



**EB-2007- 0905**

**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. pursuant to section 78.1 of the *Ontario  
Energy Board Act, 1998* for an Order or Orders determining  
payment amounts for the output of certain of its generating  
facilities.

### **PROCEDURAL ORDER NO. 5**

The Ontario Energy Board (the “Board”) received an application from Ontario Power Generation Inc. (“OPG” or the “applicant”) on November 30, 2007, under section 78.1 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B (the “Act”), seeking approval for increases in payment amounts for the output of certain of its generating facilities, to be effective April 1, 2008. The Board has assigned the application file number EB-2007-0905 and has issued a Notice of Application and Oral Hearing dated December 13, 2007.

#### OPG Confidentiality Request

In accordance with the Board's Rules of Practice and Procedure and Practice Direction on Confidential Filings (the “Practice Direction”), OPG filed a letter (“OPG letter”) dated

May 9, 2008 requesting confidential treatment for the responses to the following interrogatories (collectively “the confidential information responses”):

- Board Staff Interrogatory #62, found at Ex. L-1-62,
- Board Staff Interrogatory #65(a), found at Ex. L-1-65,
- Consumers Council of Canada Interrogatory #50, found at Ex. L-3-50,
- Consumers Council of Canada Interrogatory #89, found at Ex. L-3-89

In the letter OPG detailed the reasons for confidential treatment, and requested that those parts of the oral hearing that required reference to the confidential information responses be held in camera.

The Board’s Practice Direction establishes a process for the Board’s consideration of requests for confidential status. OPG has followed the first steps set out in the Practice Direction by filing a copy of the confidential information responses with the Board with an explanation as to why it believes the information should be kept confidential. The next step is to allow parties that dispute that the confidential information responses should be accorded confidential status to make submissions on this matter.

The Board notes that in the interests of efficiency OPG is prepared to make the confidential information responses available to intervenors prior to a confidentiality determination by the Board, provided each intervenor who requests a copy of the confidential information responses complete and sign a Declaration and Undertaking in the form set out in Appendix D to the *Practice Direction*, a copy of which is appended to the OPG letter. The Board will adopt this approach. In the event that the Board ultimately finds that the material is not confidential, the Declaration and Undertaking will no longer apply. In the event that the Board ultimately finds that the material is confidential, then the Declaration and Undertaking will continue to apply.

Further procedural orders may be issued from time to time.

**THE BOARD THEREFORE ORDERS THAT:**

1. Responses to Board Staff Interrogatory #62 (Ex. L-1-62), Board Staff Interrogatory #65(a) (Ex. L-1-65), Consumers Council of Canada Interrogatory #50 (Ex. L-3-50) and Consumers Council of Canada Interrogatory #89 (Ex. L-3-89), will be made available to any party that signs the Board's Declaration and Undertaking and files it with the Board.
2. Parties objecting to OPG's request for confidential treatment of the responses to Board Staff Interrogatory #62 (Ex. L-1-62), Board Staff Interrogatory #65(a) (Ex. L-1-65), Consumers Council of Canada Interrogatory #50 (Ex. L-3-50) and Consumers Council of Canada Interrogatory #89 (Ex. L-3-89), must file their objections with the Board Secretary's Office by Tuesday May 27, 2008. Additional Information regarding confidentiality requests can be found in the *Practice Direction* which is available on the Board's web site.
3. If parties have filed objections to OPG's request for the confidential treatment of any of the interrogatory responses noted in this procedural order, OPG shall have until Friday May 30, 2008 to file a reply submission with the Board.
4. All filings to the Board must quote file number EB-2007-0905, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format filed through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca). Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca). If the web portal is not available you may e-mail your document to [Boardsec@oeb.gov.on.ca](mailto:Boardsec@oeb.gov.on.ca). Those who do not have internet access are required to submit all filings on a CD or diskette 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, and be received no later than 4:45 p.m. on the required date.

**DATED** at Toronto, May 20, 2008

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary