



January 16, 2014

**BY EMAIL AND MAIL**

**Attn: Ms. Kirsten Walli, Board Secretary**

Ontario Energy Board

P.O. Box 2319

2300 Yonge Street, 27th Floor

Toronto ON M4P 1E4

Tel: 1-888-632-6273 (toll free)

Fax: 416-440-7656

E-mail: BoardSec@ontarioenergyboard.ca

**Re: Ontario Power Generation**

**2014/2015 Payment Amounts Application**

**Board File Number: EB-2013-0321**

---

Lake Ontario Waterkeeper hereby applies for Intervener status in the above noted proceeding. The following application has been prepared in accordance with the Ontario Energy Board's *Rules of Practice and Procedure*, and submitted in accordance with the *Regulatory Electronic Submission System (RESS) Document Guidelines*.

**Description of the Applicant Organization**

Lake Ontario Waterkeeper ("Waterkeeper") is a non-political registered charity dedicated to working in the public interest by advocating for and protecting people's right to safely swim, drink, and fish in the Lake Ontario watershed. As a grassroots environmental organization, we empower people in order to stop pollution, protect human health, and restore habitat. We work in an interdisciplinary way, using legal and scientific expertise, as well as the arts and digital media to achieve our goals. We also provide several research

and education tools and resources to others working for swimmable, drinkable, fishable water.

Since Waterkeeper was founded in 2001, we have contributed to over 100 formal decision-making processes before provincial and federal boards and tribunals as well as all levels of court including the Supreme Court of Canada. We have had extensive experience facilitating expert research, providing recommendations on terms and conditions of project approvals, and evaluating the risks of various projects to watersheds and community values. Waterkeeper has also published over 400 articles about various issues affecting the swimmability, drinkability, and fishability of our water in Lake Ontario and elsewhere.

We conduct our research and offer advice to the Ontario Energy Board in order to protect the interests of the 9-million people who drink from Lake Ontario, as well as the millions who swim in its waters or fish in the watershed. Our organization's supporters consist of individuals across the watershed.

Our staff and organization have had many years experience participating in oral and written hearings before the Ontario Energy Board, participating in several Board-established Stakeholder Groups, and participating in other similar decision-making processes. In particular,

- We participated in several Stakeholder Consultations concerning the proposed Integrated Power System Plan (IPSP) and ultimately obtained intervenor status and actively participated in the preparations for the IPSP hearings, which were later cancelled.
- We have actively participated in, and submitted comments concerning the current Long-Term Energy Plan.

Through participation in these processes, we have developed extensive knowledge of projected energy production forecasts, and Ontario's energy needs.

We have also been extensively involved in Environmental Assessments for several Ontario Power Generation (OPG) projects referred to in the current Application and Draft Issues List before the Board. These projects have included:

- the proposed refurbishment of the Darlington Nuclear Generating Station (DNFS), for which we obtained participant funding to present written and oral arguments before the Canadian Nuclear Safety Commission (CNSC) and introduce expert testimony concerning environmental impacts of the project,
- the proposed two new reactors for the DNFS, for which we were again awarded funding to participate and appear before the CNSC. We are currently awaiting the Federal Court's determination of a Judicial Review we initiated concerning this projects' approval,
- the Pickering Licence Renewal, for which we intervened and provided expert evidence.

Our organization has had extensive experience with issues of nuclear waste, launching private citizens' investigations and prosecutions for facilities failing to comply with applicable environmental laws, and participating in public consultation processes concerning hydroelectric facilities and their impacts on local environments and migratory species.

Much of this involvement has been lead by our President, Mark Mattson, who has personally had extensive experience appearing before the Ontario Energy Board, including on matters of energy rate increase applications.

Our frequent involvement in energy issues in Ontario has allowed us to develop significant skills and expertise in this area. After over a decade of applying our swimmable, drinkable, fishable perspective to issues of electricity generation and regulation, Waterkeeper has developed a unique and important perspective that will meaningfully contribute to the current decision-making process as an intervenor.

### **How Will the Applicant be Affected by the Outcome of this Proceeding**

Lake Ontario Waterkeeper has a substantial interest in the identified issues to be discussed during this proceeding. Hydroelectricity and nuclear energy generation are two of the most intensive resource-based activities in the watershed. Their successes and failures have an enormous impact on the swimmability, drinkability, and fishability of Lake Ontario.

In particular, the outcome of this proceeding will dramatically affect the future of a community in which we have been very active for the last two years. In that time, the Darlington Refurbishment project has been a significant part of our research and policy work (including the federal EA process).

### **The nature and scope of our intended participation**

Lake Ontario Waterkeeper seeks to participate actively and responsibly in proceedings, on a full-time basis for their duration. We will focus our participation on issues that directly relate to the public interest in the Lake Ontario watershed.

If granted Intervenor status, we would have the opportunity to better ensure watershed concerns and perspectives were taken into account by OPG and the Board, during discussions and deliberations. We plan to submit written arguments, reinforced by submitted expert evidence. We would also make respectful use of written interrogatories to ensure our concerns are adequately addressed by the applicant, OPG. Further, as our

office has considerable legal knowledge and expertise, we would make use of the opportunity to make oral submissions before the Board and cross examine witnesses.

### **Request for Written Evidence**

We request a single copy of all written evidence be delivered to the address below:

Mark Mattson  
President and Waterkeeper  
and  
Pippa Feinstein  
Student-at-Law  
Lake Ontario Waterkeeper  
600 Bay Street, Suite 410  
Toronto, Ontario  
M5G 1M6  
Phone: 416 861 1237  
Fax: 416 850 4313  
Email: [articling@waterkeeper.ca](mailto:articling@waterkeeper.ca)

### **Request for an Award of Costs**

We submit, Lake Ontario Waterkeeper is eligible for a cost reward. Our organization fits the definition of an eligible party under section 3.03(b) of the Ontario Energy Board's *Practice Direction on Cost Awards* as we represent a public interest relevant to the Board's mandate. Further, our organization does not fall under the prescribed list in section 3.05 of the *Direction* of parties not eligible for a cost award. Given the Board's mandate to regulate the energy industry in the public interest, we believe our work in the public interest would contribute meaningfully to this goal.

Further, as Lake Ontario Waterkeeper is a registered charity, dependant on donations and grants to be able to do our work, we would depend on a cost award in order to be able to participate fully in this process.

We understand other environmental organizations have already been granted intervenor status in this matter. However, Lake Ontario Waterkeeper submits our swimmable, drinkable, fishable perspective and the grassroots communities we engage with are distinct and unique from these other organizations' valuable perspectives. Similarly, the research we conducted for the Darlington Refurbishment environmental assessment process provides us with unique expertise. Our participation as intervenors would contribute meaningfully to the diversity of perspectives and interests in the current OPG application.

Thank you for your consideration. If you have any further questions or concerns, please contact our articling student Pippa Feinstein at [articling@waterkeeper.ca](mailto:articling@waterkeeper.ca) or call our office at 416 861 1237.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Mattson', with a long horizontal flourish extending to the right.

Mark Mattson  
President and Waterkeeper