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BY EMAIL and RESS

May 1, 2014
Our File: EB20130321

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2013-0321– OPG 2014-15 – Notice of Motion

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Rule 27.03 of the Board’s *Rules of Practice and Procedure*, please find enclosed SEC’s Notice of Motion seeking full and adequate responses to certain interrogatories. SEC acknowledges that OPG’s forthcoming undertaking responses may have an effect on some of the relief sought in the Notice of Motion. If they do, SEC will file an Amended Notice of Motion by May 6th.

All of which is respectfully submitted.

Yours very truly,
Jay Shepherd P.C.

Original signed by

Mark Rubenstein

cc: Wayne McNally, SEC (by email)
Applicant and Intervenors (by email)

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IN THE MATTER OF the *Ontario Energy Board Act 1998*, Schedule B to the *Energy Competition Act*, 1998, S.O. 1998, c.15;

AND IN THE MATTER OF an Application Ontario Power Generation Inc. for an order or orders approving payment amounts for prescribed generating facilities commencing January 1, 2014.

AND IN THE MATTER OF Rule 27 of the Board's *Rules of Practice and Procedure*.

NOTICE OF MOTION

The School Energy Coalition ("SEC") will make a motion to the Ontario Energy Board ("the Board") at its offices at 2300 Yonge Street, Toronto, on a date and at a time to be fixed by the Board.

PROPOSED METHOD OF HEARING:

SEC requests this motion be dealt with orally.

THE MOTION IS FOR:

1. An order requiring Ontario Power Generation Inc. to provide a full and adequate response to the following interrogatories:¹
 - 1.1-CME-1
 - 1.2-AMPCO-5
 - 1.2-SEC-3
 - 1.2-SEC-4
 - 1.4-SEC-20
 - 3.1-SEC-25
 - 6.2-SEC-84
 - 6.8-SEC-116/1.2-CCC-5
 - 6.8-SEC-118
2. Such further and other relief as the SEC may request and the Board may grant.

¹ See Appendix A

THE GROUNDS FOR THE MOTION ARE:

1. The Board issued a Notice of Proceeding on an application by Ontario Power Generation Inc. (“OPG”) pursuant to section 78.1 of the *Ontario Energy Board Act, 1998* for an order or orders approving just and reasonable payment amounts for prescribed generating facilities commencing January 1, 2014.
2. SEC is an intervenor in this proceeding. Pursuant to Procedural Order #1 issued December 20th 2013, SEC delivered written interrogatories to OPG.
3. Rule 27.03 of the Board’s *Rules of Practice and Procedure* provides that a party may bring a motion seeking direction from the Board if it is not satisfied that a party has provided “full and adequate response to an interrogatory.”³ SEC brings this motion because OPG has not provided full and adequate responses to a number of interrogatories that requested information relevant to the issues to be decided in this proceeding.

Refusals Based on No Impact on the Test Period

4. OPG has refused to answer a number of interrogatories on the basis that the information sought relates to costs that go beyond the test period, and therefore the information is not relevant. SEC submits that this is an inappropriate and unduly narrow interpretation of relevance in payment amounts proceedings. While OPG is only seeking approval of payment amounts for 2014-15, for the Board and intervenors to determine the reasonableness of those forecast costs, those costs must be put within the broader context of OPG’s longer term business planning. Long-term planning and other information beyond the test period is regularly provided to the Board.⁴
5. ***1.2-AMPCO-5*** The interrogatory seeks information about OPG’s 10 year business outlook. This information is important to understanding whether OPG’s proposed 2014-2015 capital and operating expenditures are appropriately paced. Further, this is particularly important with respect to OPG’s hydroelectric facilities, as this payment amount application will be the base year for OPG’s first hydroelectric incentive regulation application.⁵

³ Ontario Energy Board, *Rules of Practice and Procedure* (as revised on April 24, 2014)

⁴ See for example Enbridge Gas Distribution’s Strategic Plan (EB-2012-0459, J1.4-Attachment 1)

⁵ *Report of the Board: Incentive Rate-making for Ontario Power Generation’s Prescribed Generation Assets* (EB-2012-0340) at p.8. Also see Issue 11.1, “Has OPG responded appropriately to Board direction on establishing incentive regulation?”

6. **6.8-SEC-118** SEC sought a copy of the OPG's 2011 review of its pension and benefits plan. OPG refused to provide it on the basis that the "review results in no cost implications for the test period 2014-2015 as none of the elements of the review form part of the current plan." While OPG may not propose to implement any potential changes to its pension and benefits plan in the test period, it may ultimately be appropriate for them to have done so. There is little doubt that pension costs will be an important issue in this proceeding, so this information is clearly relevant.

Refusals to Produce Benchmarking Information

7. The Board has recognized the importance of benchmarking in applications for payment amounts. Three issues on the Approved Issues List⁶ explicitly involve benchmarking, and OPG itself has accepted benchmarking as an important way to measure the reasonableness of its costs.⁷ While OPG has provided some benchmarking information in its Application, SEC sought additional benchmarking information. OPG has not provided that information.
8. **6.2-SEC-84** OPG has presented certain hydroelectric benchmarking information in its application.⁸ SEC sought all documents, reports, presentations and other analysis of that benchmarking, so that SEC and the Board could review the entire information, not just the selected information provided in OPG's application. In its response, OPG stated that it does not actually have any benchmarking reports prepared specific to its hydroelectric facilities by third parties. All that it has is data provided confidentially to OPG by those parties.
9. At the Technical Conference, counsel for SEC followed up and asked in what format the information from three specific benchmarking surveys⁹ referenced in the interrogatory were provided to OPG.¹⁰ OPG's witness responded that they are provided with the data by way of a spreadsheet. SEC sought a copy of those spreadsheets, but OPG refused on the basis that the information is confidential, and that approval was required by the different third-party benchmarking providers.¹¹

⁶ Issue 6.2 "Is the benchmarking methodology reasonable? Are the benchmarking results and targets flowing from those results for the regulated hydroelectric facilities reasonable?" Issue 6.4 "Is the benchmarking methodology reasonable? Are the benchmarking results and targets flowing from those results for the nuclear facilities reasonable?" 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?"

⁷ For example see: Nuclear staffing (Ex. F5/1/1), Compensation (Ex.F5/4/Attachment 1), Information Technology (Ex.F3/1/1/p.6), Finance corporate costs (Ex.F3/1/1/p.11-12)

⁸ Ex.F1/1/p.11-22

⁹ EUCG Inc., Navigant Consulting (GKS Hydro Benchmarking), Canadian Electricity Association

¹⁰ Technical Conference Transcript, Vol 1, pages 67-68 (See Appendix B)

¹¹ *Ibid*

10. A contractual agreement between a utility and a third-party is not a valid reason for non-disclosure of relevant information. The Board has on numerous occasions¹² stated that it is not bound by confidentiality agreements between utilities and third-parties, most recently in EB-2013-0115:

Distributors cannot limit or exclude the Board's jurisdiction by private agreements amongst themselves or with third parties. The Board has often stated that distributors must be cognizant of this when entering into confidentiality agreements with third parties that extend to the provision of information and documents that the utility knows or ought to know may be reasonably required to be produced as part of the regulatory process.¹³

11. The fact that the OPG has a confidentiality arrangement with third-parties restricting disclosure is only relevant to its potential confidentiality treatment under the Board's rules. OPG has the ability to seek to have any document it is asked to produce treated as confidential pursuant to the *Practice Direction on Confidential Filings*. The appropriate response, in those circumstances, is not a refusal. It is a full and complete response, coupled with a request to the Board for confidentiality treatment.

Refusal to Produce the KPMG Efficiency Review Report

12. **6.8-SEC-116/1.2-CCC-5** Both of these interrogatories sought disclosure of a report undertaken by the Ministry of Energy and relied upon by OPG. This report (the "KPMG Efficiency Review") apparently assesses OPG's existing benchmarking studies, and identifies organizational and structural opportunities for savings. In its response to the interrogatory, OPG refused to provide the report on the basis that it does not own it. It also stated that it had made a request to the Ministry of Energy for permission to submit the report as part of these proceedings. SEC followed up at the Technical Conference, and OPG maintained its objection to producing it.¹⁴
13. SEC submits that if a party possesses a copy of a relevant document, which OPG stated it presumes it does¹⁵, then it must provide a copy of it regardless of ownership. The information is important information to help parties and the Board determine the adequacy of OPG's benchmarking studies, and if there are potential organizational and structural opportunities for cost savings. OPG itself relies on the information in its application and even quotes directly from it.¹⁶ It also relies on the report for the purposes of its response to the Auditor General's Report.¹⁷

¹² Also see *Decision on Phase 1 Partial Decision and Order: Production of Documents* (EB-2011-0140), dated June 14 2012, at p.3. Motion Hearing Transcript, dated October 23 2012 (EB-2012-0031) at p. 28. *Decision on Confidentiality* (EB-2011-0123), dated August 19, 2011 at p. 3

¹³ *Procedural Order No. 4* (EB-2013-0115), dated March 19 2014 at p.4

¹⁴ Technical Conference Transcript Vol 2, p.76-77 (See Appendix C)

¹⁵ *Ibid*

¹⁶ Ex.A4/1/1/p.2

¹⁷ Auditor General's 2013 Annual Report at p.162 (KT2.4)

14. The KPMG Efficiency Review goes directly to the issue of the reasonableness of OPG's costs, and therefore is a relevant and material document in this proceeding. Ownership of a relevant specific document in the possession of a utility may be a reason for the Board to treat it as confidential, but it is not a reason to refuse to produce it.

Refusals Related to Relevant Communications with its Board of Directors and Shareholder

15. ***1.1-CME-1*** The interrogatory sought information provided to OPG's Board of Directors, and resulting comments and directions provided back to OPG management regarding the 2013 Auditor General's Report. OPG refused to provide the information on the basis that since the Auditor General's Report was issued after OPG's Application and Impact Statement, therefore there is no link between that information and the Application.
16. SEC submits that the information is relevant to this proceeding and should be provided. The 2013 Auditor General's Report makes significant observations and recommendations about OPG's compensation costs. Parties and the Board must determine if the steps OPG is taking are appropriate, and what effect they actually may have on its 2014-2015 forecasted costs. A key aspect of that is to understand what information management provided to the Board, and what information and direction were provided back to management.
17. ***1.2-SEC-4*** Pursuant to its Memorandum of Understanding with its shareholder, OPG and its shareholder are required to provide "timely reports and information on major developments and issues" to each other. In its interrogatory, SEC sought the last five of these reports provided by OPG to the shareholder and the last five reports provided to the shareholder by OPG. OPG refused to provide that information on the basis that the information was not relevant since the documents form no part of the Application and to the "extent that any of the major developments and issues have impacted OPG's test period revenue requirement, they are fully discussed in OPG's Application." OPG maintained its refusal at the Technical Conference.¹⁸
18. SEC submits the information is both relevant and probative. OPG's spending responds not just to formal shareholder Directives, but also to information provided by its shareholder through this method of formalized communication, and developments identified by OPG that were sufficiently major to report to its shareholder.

¹⁸ Technical Conference Transcript Vol 2, p.98-99 (see Appendix D)

19. Both of OPG's objections to producing this information are without merit. First, failure by OPG to include major developments in its Application is not determinative of whether they should have been addressed in this Application, and in the operating plan for 2014-2015. That should be determined by the Board. Second, to the extent that OPG did include descriptions of major developments in its Application, it is neither normal practice, nor appropriate, for the Board to simply accept the Applicant's descriptions at face value. The Board has an obligation to look beyond those explanations and descriptions, testing them against external data and other sources. Original source documents, such as this kind of report, are an important method for the Board to test key aspects of the Application. They are a fundamental part of the Board's process.
20. **1.4-SEC-20** SEC sought a copy of all documents provided to OPG's Board of Directors in approving this Application. OPG has refused on the basis of relevance and litigation privilege. In doing so it quoted the decision of the Board on a motion brought in EB-2010-0008. SEC notes that the circumstances and the request in this interrogatory are different than the basis for the Board's decision in EB-2010-0008. In this case, an increase of almost 30% is being proposed, and there are a number of increasingly material issues surrounding the Applicant's cost control initiatives. The integration of cost control successes and failures with a request for increased rates will be a central element in the Board's consideration of this Application. The relevant trade-offs between cost control and price increases will likely be described in the materials provided to the Board of Directors, and can be just as much of assistance to this Board as it is to the OPG directors.
21. The information is important to parties and intervenors in understanding, not just how OPG's Board of Directors provide oversight and what information is provided to do so, and not just for individual line items, but also the ultimate payment amounts. This Application contains a significant increase in payment amounts for OPG's prescribed facilities, driven by a very significant increase in forecast costs. Information provided to OPG's Board of Directors about its approval of the overall increase is relevant and will assist the Board.
22. SEC is not seeking information on hearing strategy or "likely prospects for success analysis", and would not object to that information being redacted.

Refusal Related to Actual Capital Structure

23. **3.1-SEC-25** SEC sought documents related to OPG's expected, planned or forecasted debt/equity ratio for the period of 2014-2018. OPG's response provides only information regarding its regulatory debt/equity ratio. SEC submits OPG should be required to provide information not just about its

regulatory debt/equity ratio but also its actual planned debt/equity ratio. A material issue in this proceeding is the impact, if any, of the inclusion of the newly-regulated hydroelectric facilities on the appropriate equity thickness for the Applicant. Internal analysis of how the change of those assets from unregulated to regulated will impact actual financial strategy and will assist the Board in understanding the appropriate equity thickness that should be included for the purpose of calculating revenue requirement.

24. Such further and other grounds as counsel may advise and the Board permits.

THE FOLLOWING DOCUMENTARY MATERIAL AND EVIDENCE WILL BE RELIED UPON AT THE HEARING OF THE MOTION:

1. The Record in EB-2013-0321
2. Such further and other material as counsel may advise and the Board may permit.

May 1, 2014

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Counsel to the Applicant

AND TO: Intervenors

A

CME Interrogatory #001

Ref: 2013 Annual Report of the Office of the Auditor General of Ontario (December 10, 2013)

Issue Number: 1.0

Issue: General

Interrogatory

CME wishes to better understand the process undertaken by OPG following the release of the Annual Report of the Office of the Auditor General of Ontario on December 10, 2013. To this end:

(a) Please provide all presentations, PowerPoint slides, briefing notes, or other written memoranda prepared by OPG for OPG's Board of Directors relating to that Report of the Auditor General; and

(b) Please provide all written questions, comments or directions provided by OPG's Board of Directors to OPG relating to that Report of the Auditor General.

Response

Attachment 1 summarizes OPG's ongoing actions in response to the Auditor General's Report.

The Auditor General's Report was issued months after OPG filed its Application and after the filing of OPG's Impact Statement.

Therefore, any attempt to link the potential outcomes from these responsive actions to changes in OPG's 2014 -2015 costs would be speculative at this point. Many of the actions are still being developed. Moreover, full implementation of these actions would require changes in OPG's collective agreements. Even for non-represented employees, notice may be required before the most significant changes could be made. Thus, OPG declines to produce the requested materials on grounds of relevance.

Dec. 10, 2013

OPG SUMMARY OF KEY ACTIONS 2013 AUDITOR GENERAL REPORT ON HUMAN RESOURCES POLICIES

The Auditor General's report covers a 10-year time period. In some cases the report highlights areas which OPG already had identified and has since addressed, or is currently addressing. In other areas it provides insights into issues the company will act upon and will report back openly and quickly.

In 2010 OPG initiated a business transformation to address culture and process change to ensure OPG meets the expectations and needs of the ratepayers. Since December 2012 the number of senior managers has gone down by six per cent, and since 2010, there's been a nine per cent drop in total base salary costs for management. We will also save an estimated \$1 billion over six years (2011-2016) by reducing the overall headcount, from ongoing operations, by 2,330 or 20 per cent of 2011 levels. The departure of 1,500 people since January 2011 has already saved \$275 million.

We are continuing that transformation, which was recognized by KPMG as the right way to address the needed change. The Ministry of Energy engaged KPMG to assess OPG's existing benchmark studies and to identify organization and structural opportunities for cost savings. KPMG's report validated OPG's business transformation initiative and its objectives.

"KPMG believes that OPG has employed a systematic and structured approach to developing a company-wide transformation plan. OPG has incorporated many leading practices for implementing a large business transformation such as assigning dedicated staff to implement the transformation, establishing a program management office, incorporating change management with a focus on cultural change and incorporating business transformation milestones into executive performance plans." KPMG Dec. 6, 2012.

The following is a summary of key actions OPG is taking (or has taken) to address the findings. A more detailed list of actions will be posted on our website later this week. In the coming weeks and months it will be updated to show our progress.

ACTIONS – PLANNED AND UNDERWAY	PLANNED COMPLETION DATE
Executive and Senior Management Staffing Levels <ul style="list-style-type: none"> Decrease senior management headcount in proportion to overall headcount reductions. (Reduced by 6% since Dec. 2012). 	2016
<ul style="list-style-type: none"> New senior executives continue to receive lower 	Ongoing

<p>compensation than their predecessors. Hiring of all director and above positions will require CEO approval.</p> <ul style="list-style-type: none"> Reduce headcount by a further 830, for a total reduction of 2,330 and \$1B savings by 2016. 	2016
<p>Benchmarking of Staffing Levels at Nuclear Facilities</p> <ul style="list-style-type: none"> Business plans to define continuing actions to move from current 8% over benchmark to benchmark (down from 17% over in Feb. 2012). CNSC and other external peer groups confirm OPG continues to ensure strong nuclear safety and operational performance. 	<p>2016</p> <p>Ongoing</p>
<p>Recruitment Practices and Requirements</p> <ul style="list-style-type: none"> Centralized recruitment function to improve controls, compliance and efficiency of hiring processes. Amend Code of Conduct to clarify expectation regarding hiring policies. Failure to follow policy will result in disciplinary action. Conduct compliance reviews for internal/external vacancies. Reviewed all groups with same addresses to ensure valid hiring process was followed.(reviewed 284 files from 2011, 2012; no documentation retained for others beyond two years; found 4 cases without proper documentation). 	<p>Complete</p> <p>Q1 2014</p> <p>Ongoing</p> <p>Complete</p>
<p>Compensation and Incentive Awards</p> <ul style="list-style-type: none"> Implement outcomes of government legislation to regarding broader public sector executive compensation. Reduce headcount by additional 830 for total reduction of 2,330 and \$1B savings by 2016 (already achieved 1,500 reduction since Jan. 2011); Reduce all management AIP for 2013 by 10%. Board to review AIP program for 2014 and beyond. Continue to seek collective agreements that reflect OPG business objectives and government compensation constraints. Reduced base salary costs for management by 9% 	<p>Contingent on government legislation</p> <p>2016</p> <p>Q1 2014</p> <p>Ongoing</p> <p>Completed. Further reductions ongoing.</p>

compared to 2010.	Attachment 1	
<i>Employee Housing and Moving Allowance</i> <ul style="list-style-type: none"> • Adopt Ontario Public Service Relocation policy for management employees. • Conduct review of practices and controls related to employee relocation, including a review of practices for guarantee house values. • Review OPS relocation policy against collective agreements to determine what if any changes are required. 	<p>Q1 2014</p> <p>Q1 2014</p> <p>Coterminous with collective bargaining</p>	
<i>Security Clearance Requirements</i> <ul style="list-style-type: none"> • Review security clearance requirements for non-nuclear employees to ensure appropriate levels in place. • Implement enhanced compliance monitoring method. • Implemented controls to ensure immediate security clearance compliance for new hires and ongoing compliance for existing employees. • CNSC, CSIS audits validate that OPG has an industry-leading nuclear security clearance program. All employees who require access to nuclear site or sensitive nuclear information have appropriate clearance. All board members at the time of the AG audit now have security clearance. 	<p>Q1 2014</p> <p>Q3 2014</p> <p>Complete</p>	
<i>Pensions and Benefits</i> <ul style="list-style-type: none"> • Begin implementation of Board directed management pension and benefits reforms. • Participate in Province's review of electricity sector pension plan reforms. • Any changes to pension and benefits for unionized staff will be a matter for future rounds of collective bargaining. 	<p>Q1 2014</p> <p>TBC – dependent on Ministry of Finance</p> <p>Coterminous with collective bargaining</p>	
<i>Managing Contractors and Overtime</i> <ul style="list-style-type: none"> • Conduct comprehensive assessment of contractor control framework, including contract structures, time capture and approval processes and tools. • Implement time tracking system for contractors at nuclear sites. 	<p>Q2 2014</p> <p>Q1 2014</p>	

<ul style="list-style-type: none">Implemented enhanced management approvals and controls to limit individual overtime in Nuclear.	Completed
<i>Use of Non Regular Staff and Contract Resources</i> <ul style="list-style-type: none">Strengthen business case requirements and approvals for hiring retirees as contractors.Strengthen succession planning and develop knowledge transfer plans for critical roles.	 Q2 2014 Q4 2014

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For more information, please contact:

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AMPCO Interrogatory #005

Ref: Exhibit A2, Tab 2, Schedule 1, Page 2

Issue Number: 1.2

Issue: Are OPG's economic and business planning assumptions for 2014-2015 appropriate?

Interrogatory

Preamble: OPG indicates its overall generation capacity will decline by 25 per cent between 2015 and 2020 as the remaining coal units retire and the Pickering nuclear plant ceases operations around 2020.

In considering the above, please discuss OPG's longer term 10 year business plan outlook including emerging issues and proposed spending levels beyond 2016 and include any supporting materials such as memorandums, reports and presentations to OPG's Board of Directors that address this issue.

Response

Information beyond the 2014 / 2015 test period does not impact the setting of rates for this application and, therefore, is not relevant.

SEC Interrogatory #003

Ref: A1-4-1/p.3

Issue Number: 1.2

Issue: Are OPG's economic and business planning assumptions for 2014-2015 appropriate?

Interrogatory

Please provide the most recent "3-5 year investment plan" referred to. Please provide all presentations, memoranda or other documents used to explain that investment plan to the Applicant's Board of Directors, to the Shareholder, or to the Minister of Finance.

Response

See Ex. L-01.2-17 SEC-002.

SEC Interrogatory #004

Ref: A1-4-1/p.3

Issue Number: 1.2

Issue: Are OPG's economic and business planning assumptions for 2014-2015 appropriate?

Interrogatory

Please provide the last five "timely reports and information on major developments and issues" provided by OPG to the Shareholder pursuant to section E1. Please provide the last five reports under that section provided by the Shareholder to OPG.

Response

OPG declines to produce the requested documents on the basis of relevance. These documents formed no part of OPG's Application and have no probative value in deciding it. To the extent that any of the major developments and issues have impacted OPG's test period revenue requirement, they are fully discussed in OPG's Application.

SEC Interrogatory #020

Ref:

Issue Number: 1.4

Issue: Is the overall increase in 2014 and 2015 revenue requirement reasonable given the overall bill impact on customers?

Interrogatory

Please provide a copy of all documents provided to the Board of Directors in approving this application.

Response

OPG declines to provide the requested documents on the basis of relevance and litigation privilege. The same type of material was requested in EB-2010-0008. The OEB Panel in that proceeding decided that the requested material was not relevant, stating:

The Board has decided not to order production of the materials sought in the CME and CCC motions. In the Board's view, these materials are not relevant to the determination of the issues before the Board in this proceeding. The Board will make its decision on the application and supporting materials filed by the applicant and the evidence of intervenors, all of which is subject to cross-examination.

This evidence goes to the financial and operational impacts of the application and of the alternatives which have been considered.

The material which has been sought through the motions includes the communication between OPG's management and its board of directors, seeking approval to file the application, delegated authority to deal with the proceeding, and the analysis of "likely prospects for success." This material does not form part of the application and does not enhance nor detract from the merits of the application. The evidence is that no changes to the business plans and budgets which underpin the application were sought or made as a result of the board of directors' meeting. These plans and budgets have been filed.

Intervenors can explore, through the witness, whether alternatives to the application should have been considered, and the impacts of OPG's choices. None of this relies on what management presented to the board of directors.

Having found that the materials are not relevant and need not be produced, the question of privilege will not be addressed.

That concludes the Board's decision, and subject to any questions, we can continue with the cross-examination. **EB-2010-0008, Tr. Vol. 1, pages 113-114.**

SEC Interrogatory #025

Ref: A1-2-2/p.1

Issue Number: 3.1

Issue: What is the appropriate capital structure and rate of return on equity for the currently regulated facilities and newly regulated facilities?

Interrogatory

Please provide all studies, analyses, forecasts, presentations or other documents relating in whole or in part to the Applicant's expected, planned or forecast debt/equity ratio over the period 2014-2018.

Response

For regulatory accounting, reporting and ratemaking purposes the expected/planned/forecast debt/equity ratio is the 53/47 debt/equity ratio approved by the OEB. The only document related to OPG's approved debt/equity ratio was provided in Ex. L-03.1-17 SEC-024.

SEC Interrogatory #084

Ref: F1/1/1/p.12

Issue Number: 6.2

Issue: Is the benchmarking methodology reasonable? Are the benchmarking results and targets flowing from those results for the regulated hydroelectric facilities reasonable?

Interrogatory

Please provide copies of all documents, reports, presentations, and any other analysis for hydroelectric benchmarking undertaken by OPG, including without limitation those conducted by:

- (a) EUCG Inc.
- (b) Navigant Consulting (GKS Hydro Benchmarking)
- (c) Canadian Electrical Association ("CEA")

Response

OPG does not have any benchmarking reports prepared specific to OPG's hydroelectric facilities by third parties as contemplated by this interrogatory. OPG conducts benchmarking specific to its hydroelectric facilities using data provided confidentially by these parties. The result of this work is reflected in OPG's evidence.

One of the most important factors in successful benchmarking is the ability to collect significant number of data points (plants) to ensure conclusions derived from the data are representative. OPG's participation in EUCG, Navigant and CEA benchmarking programs ensures comparisons with a broad representative population and data. All three organizations extensively vet the data submitted by utilities for consistency, continuity and reasonableness.

Additional value of participation in the programs comes from interfacing with other utilities at annual or semiannual meetings. It not only allows for better insight into the reported numbers, but also for comparing maintenance or operational best practices that may be applicable to their utilities to reduce costs and/or improve reliability.

The following is additional information to what has already been provided respecting the benchmarks provided by OPG in the Ex. F1-1-1 evidence:

- We have shown costs at the top level of aggregation (i.e., total OM&A) since accuracy is generally better when costs are aggregated at the higher levels (due to allocations required for the more granular analyses), and total OM&A cost best correlates to electricity rates and overall cost metrics used by most utilities. Notwithstanding this, OPG also examines subcategories of total OMA such as operations, maintenance, and administration.

- 1 • We have presented costs per unit of energy because this cost is most closely linked to
2 electricity rates.
- 3
- 4 • We have excluded Gross Revenue Charge and water rental fees as these costs are not
5 under OPG control, are not applicable in other jurisdictions, vary with production, and would
6 overshadow controllable costs.
- 7
- 8 • In Chart 4, we created “OPG data points” by combining appropriate costs for all six or five
9 OPG plants and dividing it by the sum of MWh generation, to provide overall comparisons.
10 This is consistent with the past two applications.
- 11
- 12 • We have used availability factor (“AF”) and equivalent forced outage rates (“EFOR”) to rank
13 reliability of OPG plants. The reason is that these are standard measures used in the
14 industry.
- 15
- 16 • Since there are often “trade offs” between cost efficiency and reliability performance, we
17 have prepared Chart 6 from the data. This shows OPGs previously and newly regulated
18 plants in availability versus cost quadrants (four quadrants are created by appropriate
19 medians).
- 20
- 21 • With regard to employee safety, we have shown standard Canadian industry safety
22 measures: All Injury Rate (“AIR”) and Accident Severity Rate (“ASR”) (from CEA Incident
23 Statistics Report).

SEC Interrogatory #116

Ref: Auditor General's 2013 Annual Report/p.162

Issue Number: 6.8

Issue: Are the 2014 and 2015 human resource related costs (wages, salaries, benefits, incentive payments, FTEs and pension costs) appropriate?

Interrogatory

In response to Recommendation 1, OPG stated that: "In 2012, the Ministry of Energy engaged a consulting firm to assess OPG's existing benchmarking studies, and to identify organization and structural opportunity for savings". Please provide a copy of the referenced report.

Response

OPG does not own the referenced report. A request has been made to the Ministry of Energy for permission to submit the report as part of these proceedings. The response to that request is pending.

CCC Interrogatory #005

Ref: Ex. A4/T1/S1/p. 2

Issue Number: 1.2

Issue: Are OPG's economic and business planning assumptions for 2014-2015 appropriate?

Interrogatory

Please provide a copy of the KPMG Efficiency Review of OPG.

Response

Please see Ex L-6.8-17 SEC-116.

SEC Interrogatory #118

Ref: Auditor General's 2013 Annual Report/p.171

Issue Number: 6.8

Issue: Are the 2014 and 2015 human resource related costs (wages, salaries, benefits, incentive payments, FTEs and pension costs) appropriate?

Interrogatory

Please provide a copy of the 2011 review of OPG's pension and benefit plan.

Response

OPG declines to provide the review requested on the basis that it is not relevant to the Application. The review results in no cost implications for the test period 2014 – 2015 as none of the elements of the review form part of the current plan.

B

1 **RE: WHETHER AN MNR-APPROVED AMOUNT WOULD BE CREDITED**
2 **TO RATEPAYERS AND HOW THAT CREDIT WOULD WORK WITHIN A**
3 **POTENTIAL HYDROELECTRIC IRM.**

4 MR. RUBENSTEIN: If I could just ask sort of one more
5 question, you will probably want to work it into the
6 undertaking.

7 I would also ask: How would that work, if OPG is
8 expecting to credit that to ratepayers? How would that
9 work within a potential hydroelectric IRM?

10 MR. SMITH: Well, sure, we can consider that. I don't
11 think we know the answer, but we can certainly consider
12 what we don't know.

13 MR. MILLAR: So that will be wrapped up in the same
14 undertaking?

15 MR. SMITH: Yes.

16 MR. RUBENSTEIN: If I could take you to SEC 84, this
17 is 6.2.17.SEC84. In the interrogatory, we asked you to
18 sort of provide the reports or the documents with respect
19 to three benchmarking studies that OPG refers to in its
20 evidence.

21 And OPG essentially says they don't have any reports
22 that were prepared specific to OPG's hydroelectric
23 facilities by third parties as contemplated by the
24 interrogatories.

25 I was wondering, what format do you receive the
26 information for these three benchmarking surveys or
27 studies?

28 MR. MAZZA: Well, the information that we get is

1 masked. So we have data, data and spreadsheets, and
2 basically that information is masked, so you don't know
3 which utility relates to what piece of information.

4 MR. RUBENSTEIN: But you receive -- they come in a
5 spreadsheet format, essentially?

6 MR. MAZZA: Basically a spreadsheet format.

7 MR. RUBENSTEIN: And are you able to provide those
8 spreadsheets?

9 MR. MAZZA: As mentioned, the information is
10 confidential. We would have to get approval from the
11 different benchmarking companies to release any
12 information.

13 MR. RUBENSTEIN: Can you please provide those
14 spreadsheets?

15 MR. SMITH: No, we're not going to do that.

16 MR. RUBENSTEIN: Thank you. Those are my questions.

17 MR. MILLAR: Thank you, Mr. Rubenstein.

18 I think we are moving to Staff now, and we will start
19 with Mr. Battista.

20 **QUESTIONS BY BOARD STAFF:**

21 MR. BATTISTA: I guess it is afternoon now, so good
22 afternoon, panel. I would like to take you to Exhibit L,
23 tab 4.2, Staff 19.

24 MR. SMITH: Before we go to Staff, I take it
25 Sustainability Journal doesn't have any questions, then?

26 MR. MILLAR: Yes, Mr. Tolmie, can you confirm you
27 don't have questions for this panel?

28 MR. TOLMIE: Yes.

C

1 **UNDERTAKING NO. JT2.11: TO IDENTIFY THE CHANGES TO**
2 **SURVEY METHODOLOGY MADE AS A RESULT OF STAKEHOLDER**
3 **INPUT BETWEEN THE FIRST AND LAST SURVEYS.**

4 MR. SHEPHERD: The next one is 6.8, SEC 116. So this
5 is the KPMG report, right? This is referring to --

6 MR. BARRETT: Yes, that's right.

7 MR. SHEPHERD: And you said that you can't -- we can't
8 have it. Do you have a copy of it?

9 MR. BARRETT: Personally, no.

10 MR. SHEPHERD: No, no. The company. Does OPG have a
11 copy of it?

12 MR. BARRETT: I'm not certain of that. I presume so.

13 MR. SHEPHERD: Okay. So then we're asking you to
14 provide that copy to us. I understand you don't own it.
15 That's fine. But you have it in your possession.

