



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. 3
January 17, 2013

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. The Board issued a Notice of Application and Hearing on October 10, 2012.

On January 14, 2013, OPG filed responses to the majority of interrogatories of the intervenors; the remaining responses were filed on January 15, 2013. In correspondence filed with the interrogatory responses on January 14, 2013, OPG requested confidential treatment for certain information that was requested in interrogatories filed by the Association of Major Power Consumers in Ontario ("AMPCO") and the School Energy Coalition ("SEC"). The specific interrogatories are L-2-2 AMPCO-7 and L-1-7 SEC-5. In accordance with section 5.1.4 of the Board's *Practice Direction on Confidential Filings* (the "Practice Direction"), OPG provided the reasons why it requested confidential treatment and the reasons why public disclosure of the information would be detrimental to OPG. OPG filed redacted versions of the responses for the public record.

The AMPCO interrogatory relates to the waste volume information of Bruce Power. Bruce Power has advised OPG that the information is supplied on the basis that the Board and OPG will keep the information confidential in accordance with the Board's processes. Bruce Power believes that disclosure of the information could reasonably be expected to cause material financial loss, prejudice Bruce Power's competitive position or interfere with negotiations in which Bruce Power is engaged.

The SEC interrogatory relates to valuation and technical information on the Bruce Lease embedded derivative. The redacted information contains OPG's proprietary forward prices and related inputs. OPG states that disclosure of the information would prejudice OPG's competitive, trading and negotiating positions and would likely produce a significant loss to OPG and unfair gains to other persons.

In the non-confidential documentation filed on January 14, 2013, OPG inadvertently disclosed (i.e. failed to redact) some of the information for which it sought confidential treatment from L-1-7 SEC-5. OPG alerted the Board and parties by e-mail. The document had not yet been posted for public review on the Board's web site, and OPG re-filed a properly redacted version of the documentation for the public record. In correspondence filed on January 15, 2013, OPG sought confidential treatment of the information inadvertently disclosed on January 14, 2013 and requested Board orders to address the confidential treatment of the information inadvertently disclosed.

On January 17, 2013, OPG filed correspondence stating that OPG has since revisited its request for confidential treatment of L-1-7 SEC-5. OPG is now withdrawing its request for confidential treatment for parts of the interrogatory response related to the calculation of reference values of the Bruce Lease embedded derivative. The information that OPG had previously failed to redact, and for which OPG sought confidential treatment on January 15, 2013, has now been determined to be non-confidential by OPG. A revised non-confidential version of L-1-7 SEC-5 has been filed for the public record.

As an interim measure, the Board will allow any external counsel or external consultant for the intervenors who wish to review the confidential material, to do so after signing the Board's Declaration and Undertaking (which can be found at Appendix C of the Practice Direction), and filing it with the Board and serving it on OPG. In the correspondence filed on January 14, 2013, OPG also requested that Board staff sign a

Declaration and Undertaking in order to review the material. The Practice Direction addresses this issue as follows:

This Practice Direction does not address the manner in which Board members and Board staff will handle confidential information, which is an issue of the Board's internal processes. The Board has implemented internal procedures that are designed to ensure that confidential information is segregated from other information and is made available within the Board on a limited basis.

Accordingly, the Board will not require staff to sign the Declaration and Undertaking.

Parties who wish to make submissions on whether or not the Board should treat the material as confidential may make submissions on the matter in accordance with the steps below. If the Board ultimately decides that the document(s) should not be afforded confidential treatment, the document(s) will be placed on the public record unless, within a period of five business days from the issuance of the Board Decision on Confidentiality, and in accordance with section 5.1.12 of the Practice Direction, OPG requests that the information be withdrawn.

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

THE BOARD ORDERS THAT:

1. OPG shall provide a copy of the unredacted documents referenced above to each external counsel or external consultant who has executed and filed the Board's Declaration and Undertaking.
2. Board staff and intervenors who wish to file a submission on OPG's request for confidential treatment of the 2 interrogatory responses shall file their submissions with the Board and serve the submission to all parties on or before **January 23, 2013**.
3. OPG shall file its response, if any, to submissions of Board staff and the intervenors with the Board and serve it to all parties by **January 25, 2013**.

All filings to the Board must quote file number **EB-2012-0002**, be made through the Board's web portal at www.pes.ontarioenergyboard.ca/eservice/, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca/OEB/Industry. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD 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 at boardsec@ontarioenergyboard.ca, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Violet Binette at violet.binette@ontarioenergyboard.ca and Board Counsel, Michael Millar at michael.millar@ontarioenergyboard.ca.

DATED at Toronto, January 17, 2013

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary