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File 10329

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VIA RESS FILING AND COURIER

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Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

Re: Filing Guidelines for Ontario Power Generation Inc. (EB-2011-0286)

Attached please find the Power Workers' Union's submission with regard to updated filing guidelines and prioritization of issues for Ontario Power Generation Inc.'s 2013-2014 payment amounts proceeding (EB-2011-0286).

Yours very truly,

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

Original Signed By

Richard P. Stephenson

RPS:jr

Encl.

cc: John Sprackett
Judy Kwik

Doc 800524v1

HONORARY COUNSEL

Ian G. Scott, Q.C., O.C.
(1934 - 2006)

**Updated Filing Guidelines and Prioritization of issues
for Ontario Power Generation Inc.'s
2013-2014 Payment Amounts Proceeding**

Comments of the Power Workers' Union

By way of a letter ("Letter") issued on September 8, 2011 the Ontario Energy Board ("OEB" or the "Board") initiated a consultation process on filing guidelines for Ontario Power Generation Inc.'s ("OPG") next payment amounts application and the most effective process for the review of the issues and evidence. The Board invites comments on the proposed updated filing guidelines and on the prioritization of issues. The following are the Power Workers' Union's ("PWU") comments.

PROPOSED UPDATED FILING GUIDELINES

a. Filing Guidelines on Safety and Reliability Performance

The PWU notes the lack of distinct filing requirements on safety and reliability performance. The Board and parties need to be satisfied through the review of evidence that OPG's safety and reliability performance has not deteriorated since the Board started regulating OPG. While safety and reliability performance targets may be included in OPG's business planning process, the actual performance trends and targets should be reviewed to provide the Board and parties with a comprehensive appreciation of input (i.e. cost) relative to output (i.e. performance).

Given the Board's and intervenors' limited understanding on nuclear and hydroelectric generation safety and reliability performance metrics, the actual metrics and details on safety and reliability to be filed should be left to OPG to determine. In the absence of the required expertise, any attempt of the Board

and participants to define the metrics can put at risk OPG's ongoing safety and reliability performance if the metrics defined by the Board and parties inadvertently incent inappropriate operational changes. Having OPG define the metrics ensures that there will be consistency with OPG's internal monitoring practices and consideration of the requirements of other government agencies and industry associations (e.g. the Canadian Nuclear Safety Commission) that ensures OPG's ongoing pursuit of safety and reliability.

Safety and reliability performance filing requirements could be added to Exhibit F, Operating Costs.

b. Introduction

The PWU submits that detailed year-over-year analysis comparing prior year's costs and production, as referenced on page 7 of the *Filing Guidelines OPG (Track Changes)* document ("Updated Filing Guidelines"), should be provided for each historic year, the bridge year, as well as the test years.

c. Exhibit D Capital Projects

The PWU notes that the updated filing guideline that increases the \$10 million threshold to \$20 million for capital projects requiring detailed information and a description of the need for the project, as presented on page 13 of the Updated Filing Guidelines, is a step in the right direction in improving the efficiency of OPG's cost of service proceedings. Should any of the projects between \$5 million and \$20 million trigger concern on the part of an intervenor, the intervenor could seek further information on the project. However, the intervenor would need to provide a reasonable basis for seeking further information so that the efficiency that the updated filing guideline on capital projects is intended to produce is not needlessly undone.

The proposed update for variance analysis of capital projects from \$10 million to \$20 million or more is consistent with the updated capital project threshold of \$20 million and will further contribute to the efficiency of the proceeding.

d. Exhibit F Operating Costs

In line with the PWU's comments on the need for filing requirements on safety and reliability performance, safety and reliability performance should be explicitly listed among the information included in the consolidation of benchmarking information on page 15 of the Updated Filing Guidelines, to reinforce the importance the Board attaches to OPG's output relative to input in the benchmarking exercise.

The fifth item under the first bullet on page 17 of the Updated Filing Guidelines is as follows: "a table that summarizes actual accounting expense compared to Board-approved test year expense and with amounts actually paid for pensions and OPEBs for the period April 1, 2008 to the end of the test period". The PWU notes that actual amounts paid for the test years will not be available for filing in OPG's 2013-2014 payment amounts application.

