

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.

**WRITTEN SUBMISSIONS OF THE APPLICANT,
ONTARIO POWER GENERATION INC.
RE: DRAFT ISSUES LIST**

Introduction

In accordance with the Ontario Energy Board's (the "OEB's") Procedural Order No. 1 in this proceeding (dated December 20, 2013), these are the submissions of Ontario Power Generation Inc. ("OPG") on the Draft Issues List. In these submissions, OPG has proposed certain revisions to the Draft Issues List and provided a rationale for each proposed change. Proposed wording revisions are marked in black-line. The numbers below correspond to the issue numbers in the Draft Issues List.

OPG has no objection to the wording for the following issues: 1.1; 1.2; 1.3; 2.1; 3.1; 3.3; 4.3; 4.6; 4.7; 4.8; 4.9; 4.10; 5.1; 5.3; 5.5; 6.1; 6.2; 6.3; 6.4; 6.5; 6.6; 6.7; 6.8; 6.9; 6.10; 6.11; 6.13; 6.14; 6.15; 7.1; 7.2; 7.3; 8.2; 9.5; 9.6; 9.8; 10.1; and 12.1.

General Principles

In support of its proposed revisions to the Draft Issues List, OPG has identified three principles that should be applied in finalizing the Issues List. These principles are addressed in turn below.

1. Issues Should Be Broadly Defined and Material

In the interest of simplicity, where there is a broader description of an issue, sub-issues should not be included on the Issues List. Further, in Procedural Order #1, the OEB has requested that parties focus on material issues in this proceeding. Accordingly, in keeping with the Board's view, OPG submits that only material issues should be included on the issues list. This will promote regulatory efficiency and promote the desired focus on the

key issues in the proceeding. The greatest time and cost savings for the proceeding can be achieved at the stage of the formulation of the issues list.

2. Regulatory Matters Unrelated To The Application Should Be Addressed Outside the Proceeding

The issues and inquiries in the proceeding should be related to the application before the Board. Issues or inquiries unrelated to the application are more effectively considered in another proceeding and the applicant's appearance before the Board should not be treated as a convenient forum for the unrelated matters to be heard. OPG has submitted evidence on all issues that are relevant to the determination of new payment amounts. To introduce issues beyond the scope of OPG's application is inefficient and will undermine the focus on material issues that the OEB is trying to achieve and that OPG supports.

3. Issues Decided In The Last Payment Amounts Hearing Should Not Be Reheard Absent Material Changes or Significant New Information

The OEB conducted a detailed review of and decided on many of the methodologies and regulatory treatments applied to establish OPG's payment amounts in EB-2007-0905 and EB-2010-0008. Where there have been no material changes or significant new information that would warrant the re-examination of those methodologies and treatments, the issue should not be reheard in this proceeding. To do so would be inefficient and would be contrary to the Board's expressed view that the parties not engage in the exploration of matters that do not appear to be material. If a party believed that a finding in the last hearing should have been reviewed and varied, the OEB has an established procedure to request review and variance.

Proposed Revisions

Issue 3.2: "Is OPG's proposal for return on equity appropriate for the currently regulated facilities and for the newly regulated facilities?"

OPG Submission: OPG submits this issue should not be included on the Issues List. It is redundant and is fully subsumed by issue 3.1 on the Draft Issues List. Elimination of redundant issues contributes to regulatory efficiency.

Issue 4.1 and Issue 4.2:

OPG Submission: Issue 4.1 and Issue 4.4 should be restated as follows:

Issue 4.1: “Are Do the costs associated with the regulated hydroelectric projects, that are subject to section 6(2)4 of O. Reg. 53/05 and proposed for recovery (including the Niagara Tunnel Project), meet the requirements of that section? ~~within the project budgets approved by the OPG Board of Directors before the making of the Board's first order establishing payment amounts for the regulated facilities? If not, were the excess costs prudent?~~”

Issue 4.2: “Are the proposed regulated hydroelectric capital expenditures and/or financial commitments ~~appropriate~~ reasonable?”

In Issue 4.1, OPG believes that the language used by the OEB in the Approved Issues List in EB-2010-0008 better reflects the relevant section of O. Reg. 53/05 than the language which is currently proposed in the Draft Issues List. The restated issue does not include the wording "If not, were the excess costs prudent?", since this question is subsumed within section 6(2)4.

Issue 4.2 has been modified slightly to use “reasonable” instead of “appropriate” to maintain consistency with the issues 4.8 and 4.9 in relation to the Darlington Refurbishment Project set out in the Draft Issue List. Where specific approvals are requested which impact payment amounts or riders, OPG submits that “appropriate” be used. Where there is no direct impact on payment amounts or riders, OPG submits that “reasonable” be used.

Evidence on capital budgets is presented to provide the OEB with an understanding of the basis of OPG's proposed capital spending for the test years. Those projects will not come into service during the test period and will not be closed into rate base in that period and as such do not form part of OPG's revenue requirement or impact the payment amounts sought in the test period. As noted previously by the OEB, in the case of projects forming part of a utility's capital budget in the test period but not forming part of rate base, the OEB's consideration is limited to the observation that the capital budget is reasonable.¹

Issue 4.4 and Issue 4.5:

OPG Submission: Issue 4.4 and issue 4.5 should be restated as follows:

Issue 4.4: “Are Do the costs associated with the nuclear projects, that are subject to section 6(2)4 and 6(2) 4.1 of O. Reg. 53/05 and proposed for recovery, meet the requirements of that section? ~~within the project budgets approved by the OPG Board of~~

¹ EB-2010-0008, Decision with Reasons, p. 59.

~~Directors before the making of the Board's first order establishing payment amounts for the regulated facilities? If not, were the excess costs prudent?"~~

Issue 4.5: “Are the proposed nuclear capital expenditures and/or financial commitments ~~appropriate~~ reasonable?”

Issues 4.4 and 4.5 have been modified consistent with the discussion above relating to Issues 4.1 and 4.2.

Issue 5.2:

OPG Submission: Issue 5.2 should be restated as follows:

~~“Is the estimate of surplus baseload generation appropriate? What economic and supply conditions are forecast to generate the surplus baseload generation outlook?”~~

OPG submits that the first sentence is an appropriate issue for inclusion on the list as it relates to the assessment of OPG's inclusion of amounts in the SBG variance account only. The remainder of this issue should not be included on the Issues List because it relates to forecasts of SBG, which have no impact on payment amounts or riders in this proceeding. In EB-2010-0008, the OEB disallowed any inclusion of forecast SBG amounts within OPG's hydroelectric production forecast². This approach has been maintained in EB-2013-0321. Accordingly, the second sentence should be deleted, since forecasts of SBG are not required to determine payment amounts and riders.

Issue 5.4:

OPG Submission: Issue 5.4 should be restated as follows:

~~“Is the proposed new incentive mechanism appropriate? Does the proposed new incentive mechanism increase benefits to consumers while maintaining operational incentives for OPG?”~~

OPG agrees with the first sentence and feels that it is broad enough to permit a full assessment of the incentive mechanism. The remainder of this issue should not be included on the Issues List because the reference to “increase benefits” suggests a standard that would apply notwithstanding that there has been no adjudication in this

² EB-2010-0008, Decision with Reasons, p. 22.

regard. The OEB should avoid prejudging of the standard that should be used to assess the appropriateness of the mechanism. Accordingly, the second sentence should be deleted.

Issue 5.6: “Are the estimates of forced loss rates for the individual nuclear plants reasonable?”

OPG Submission: This issue should not be included on the Issues List because it is a sub-issue of Issue 5.5. OPG has requested approval of the test period production forecast for the nuclear facilities. Several inputs are involved in the determination of that production forecast, including forced loss rates. Examination of all of the relevant inputs can occur under Issue 5.5.

Issue 6.12: “Are the depreciation studies and associated proposed changes to depreciation expense appropriate?”

OPG Submission: This issue is unnecessary because it is included as part of Issue 6.11.

Issue 8.1: “Is the revenue requirement methodology for recovering nuclear liabilities in relation to nuclear waste management and decommissioning costs appropriate? If not, what alternative methodology should be considered?”

OPG Submission: This issue should not be included on the Issues List because no change in methodology has been proposed since its approval in EB-2007-0905 and EB-2010-0008. This is an example of where the principle of not re-examining issues previously decided, absent a material change or significant new information, should apply. Given that the OEB reviewed and decided this issue in the most recent proceeding and that OPG has followed the OEB approved methodology in its application, there is no reason to reopen this issue in this proceeding by placing the choice of methodology, rather than its application, on the Issues List.

Issues 9.1, 9.2, 9.3 and 9.4:

OPG Submission: These issues should be restated as follows:

Issue 9.1: “For the four accounts for which OPG has requested clearance, its the nature or type of costs recorded in the deferral and variance accounts appropriate?”

Issue 9.2: “For the four accounts for which OPG has requested clearance, ~~a~~Are the balances for recovery in each of the deferral and variance accounts appropriate?”

Issue 9.3: “For the four accounts for which OPG has requested clearance, ~~a~~Are the proposed disposition amounts appropriate?”

Issue 9.4: “For the four accounts for which OPG has requested clearance, ~~i~~s the disposition methodology appropriate?”

OPG Submission: The proposed language modifies these issues to only apply to those accounts for which clearance has been requested. All other accounts have no impact on payment amounts or riders, and as such should not be within the scope of these issues. OPG is not proposing to dispose of balances in any account other than these four.

Issue 9.7:

OPG Submission: Issue 9.7 should be restated as follows:

“Is OPG’s proposal to ~~create sub-accounts of~~ make existing hydroelectric variance accounts ~~for~~ applicable to the newly regulated hydroelectric generation facilities appropriate?”

OPG Submission: The issue, as stated on the Draft Issues List, is likely too narrow. The issue is whether the accounts are applicable, not the details of mechanism used to track the accounts.

Issue 11.1: “Has OPG responded appropriately to Board direction from the previous proceeding regarding benchmarking of generation performance with an intention to establishing incentive regulation?”

OPG Submission: OPG submits this issue should not be included on the Issues List. It is redundant and is fully subsumed by issue 1.1 on the Draft Issues List.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

[Original signed by]

Charles Keizer
Counsel for the Applicant,
Ontario Power Generation Inc.

January 24, 2014