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By electronic filing

June 7, 2013

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
27th floor
Toronto, ON M4P 1E4

Dear Ms Walli,

Ontario Power Generation Inc. ("OPG")
Reliability Must-Run Agreement for the Thunder Bay Generating Station
Board File No.: EB-2013-0061
Our File No.: 339583-000153

Introduction

These submissions are made on behalf of Canadian Manufacturers & Exporters ("CME") with respect to the request by Ontario Power Generation Inc. ("OPG") for approval of its January 1 to December 31, 2013 Reliability Must-Run ("RMR") Agreement with the Independent Electricity System Operator (the "IESO"). This Agreement pertains to Unit Number Three (3) at OPG's Thunder Bay Generating Station ("Thunder Bay GS Unit").

The Board's Procedural Order No. 2 dated May 21, 2013, confirms that there are three (3) issues for determination in this proceeding, namely:

1. Does the RMR Agreement comply with OPG's licence?

2. Are the financial provisions of the RMR Agreement reasonable?

3. What are the incentive effects, if any, of the RMR Agreement?

Issues 1 and 3

CME is aware of no information which suggests that the RMR Agreement does not comply with the terms and conditions of OPG's licence. Accordingly, CME makes no submissions with respect to Issue 1.

With respect to Issue 3, CME understands that the RMR Agreement contains provisions establishing performance standards, including penalties or rewards that apply if these performance standards are missed or exceeded. CME understands that the total net penalty/reward for either over-performing or under-performing in relation to these standards is capped at $500,000. CME understands that the IESO accepts, as reasonable, both the performance standards specified in the provisions of the Agreement and the $500,000 cap on the penalty/reward amount. CME accepts, as reasonable, the $500,000 penalty/reward cap specified in the RMR.

Issue 2 – Reasonableness of Financial Provisions of RMR Agreement

We submit that a careful analysis of the information which OPG has provided for actuals for the years 2010, 2011 and 2012, and the actual information for the first quarter of 2013, reveals that the Board should refrain from unconditionally approving the $37.972M annualized monthly fixed payment ("MFP") amount and the $3.164M MFP amount specified in the RMR Agreement because these amounts are excessive.

The information upon which this submission is based is as follows:

(i) OPG's response to CME Interrogatory No. 2(b) at Attachment 1, Table 2 shows that its 2013 budget of an annualized MFP amount of $37.972M, from which the MFP amount of $3.164M reflected in the RMR Agreement is derived. This amount is taken from the 2013-2015 Business Plan. This amount exceeds the 2012 actual amount of $34.755M shown in Table 2 of Attachment 1 to Board Staff Interrogatory No. 1 by $3.217M;

(ii) One way of considering whether the MFP amount of $3.164M/month is excessive is to consider the actual fixed costs incurred by OPG for the three (3) months ending March 31, 2013, shown in OPG's response to Board Staff Interrogatory No. 5. These amounts for January, February and March 2013 are $2.816M, $2.857M and $2.940M respectively, for total of $8.613M;

(iii) In its response to Board Staff Interrogatory No. 5, OPG asserts that the fixed costs for January, February and March 2013 are consistent with the forecast of $37.972M per annum. The evidence described below indicates otherwise.

  (a) The OM&A costs for the first three (3) months of 2010 are shown in line 7 of the cost categories shown in Attachment 1, Table 1 to Board Staff Interrogatory No. 1. These amounts total $7.367850M, which, when expressed as a percentage of the total actual expenditures for 2010 of $29.84222M, reveals that about 24.7% of the annual OM&A costs are incurred in the first quarter;

  (b) Similar calculations for 2011 derived from line 7 of the cost categories shown in the response to Board Staff Interrogatory No. 1, Attachment 1, Table 1, indicate that the total OM&A costs for the period January to March 2011, inclusive, is $7.442193M, which, when expressed as a percentage of the total actual amounts for that year of $30.429396M reflects a percentage of 24.5%;

(c) For 2012, the total OM&A costs for the first quarter, shown again at line 7 in the cost categories in the same Table, is $9.058141M, which, when expressed as a percentage of the total yearly amount of $34.754530M, produces a percentage of 26.1%;

(d) Based on the foregoing, for the three (3) years 2010-2012, expenditures in the first quarter of the year are approximately 25% of the expenditures in the entire year;

(e) This data reveals that the total anticipated annual expenditures for 2013 will be about four (4) times the $8.613M incurred in the months January to March 2013, inclusive. Using the first quarter 2013 actual amounts to derive an estimate of the total for 2013, produces a total annual payment of about $34.452M, or some $3.5M less than the amount of $37.972M which the Board is being asked to approve; and

(f) These figures strongly suggest that an annualized MFP amount of $37.972M will exceed 2013 actual expenditures by more than $3M.

(iv) The foregoing conclusion is reinforced by considering the relationship between OPG's 2013 budget amount in its 2013-2015 Business Plan of $37.972M to its 2012 budget contained in its 2012–2014 Business Plan of $36.376M. This information produces a 2013 over 2013 factor of $37.972M ÷ $36,396M, or a factor of 1.0433. If that factor is applied to OPG's actual 2012 annualized amount of $34.755M, the annualized MFP amount for 2013 would be about $36.359M, which, is again, materially less than the amount OPG asks the Board to approve.

We submit that it is unreasonable to provide OPG with a cost savings incentive in an amount which the evidence suggests could be more than $3M.

MPF Savings Incentive for OPG should be Compatible with its Performance Standard Reward

In the evidence filed in support of the Application, OPG and the IESO have agreed that the incentive, which OPG should be paid for exceeding performance standards, should be capped at $500,000. The incentive for achieving cost savings should be capped at $500,000 for the same reasons that the incentive for exceeding performance standards is capped at $500,000. Ratepayers should not be exposed to an incentive payment of more than $500,000 for achieving savings of fixed costs which have been excessively budgeted for 2013.

We respectfully urge the Board to consider conditioning its approval of the RMR Agreement on terms that will require OPG to remit to ratepayers any amount of MFP savings achieved by OPG in 2013 which exceeds $500,000. This approach equalizes the incentives that OPG will receive from realizing cost savings and from over-performing in relation to the performance standards specified in the RMR Agreement.

To illustrate the effect of this proposal, if OPG's actual annualized MFP expenditures for 2013 are $35M, then the total savings of $2.972M will be allocated between ratepayers and OPG in amounts of $2.472M and $0.5M respectively. If the actual total expenditures are $36M, then of the savings of $1.972M, $1.472M will be refunded to ratepayers.

A ratepayer protection measure of this nature needs to be imposed as a condition to approving the agreement so that ratepayers will not be paying an excessive incentive amount to OPG for achieving actual fixed cost expenditure savings in 2013 in excess of $500,000.

Costs

CME requests an award of its reasonably incurred costs of participating in this proceeding.

Yours very truly,

Peter C.P. Thompson, Q.C.

PCT\slc\kt
c. Andrew Barrett (OPG)
Interested Parties EB-2013-0061
Paul Clipsham (CME)

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