PRIORITIZATION OF ISSUES

The Board's Letter cites the following conclusion in the decision on OPG's 2011 and 2012 payment amounts application (EB-2010-0008):

It is the Board's conclusion that a number of issues which parties pursued vigorously in cross-examination and argument were not of sufficiently high priority in terms of the dollars or the principle involved. The Board's concern is that an inordinate focus on lower priority issues diminishes the time and resources available to pursue the more substantive, higher priority issues. This is not intended as a criticism of any of the parties; nor is it an indication that there was insufficient evidence for the Board to render its decision. Rather, these comments are intended to guide the parties as to the Board's expectations for the next proceeding based on our observations of this proceeding.

The Letter also notes the following Board intent articulated in the decision that is a matter in this consultation:

The Board will explore with OPG and stakeholders how best to identify issues in the next proceeding to ensure that the highest priority issues are identified early.

In consideration of the above, the Letter provides two options on the prioritization of issues to prompt feedback from parties.

One option, termed the “Pre-Hearing Prioritization” is as follows:

- **The filing guidelines would be similar in scope to those previously issued.**
- **Following the filing of the application, there would be provision for the development of an issues list, interrogatories, technical conference and settlement conference.**
- **As is the normal course, unsettled issues would proceed to hearing. In the event that all or a significant number of issues are not settled, the Board would make provision for an issues prioritization process. The outcome of that process would be the identification of primary and secondary issues. Potential examples of secondary issues are corporate cost allocation and asset service fees.**
- **Parties could, as part of the settlement process, reach an agreement on the categorization of some or all of the issues as primary or secondary, and present this proposal to the Board for approval. Submissions would be made to the Board on any issues for which the categorization remained contested for a Decision on a final Issues List.**
- **Issues that were categorized as primary would be part of the oral hearing to be heard by the Board first.**
- **The Board may determine that some or all of the secondary issues would be heard by way of written hearing, or the Board may determine that some or all of the secondary issues would be heard last in the order of the oral hearing.**

In the PWU’s view the proposed Pre-Hearing Prioritization process does not appear to be any different from a conventional proceeding process.

The other option provided in the Letter is termed “Early Prioritization” and is as follows:

- **The Board would initiate a consultation process to identify priority issues for the 2013-2014 payment amounts case.**
- **The filing guidelines would reflect a more detailed filing for priority issues and less detail for the secondary issues.**
- **After the application is filed, a technical conference would be held on the secondary issues and parties would have the option of making submissions to re-categorize issues prior to the hearing.**
- **The expectation would be that the interrogatories, any subsequent technical conference, intervenor evidence and the oral hearing would address the primary issues only.**
- **Secondary issues would be addressed through written submissions, with the expectation that generally the impact on revenue requirement related to secondary issues would remain as filed.**

The PWU supports the Early Prioritization process, with some additional specificity, as having the potential of providing for a more efficient hearing process for OPG’s payment amounts. The proposed Early Prioritization process would result in the identification of the highest priority issues through a Board

consultation that precedes and is outside of the payment amount proceeding. In this regard it is different from a conventional proceeding process. Such a prioritization exercise is often one of the objectives of an applicant's stakeholder consultation process that precedes the preparation or finalization of the application.

The Early Prioritization process provides for secondary issues to be addressed in the proceeding through written submissions with the expectation that generally the impact on revenue requirement related to secondary issues would remain as filed. This follows through on a prioritization process that identifies issues that are not the most significant issues in terms of dollars and/or in terms of principle as secondary issues.

The PWU notes that the consultation to identify priority issues in the Early Prioritization process is a Board consultation with the formality of a Board process. There is the potential that the Board consultation itself may turn into a pseudo-hearing with parties seeking substantial evidence (i.e. undertakings) and opportunity to question OPG staff (i.e. cross examine) on issues that are under consideration as secondary issues in order to satisfy themselves that they could address the secondary issues through written submissions with the expectation that generally the impact on revenue requirement related to the secondary issues would remain as filed. The PWU therefore emphasizes the need for the Board to set criteria that will guide the prioritization of issues according to their significance in terms of dollars and/or in terms of principle to manage the consultation and attain the efficiency sought. These criteria would also apply to intervenor submissions to re-categorize secondary issues as primary issues following the technical conference on secondary issues.

All of which is respectfully submitted.