



**EB-2013-0061**

**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 approval, pursuant to Part 1,  
Paragraph 5.2 of Ontario Power Generation Inc.'s  
Generation Licence EG-2003-0104, of a Reliability Must-  
Run Agreement for the Thunder Bay Generating Station  
between Ontario Power Generation Inc. and the  
Independent Electricity System Operator.

**Before: Paula Conboy**  
**Presiding Member**

**Peter Noonan**  
**Member**

**DECISION ON INTERVENOR STATUS AND COST ELIGIBILITY**  
**APRIL 19, 2013**

Ontario Power Generation Inc. ("OPG") filed an application on March 1, 2013 with the Ontario Energy Board (the "Board") seeking approval of a reliability must-run agreement ("RMR Agreement") entered into with the Independent Electricity System Operator (the "IESO") in relation to one of the two 153 MW coal-fired units at OPG's Thunder Bay Generating Station ("Thunder Bay GS Unit"). The application was made under section 5 of OPG's generation licence (EG-2003-0104), which requires that any RMR Agreement be approved by the Board prior to its implementation.

The Board has assigned file number EB-2013-0061 to this application.

On April 3, 2013 the Board issued its Notice of Application and Procedural Order No. 1 notifying interested parties of the application and the process to apply for intervenor or observer status, or how to participate through a letter of comment. The Notice further allowed parties to seek eligibility for an award of costs.

### **Intervention Requests**

The Board received intervention requests from the IESO, Power Workers' Union ("PWU") and Society of Energy Professionals ("SEP"). The IESO, PWU and SEP did not request eligibility for an award of costs. However, SEP stated that it reserves the right to request cost eligibility for its participation if additional resources become necessary at a later stage in the proceeding. The Board will not be making a determination of cost eligibility for SEP at this time. The Board approves the intervention requests of the IESO, PWU and SEP.

### **Requests for Intervenor Status and Cost Eligibility**

The Board received individual requests for intervenor status and cost eligibility from the Building Owners and Managers Association ("BOMA"), Canadian Manufacturers & Exporters ("CME"), Energy Probe Research Foundation ("Energy Probe") and Vulnerable Energy Consumers Coalition ("VECC").

The Board approves the intervenor requests of BOMA, CME, Energy Probe and VECC and, based on the criteria set out in section 3 of the Board's *Practice Direction on Cost Awards* (the "Practice Direction") are eligible to apply for an award of costs in this proceeding.

### **Joint Request for Intervention and Cost Eligibility**

The Board also received a joint request for intervention and individual requests for cost eligibility from the Corporation of the City of Thunder Bay ("City of Thunder Bay"), Common Voice Northwest ("CVNW"), Northwestern Ontario Municipal Association ("NOMA") and Northwestern Ontario Associated Chambers of Commerce ("NOACC"). The basis for the requests for cost eligibility is their claim that each of the City of Thunder Bay, CVNW, NOACC and NOMA represents the direct interests of consumers,

as ratepayers, in relation to regulated services, and each of the City of Thunder Bay, and the members of CVNW, NOACC and NOMA can offer important and unique perspectives to the Board.

In addition, the City of Thunder Bay, CVNW, NOACC and NOMA stated that they each represent a public interest in seeking to ensure the reliability of the IESO-controlled grid for all the residential, industrial, institutional and small business ratepayers in the Northwest Region. In addition, the City of Thunder Bay, CVNW, NOACC and NOMA noted that they are or represent persons with a significant interest in land that is, or may be, affected by the RMR Agreement. That interest in some instances may be a private interest, but in every case is a public interest.

The City of Thunder Bay, CVNW, NOACC and NOMA asked as well that consideration be given to the efficiency gained by the collaborative representation in the proceeding.

The Board has considered the above submissions and determined that, based on the criteria set out in section 3 of the Practice Direction NOACC is granted intervenor status and is eligible to apply for an award of costs in this proceeding.

The Board has determined that the City of Thunder Bay, CVNW and NOMA are appropriately intervenors but are not eligible for an award of costs in this proceeding. The Board notes that Rule 3.05 (i) of the Practice Direction provides that a Municipality in Ontario, individually or in a group is not eligible for a cost award. The Board finds that the City of Thunder Bay is a municipality and the effective owner of an electricity distributor.

In assessing the cost eligibility of an organization such as CVNW, the Board has reviewed the following section from the Practice Direction

3.04 In making a determination whether a party is eligible or ineligible, the Board may:

- (a) in the case of a party that is an association or other form of organization comprised of two or more members, have regard to whether the individual members would themselves be eligible or ineligible.

The Board notes that CVNW's membership consists of, among other entities, municipalities and organized labour. The Board has generally found these entities to be ineligible for an award of costs. The Board finds that CVNW is eligible for intervenor status but is not eligible for an award of costs under the *Practice Direction* by the virtue of its membership.

Contact information for the Applicant and all intervenors of record is contained in Appendix A to this decision.

### **Cost Claims**

The cost claims must be completed in accordance with the Practice Direction. Related forms are available on the Board's website at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca), and should be referred to and adhered to in order to make sure all appropriate rules are followed and the correct forms are used when it is time to submit any cost claim.

**DATED** at Toronto, April 19, 2013

**ONTARIO ENERGY BOARD**

*Original Issued By*

Kirsten Walli  
Board Secretary

**APPENDIX A**

**DECISION ON**

**INTERVENOR STATUS AND COST ELIGIBILITY**

**ONTARIO POWER GENERATION INC.**

**EB-2013-0061**

**DATED: April 19, 2013**

**Applicant & List of Intervenors**

**Ontario Power Generation Inc.  
EB-2013-0061**

**APPLICANT & LIST OF INTERVENORS**

April 19, 2013

**APPLICANT**

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**Ontario Power Generation Inc.  
EB-2013-0061**

**APPLICANT & LIST OF INTERVENORS**

April 19, 2013

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**Ontario Power Generation Inc.  
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**APPLICANT & LIST OF INTERVENORS**

April 19, 2013

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**Ontario Power Generation Inc.  
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April 19, 2013

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**APPLICANT & LIST OF INTERVENORS**

April 19, 2013

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**Ontario Power Generation Inc.  
EB-2013-0061**

**APPLICANT & LIST OF INTERVENORS**

April 19, 2013

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EB-2013-0061**

**APPLICANT & LIST OF INTERVENORS**

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