



EB-2012-0002

**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. for an order or orders related  
to deferral and variance accounts and the adoption of  
USGAAP for regulatory accounting purposes.

## **PROCEDURAL ORDER NO. 2**

**November 22, 2012**

Ontario Power Generation Inc. ("OPG") filed an application, dated September 24, 2012 with the Ontario Energy Board under section 78.1 of the *Ontario Energy Board Act*, 1998, S.O. 1998, c.15 (Schedule B) seeking approval for an order or orders related to deferral and variance accounts, including disposition of balances as at December 31, 2012, and the adoption of the Generally Accepted Accounting Principles of the United States ("USGAAP") for regulatory accounting purposes.

### **Issues List**

On November 6, 2012, the Board issued Procedural Order No. 1 which set out a schedule for the proceeding, and to which a draft issues list was appended.

Submissions on the draft issues list were received from the following parties: OPG, Association of Major Power Consumers in Ontario ("AMPCO"), Canadian Manufacturers & Exporters ("CME"), Energy Probe Research Foundation ("Energy Probe"), Power Workers' Union ("PWU") and Vulnerable Energy Consumers Coalition ("VECC"). The submissions of CME and VECC stated their agreement with submissions filed by other parties. Reply submissions were filed by Energy Probe and the PWU.

The Board has considered all submissions in establishing a final issues list which is attached as Appendix A. These are reviewed below, and referred to where required, along with the Board's rationale in addressing each of these requests.

AMPCO submitted that "*Is the proposed clearance of deferral and variance accounts appropriate?*" should be a stand-alone issue prior to reviewing the details of the accounts.

The Board is not prepared to add this issue, which appears to be a threshold issue, to the final issues list. The Board has issued Procedural Order No. 1 and a schedule for the hearing to review the accounts. The broader issue of whether or not the Board should approve the application is subsumed within the issues on the final issues list.

OPG requested that the term "costs" be replaced with "amounts" in draft issue #1, as some of the accounts reflect revenues or revenue requirement impacts. The suggestion to change the issue to "*Is the nature or type of amounts recorded in the deferral and variance accounts appropriate?*" was supported by several other parties.

The Board recognizes that some of the deferral and variance account transactions are not costs. The Board accepts OPG's restatement of the issue, as it accurately reflects the scope of deferral and variance account transactions.

Both AMPCO and the PWU suggested an issue related to the two year and four year disposition periods proposed by OPG. AMPCO suggested an addition to issue #3 of the draft issues list, namely, "*Are the proposed rate riders and disposition periods to dispose of the account balances appropriate?*" The PWU suggested an additional issue, "*Are OPG's proposed approaches for the amortization of the Pension and OPEB Cost Variance Account and the Bruce Lease Net Revenues Variance Account appropriate?*"

While the disposition periods proposed by OPG are implicit in the determination of the proposed rate riders, the Board finds that AMPCO's addition of "disposition periods" to the issue confirms that other disposition periods are within the scope of this proceeding, and its suggested addition will be reflected in the final issues list.

With respect to issue #7 of the draft issues list, "Is OPG's forecast of accounting differences between CGAAP and USGAAP appropriate?", OPG submitted that the substance of the issue is captured in issue #1 or issue #6.

OPG's request to adopt USGAAP for regulatory purposes is a significant matter, and to ensure there is no misunderstanding regarding the scope, issue #7 will remain on the final issues list.

Both AMPCO and PWU submitted that an issue relating to OPG's proposal to defer the clearance of the Hydroelectric Incentive Mechanism and the Hydroelectric Surplus Baseload Generation Variance Accounts and the hydroelectric portion of the Capacity Refurbishment Variance Account should be added to the final issues list.

OPG has chosen to file its application without including these accounts. There is no particular legislative or Board requirement that these accounts be brought forward for disposition at this time. Although the Board could require OPG to bring these accounts forward for disposition, it is not convinced that there is reason to do so in this proceeding.

AMPCO submitted that three additional issues should be added to the final issues list:

- Would declaring OPG's nuclear payment rider interim as of January 1, 2013 be appropriate?
- Would allowing OPG's current hydroelectric rider to expire be appropriate?
- Are the proposed interim period shortfall riders and disposition period appropriate?

The Board will not include the three additional issues in the final issues list. In the Decision and Procedural Order #1, issued on November 6, 2012, the Board approved the interim continuation of the current payment rider for the prescribed nuclear facilities. Further, the Board agreed that allowing the current payment rider for the prescribed hydroelectric facilities to expire was a reasonable approach. The Board considers that the proposed issue with respect to the interim period shortfall rider and disposition period is subsumed within the issue, "Are the proposed rate riders and disposition periods to dispose of the account balances appropriate?"

VECC noted that parties may make submissions to the effect that the Board should establish new deferral and variance accounts. VECC observed that such submissions

could be subsumed within existing issues on the draft issues list, but if that is not the case, VECC suggested an additional issue to accommodate such submissions.

