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January 24, 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

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E-mail: [BoardSec@ontarioenergyboard.ca](mailto:BoardSec@ontarioenergyboard.ca)

To Ms. Walli,

**Re: Ontario Power Generation, 2014/2015 Payment Amounts Application,  
Board File Number: EB-2013-0321**

Please find attached Lake Ontario Waterkeeper's submissions concerning the Issues List for the abovementioned matter.

Thank you for your consideration and providing our organization with the opportunity to actively participate in this process. 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,

Mark Mattson

President and Waterkeeper

cc (via email): Ontario Power Generation, Association of Major Power Consumers in Ontario, Canadian Manufacturers & Exporters, Consumers Council of Canada, Energy Probe Research Foundation, Environmental Defence, Enwin Utilities, Green Energy Coalition, Haudenosaunee Development Institute, Hydro Quebec, Independent Electricity System Operator, London Property Management Association, Ontario Power Authority, Power Workers' Union, Retail Council of Canada, School Energy Coalition, Shell Energy North America (Canada) Inc., The Society of Energy Professionals, Vulnerable Energy Consumers Coalition, Sustainability Journal.

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Lake Ontario Waterkeeper (“Waterkeeper”) hereby submits comments on the proposed Issues List in compliance with the Ontario Energy Board’s (the “Board”) submission requirements outlined in their Procedural Order No. 1 and the *Regulatory Electronic Submission System (RESS) Guidelines*.

**Overview**

Waterkeeper understands the Issues List is an especially important document as it will govern the scope of the current proceeding by guiding subsequent discussions and Board deliberations. As a result, the Issues List will significantly impact how the subject matter in the application will be reviewed and argued.

Waterkeeper seeks to ensure the Issues List will encourage meaningful assessments of the environmental consequences of the Darlington Nuclear Generating Station (DNGS) refurbishment project. Further, we submit that such assessments should inform the Board’s decision on whether OPG’s application is approved.

## **The Board's Mandate and Scope**

Waterkeeper understands and appreciates that the Board's mandate includes the obligation to regulate the energy industry in the public interest<sup>1</sup>. For the purposes of the current proceeding, we submit the public interest orientation of the Board includes a commitment to consider environmental factors in its deliberations.

## **Clarification of Terms in the Issues List**

Currently, matters included in the Draft Issues List are to be assessed for general "reasonableness", "appropriateness", or "prudence". Waterkeeper is concerned these terms are not given further definition. As these three terms define the standard to which the Board will assess OPG's application and operations, they will affect the extent to which OPG will be held accountable to the Board.

Waterkeeper submits, the DNGS refurbishment will have significant adverse environmental impacts. Further, approval to build, operate, and decommission this project is subject to legally binding environmental mitigation and management conditions under the *Canadian Environmental Assessment Act*<sup>2</sup>. Thus, we submit that the Board should consider the "reasonableness", "appropriateness", and "prudence" of the DNGS refurbishment in light of the conditions in its federal Environmental Assessment (EA) and EA Follow-up reports.

Further, for issue 6, concerning capital costs, Waterkeeper proposes the inclusion of a new issue that would read, "Do costs, as proposed by OPG, factor in the fulfillment of federal environmental mitigation and management requirements for the Darlington Nuclear Generating Station through the adoption and implementation of best available technologies?". As other enumerated issues on the list include reference to external legal and policy documents, this proposed new issue would not constitute a significant departure from the Issues List as currently drafted.

All this is respectfully submitted for your consideration. Thank you for the opportunity to participate in this important proceeding.

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<sup>1</sup> *Ontario Energy Board Act*, RSO 1998, c 15 s 29.

<sup>2</sup> *Canadian Environmental Assessment Act*, RSC 1992, c 37.