16 Under the Board's Rules, you have to give it to us.
17 You can ask for it to be confidential if you want.

18 MR. SMITH: And as you will see from the answer, Mr.
19 Shepherd, it is OPG's position that it is not in a position
20 to give you the report. It has made a request of the
21 Ministry of Energy, who owns the report, for permission to
22 file the report as part of these proceedings, and we
23 haven't received a response yet from the Minister of
24 Energy, but if we do, we will certainly advise the Board of
25 that answer.

26 MR. SHEPHERD: No. I understand that. And obviously,
27 on any question of whether it is confidential, the Ministry
28 is going to have to -- they're going to have some comments

1 on that.

2 My question is not whether you put it on the public
3 record. My question is: Will you provide it to the Board?
4 You have a copy of it. It is relevant. Will you provide
5 it?

6 MR. SMITH: And I think you have our position in
7 relation to that.

8 MR. SHEPHERD: Well, sorry. I wouldn't have asked the
9 questions if I thought I had your position. Just say no,
10 if you are not going to provide it.

11 MR. SMITH: Okay. No.

12 MR. SHEPHERD: Thank you.

13 My next question is on 118, 6-8-118. This is with
14 respect to a review that was done of your pension and
15 benefit plans -- or one of them, I guess.

16 And your answer is it doesn't have any impact on the
17 amounts you are asking for in the test period. I don't
18 understand that.

19 So can you help explain why it doesn't have any
20 impact? What is it about this report that makes it
21 completely irrelevant now?

22 [Witness panel confers]

23 MR. BARRETT: After some discussion, we've concluded
24 as a panel that we haven't seen this report, and aren't in
25 a position to provide much beyond what is in the
26 interrogatory response.

27 MR. SHEPHERD: So if you haven't seen it, then
28 presumably you will undertake to provide the answer to the

D

1 approved as your targets is the same as what's in your
2 business plans, and so I want that document to do the
3 verification.

4 Can I have that, please?

5 MR. SMITH: No.

6 MR. SHEPHERD: Okay. So that is a refusal? On what
7 basis, Mr. Smith?

8 MR. SMITH: On the basis that you already have the
9 information reflected in the application.

10 MR. SHEPHERD: So we can't have the verifying
11 document?

12 MR. SMITH: You have our position, sir.

13 MR. SHEPHERD: All right. Then the next one is 1.2,
14 SEC 4. And this asked -- you are required in your
15 shareholder memorandum to provide reports and information
16 on major developments and issues.

17 And so we asked, well, can you give us the last five
18 of those, and you said they're not relevant. So my
19 question is: Are you spending any money on any of the
20 things you reported in your last five reports in 2014 and
21 2015? Is there any money included in this application for
22 any of those things?

23 MR. SMITH: And the relevance of that is?

24 MR. SHEPHERD: Because if you are spending money and
25 asking for the ratepayers to pay for it, then we're
26 entitled to see your reports on those issues.

27 MR. SMITH: I don't agree with the premise of that.

28 MR. SHEPHERD: You don't?

1 MR. SMITH: You are entitled to the evidentiary
2 support in the application and to ask questions in relation
3 to the application.

4 MR. SHEPHERD: Sorry, I can't hear you.

5 MR. SMITH: You are entitled to probe the evidence in
6 the application and to ask questions in relation to it. I
7 think you are a step removed from it at this stage.

8 MR. SHEPHERD: Sorry, sorry, are you taking the
9 position, Mr. Smith, that we're not allowed to ask for
10 documents in the applicant's possession that are relevant
11 to the application that they filed because you didn't put
12 them in the application?

13 MR. SMITH: No. Mr. Shepherd, I don't see this as
14 qualitatively different than the Board Decision in the 0008
15 case, where the request was made for presentations made by
16 management to the board of directors of OPG about the
17 application, and the Board determined that those
18 presentations were not relevant, as reflected in one of the
19 other interrogatories, which we will no doubt come to.

20 And I don't see this as qualitatively different. This
21 is -- you are simply asking, instead of to the board of
22 directors, to the shareholder, but I don't see that as
23 being a distinction to depart from the Board's prior
24 Decision in the 0008 case.

25 MR. SHEPHERD: All right. So it is a refusal, right?

26 MR. SMITH: It is a refusal.

27 MR. SHEPHERD: Thank you.

28 I am now going to your presentation, which is 1.2, SEC