The suggested issue will not be added to the final issues list. As the application relates to deferral and variance account balances for 2011 and 2012, the Board expects no requirement for additional deferral and variance accounts as an outcome of this proceeding. However, in the unlikely circumstance that a new account is required, the Board agrees with VECC that this can be accommodated through the current issues list.

### **Schedule for the Proceeding**

The schedule set out in Procedural Order No. 1 introduced a new process that provided for the filing of Board staff interrogatories on November 23, 2012, responses to Board staff interrogatories on December 7, 2012, the filing of intervenor interrogatories on December 21, 2012, and the filing of responses to intervenor interrogatories on January 9, 2013.

In correspondence filed on November 12, 2012, OPG advised the Board that there is limited staff availability after December 21, 2012 and that there is some concern with providing timely response to the intervenor interrogatories.

OPG proposed that intervenors file interrogatories on December 12, 2012 instead of December 21, 2012. OPG noted that the pre-filed evidence is not extensive and that there is a 19 day period between the filing of Board staff interrogatories on November 23, 2012, and December 12, 2012. OPG observed that as the Board's objective is to avoid duplication of interrogatories and not to provide intervenors with the opportunity to pose interrogatories on the responses to Board staff interrogatories, the proposed schedule amendment would not be prejudicial to intervenors. OPG also submitted that it would be reasonable for the Board to review the need for a Technical Conference after the conclusion of the interrogatory phase.

Procedural Order No. 1 stated that the Board expected intervenors to consider the responses to Board staff interrogatories and to coordinate their interrogatories with other intervenors. The Board considers that the 5 day window proposed by OPG is unreasonable in the context of the current proceeding. The Board is testing a new interrogatory process and is concerned that abbreviating the review and coordination period will be inadequate to enable the parties to work effectively with the new process. However, in light of the concern expressed by OPG the Board will adjust the dates to

file responses to the intervenor interrogatories and confirmation of issues that will be addressed at the Technical Conference. A revised timetable of events is attached as Appendix B.

### **Procedural Matters**

On November 16, 2012, the Board received a late request from the Ministry of Energy for observer status in this proceeding. The request is granted.

The Board considers it necessary to make provision for the following matters related to this proceeding. The Board may issue further procedural orders from time to time.

### **THE BOARD ORDERS THAT:**

1. The final Issues List (attached as Appendix "A") is approved for this proceeding.
2. OPG shall file with the Board responses to the intervenor interrogatories and serve them on the intervenors on or before **January 14, 2013**.
3. Parties participating in the Technical Conference are required to file with the Board, and copy OPG and all other intervenors, by **January 17, 2013** confirmation of the particular issues they seek to address or seek clarification on at the Technical Conference.
4. All other procedural dates fixed in Procedural Order No. 1 remain unchanged.

**DATED** at Toronto, November 22, 2012

### **ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

**APPENDIX A**

**ONTARIO POWER GENERATION INC.  
DEFERRAL AND VARIANCE ACCOUNTS  
AND USGAAP**

**EB-2012-0002**

**FINAL ISSUES LIST**

**Ontario Power Generation Inc.  
Deferral and Variance Accounts  
and USGAAP  
EB-2012-0002**

**FINAL ISSUES LIST**

**DEFERRAL AND VARIANCE ACCOUNTS**

1. Is the nature or type of amounts recorded in the deferral and variance accounts appropriate?
2. Are the balances for recovery in each of the deferral and variance accounts appropriate?
3. Are the proposed rate riders and disposition periods to dispose of the account balances appropriate?
4. Is the proposed continuation of the Pension and OPEB Cost Variance Account until the effective date of the next payment amounts order appropriate?
5. Is the proposed continuation of other deferral and variance accounts appropriate?

**USGAAP FOR REGULATORY PURPOSES**

6. Is the request to adopt USGAAP for regulatory accounting, reporting and rate-making purposes appropriate?
7. Is OPG's forecast of accounting differences between CGAAP and USGAAP appropriate?

**APPENDIX B**

**ONTARIO POWER GENERATION INC.  
DEFERRAL AND VARIANCE ACCOUNTS  
AND USGAAP**

**EB-2012-0002**

**TIMETABLE OF EVENTS**



**Ontario Power Generation Inc.**

**EB-2012-0002**

**Procedural Order No. 2 - Timetable of Events**

	<b>Event</b>	<b>Date</b>
1.	OPG and intervenor submissions on the draft issues list	November 12, 2012
2.	OPG and intervenor reply submissions on the draft issues list	November 15, 2012
3.	Board staff interrogatories filed	November 23, 2012
4.	Board staff interrogatory responses filed	December 7, 2012
5.	Intervenor interrogatories filed	December 21, 2012
6.	Intervenor interrogatory responses filed	January 14, 2013
7.	Confirmation of issues that will be addressed at the Technical Conference filed	January 17, 2013
8.	Technical Conference	January 23, 2013
9.	Undertakings from Technical Conference filed	February 1, 2013
10.	Settlement Conference	February 11, 2013
11.	Settlement Proposal filed	February 25, 2013
12.	Oral Hearing of Settlement Proposal	February 28, 2013
13.	Oral Hearing of Unsettled Issues	March 4, 2013