

BY EMAIL AND MAIL

February 11, 2014

Attn: Ms. Kirsten Walli, Board Secretary

Ontario Energy Board

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

The Ontario Energy Board (the "Board") made its second procedural order for the abovementioned matter on February 7, 2014. This latest order permits intervenors to file surreplies concerning the Draft Issues List by February 11th.

Lake Ontario Waterkeeper ("Waterkeeper") would like to thank the Board for the opportunity to make these additional submissions. This document has been filed in compliance with Procedural Order No. 2 and the Regulatory Electronic Submission System (RESS) Guidelines.

In order to assist the Board with its deliberations, a clarification of our previous submission may be helpful. In Waterkeeper's January 24 comments concerning the Draft Issues List, we sought to ensure the environmental costs of the Darlington Refurbishment Project (the "Project") would be taken into account by the Board when determining whether to grant Ontario Power Generation's ("OPG") rate increase application.

The Project has a significant impact on OPG's expenditures and rates. It will also have extensive environmental impacts. Because of its environmental costs, the

Project was subject to an extensive Environmental Assessment (EA) and Follow-up Plan, pursuant to the *Canadian Environmental Assessment Act*, RSC 1992, c 37. The EA and Follow-up Plan detail the environmental impacts of the project, as well as how these impacts must be mitigated.

The EA and Follow-up Plan would be helpful resources for the Board to review in order to understand the environmental costs of the Project, and ensure these costs are adequately incorporated into OPG's budget and rate increase application. Ensuring the environmental impacts are accounted for in OPG's application would help determine whether the application supported the public interest.

In their January 31 response to our submission, OPG argued any reference by the Board's of the Project's EA or Follow up Plan would be outside the scope of the current matter. OPG asserted this was because such considerations were exclusively subject to federal jurisdiction. With respect, this argument mischaracterizes our submissions.

We agree the Canadian Nuclear Safety Commission (CNSC) has exclusive jurisdiction to assess and make recommendations with regard to the substance of EAs and Follow-up Plans. However, we are not asking the Board to perform this function. Our submissions did not call for the Board to assess the validity or adequacy of the Project's EA or its Follow-up Plan, nor did we suggest the Board assess the adequacy of the CNSC's recommendations for the Project. Thus, we did not submit that the Board should infringe the CNSC's jurisdiction.

The Board has exclusive jurisdiction over the setting of OPG's rates and ensuring those rates are reasonable, appropriate, prudent, and in the public interest. Considering the Project's EA and Follow-up Plan and whether it has been included in OPG's budget would assist the Board in performing their task.

All this is respectfully submitted for your consideration.