 53/05. OPG submits that the issue should be specific to the circumstances and regulatory context of the application. What OPG has done is not "pro-rating;" rather, OPG has specifically identified costs for its 21-month test period.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

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