



**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.

**DECISION AND ORDER ON CONFIDENTIAL FILINGS  
AND PROCEDURAL ORDER NO. 4**

**February 4, 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.

**Request for Confidential Treatment of Interrogatory Responses**

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 reasons why it requested confidential treatment and reasons why public disclosure of the information would be detrimental. The AMPCO interrogatory relates to the waste volume information of Bruce Power. 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. 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.

OPG filed redacted versions of the responses for the public record. OPG also provided the full responses to those persons who signed the Declaration and Undertaking that is Appendix C of the Practice Direction.

In Procedural Order No. 3, issued on January 17, 2013, the Board made provision for submissions on the request for confidential treatment of the two interrogatory responses. No submissions were filed.

The Board finds that it is appropriate to afford confidential status to interrogatory responses L-2-2 AMPCO-7 and L-1-7 SEC-5.

### **Request for Confidential Treatment of Undertaking JT1.6**

In correspondence filed on February 1, 2013, OPG requested confidential treatment of technical conference undertaking JT1.6, which relates to OPG's corporate financial data. OPG states that the Board's Practice Direction specifically contemplates this type of information.

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 and filing it with the Board and serving it on OPG.

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 should not be afforded confidential treatment, the document 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.

## Procedural Matters

In Procedural Order No. 1, issued on November 6, 2012, the Board set out a timetable of events which included interrogatories, a technical conference, a settlement conference and an oral hearing for unsettled issues. In Procedural Order No. 2, issued on November 22, 2012, the timetable for the interrogatory phase was revised following receipt of correspondence from OPG on November 12, 2012.

On February 1, 2013, OPG filed correspondence stating that it intends to file an evidence update and audited deferral and variance account balances on Friday, February 8, 2013. As these documents will be filed only days before the scheduled settlement conference on Monday, February 11, 2013, the Board and the parties would be assisted if the documents were filed no later than 1:00 pm on Friday, February 8, 2013. The Board also informs parties that the oral hearing of unsettled issues will commence at 1:00 pm on Monday, March 4, 2013.

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

## THE BOARD ORDERS THAT:

1. The responses to interrogatories L-2-2 AMPCO-7 and L-1-7 SEC-5 will be treated as confidential. Following the end of the proceeding, parties in receipt of confidential information shall either return the subject information to the Board for destruction, or destroy the information and execute a Certificate of Destruction. The Certificate of Destruction, that is Appendix D of the Practice Direction, must be filed with the Board.
2. OPG shall provide a copy of the unredacted technical conference undertaking JT1.6 to each external counsel or external consultant who has executed and filed the Board's Declaration and Undertaking.
3. Board staff and intervenors who wish to file a submission on OPG's request for confidential treatment of undertaking JT1.6 shall file their submissions with the Board and serve the submission to all parties on or before **February 12, 2013**.

4. 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 **February 15, 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/](http://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](http://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](mailto: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](mailto:violet.binette@ontarioenergyboard.ca) and Board Counsel, Michael Millar at [michael.millar@ontarioenergyboard.ca](mailto:michael.millar@ontarioenergyboard.ca).

**DATED** at Toronto, February 4, 2013

## **ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary