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## **RESS, EMAIL AND COURIER**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Reply Submission of the Applicant, Ontario Power Generation Inc.**  
**re: Priority Issues**

Further to Procedural Order No. 5, OPG is responding to submissions from AMPCO, adopted by other intervenors,<sup>1</sup> GEC, and Sustainability Journal all of which were made on May 7, 2014.

### **Overview**

Table 1 below provides a breakdown of the 32 issues where prioritization is not in dispute. Row A lists the 14 issues that the OEB Panel designated as primary issues on May 9, 2014. Row B lists an additional 10 issues that OPG and all parties who commented agree are primary issues. Finally, Row C shows 8 issues that OPG and all parties who commented agree are secondary issues.

Since the prioritization of the issues in Table 1 is not being disputed by the parties, these issues are not discussed further in this submission.

**Table 1 – Issues Where Priority Is Not in Dispute**

Row	Type	Issue Numbers
A	Issues designated as primary by the OEB Panel on May 9, 2014	1.4; 4.7; 4.11; 6.1; ,6.2; 6.3; 6.4; 6.8; 6.9; 6.10; 9.6; 11.1; 11.3; 12.1.
B	Other issues that all parties agree should be designated as primary issues	1.1; 1.2; 2.1; 4.4; 4.5; 4.9; 4.10; 4.12; 5.4; 5.5.
C	Issues that all parties agree should be designated as secondary issues	3.2; 6.13; 6.14; 6.15; 7.1; 7.2; 10.1; 11.2.

This submission addresses the remaining 27 issues where the parties disagree over prioritization (26 from the original Issues List plus issue 5.1 (a) on storage later added

<sup>1</sup> Consumers Council of Canada (CCC), Canadian Manufacturers & Exporters (CME), Energy Probe, London Property Management Association (LPMA), School Energy Coalition (SEC), and Vulnerable Energy Consumers Coalition (VECC)). The Green Energy Coalition also supports this submission, except that it would add issues 6.11 and 6.12 as priority issues.

in Procedural Order 7). In Appendix A, OPG presents Table 2, which shows the OPG, Board staff and AMPCO *et. al.* ("AMPCO+") positions on each of the issues from the original Issues List where priority is disputed.<sup>2</sup>

The remainder of this submission is organized as follows. The next section, presents OPG's general submissions on issue prioritization and the criteria that OPG believes should be used by the Board to determine the primary issues. In the final section, we make submissions on specific issues that AMPCO+ would designate as primary, but where OPG sees no basis for that designation. On a few of the issues discussed in that section, OPG and Board staff disagree on prioritization (see Table 2 in Appendix A), but in the main, OPG believes that the Board staff submission presents a constructive approach to issue prioritization. The final section also addresses the submissions by GEC and Sustainability-Journal.

### **Prioritization and Criteria for Designating Primary Issues**

OPG understands that the OEB has embarked on Issue prioritization to streamline the regulatory process and enhance efficiency. OPG also believes that the OEB wishes to avoid a repeat of EB-2010-0008 where, as the Board stated, "a number of issues which parties pursued vigorously in cross-examination and argument were not of sufficiently high priority in terms of the dollars or the principle involved."

Two criteria emerge from these considerations. First, the issues that are deemed primary should have a material dollar impact on the revenue requirement or involve matters of principle that are likely to have significant future application in setting OPG's payment amounts. Second, matters that were fully explored and decided in a previous decision should be designated as secondary issues except where significant new information has emerged that warrants revisiting the issue.

Designating an issue as secondary, does not remove it from the OEB's consideration. Those secondary issues that are not settled will still be decided by the hearing Panel. The decision will be based on both the extensive record developed through OPG's written evidence, interrogatory responses, technical conference responses and undertakings, and on the parties' written arguments on that evidence. The only difference is that the secondary issues will not be allowed to consume the limited cross examination time available for this hearing and thereby reduce the time available to explore the more significant primary issues.<sup>3</sup>

Given that there are already 24 issues that have either been designated as primary by the OEB or which the parties all agree should be designated as primary (i.e. rows A and B in Table 1), cross examination time will be at a premium over the 12 days scheduled for the oral hearing. Included in this list of 24 are all of the major issues in the case as well as some smaller issues.

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<sup>2</sup> Issue 5.1(a) is not included in Table Two because neither Board staff nor AMPCO+ has indicated a position on this issue. OPG's position that this should be a secondary issue is discussed in this submission.

<sup>3</sup> Assuming 5.5 hours of cross examination on each of the 12 hearing days, yields a total of 66 hours for cross examination. This translates into about 2 hours and forty-five minutes of cross examination if each of the 24 issues is designated as primary. While some issues could settle and some intervenors may ultimately decide to forego cross examination on some of the remaining issues, it is virtually certain that the hearing time available to consider the major issues will be tight.

### **Submissions on Issues**

In general, OPG believes that the submission of AMPCO+ misapprehends the purpose of issue prioritization – to avoid spending cross examination time on issues that have a relatively limited financial or policy impact, or where circumstances have not changed significantly since the OEB decided the issue in a previous application. The misunderstanding by AMPCO+ can be seen in the following quote from the end of their submission: “The Parties wish to emphasize that categorizing an issue as primary does not necessarily mean that the issue will be subject to oral examination.” In fact, that is exactly what designating an issue as “primary” means.

That AMPCO or any other party may ultimately choose to forego cross examination is not determinative. If an issue is designated as primary and is not settled, OPG will be obliged to empanel witnesses to discuss it. Those witnesses will take time away from their jobs to prepare for and attend the hearing. That one or more parties may later decide not to cross-examine does not change this fact.

### **Issues with a Relatively Limited Financial or Policy Impact**

*4.1 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 (excluding the Niagara Tunnel Project), meet the requirements of that section?*

*4.2 Are the proposed regulated hydroelectric capital expenditures and/or financial commitments reasonable?*

*4.3 Are the proposed test period in-service additions for regulated hydroelectric projects (excluding the Niagara Tunnel Project) appropriate*

OPG submits that other than the Niagara Tunnel there are no issues in respect of the capital costs of its hydroelectric facilities (both previously and newly regulated) to warrant devoting limited cross examination time to these issues. The submission of AMPCO+ offers no reason why these issues should be considered in the oral hearing.

*5.1 Is the proposed regulated hydroelectric production forecast appropriate?*

*5.1(a): Could the storage of energy improve the efficiency of hydroelectric generating stations?*

*5.2 Is the estimate of surplus baseload generation appropriate?*

*5.3 Has the incentive mechanism encouraged appropriate use of the regulated hydroelectric facilities to supply energy in response to market prices?*

The submission of AMPCO+ claims that the hydroelectric production forecast has a significant impact on cost. Given the existence of the Hydroelectric Water Conditions Variance Account, this statement is incorrect. Similarly, while OPG has proposed changes to incentive mechanism and treatment of SBG, these are unlikely to have material financial impact in the context of the overall application and the principles underlying these matters were fully considered in EB-2010-0008 and the underlying facts have not changed.

Given the late emergence and resulting lack of evidence on issue 5.1(a), OPG does not see how understanding of this issue could be enhanced through cross examination. As a result, OPG believes that this issue is best addressed through written submissions.

*6.7 Is the test period Operations, Maintenance and Administration budget for the Darlington Refurbishment Project appropriate?*

In the context of the proposed Darlington Refurbishment expenditures over the test period, the OM&A amounts are relatively small and, in any event, all differences between Board-approved and actual OM&A costs incurred for Darlington Refurbishment are subject to true-up via the Capacity Refurbishment Variance Account.

**Issues Previously Decided Where Circumstances Have Not Changed**

*1.3 Has OPG appropriately applied USGAAP accounting requirements, including identification of all accounting treatment differences from its last payment order proceeding.*

This issue was one of the main subjects of EB-2012-0002. The impacts of moving to USGAAP on Pension and OPEB costs were discussed extensively. Contrary to the claims of AMPCO+, the changes to Pension and OPEB costs in this proceeding have nothing to do with OPG's move to USGAAP.

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

OPG is proposing use the OEB's ROE formula applied to the capital structure that the OEB approved in each of the last two proceedings. While the presence of the newly regulated facilities is a changed circumstance, OPG has provided extensive evidence on these facilities and why their addition does not warrant a change in the current capital structure. The submissions of AMPCO+ offer no reason to think otherwise.

*4.6 Do the costs associated with the nuclear projects that are subject to section 6(2)4 of O. Reg. 53/05 and proposed for recovery, meet the requirements of that section?*

*4.8 Are the proposed test period in-service additions for nuclear projects (excluding those for the Darlington Refurbishment Project) appropriate?*

The submission of AMPCO+ focuses on Darlington Refurbishment, which, as AMPCO notes, OPG agrees should be designated as a priority issue. The submission offers no reasons at all why capital spending on other nuclear areas should be a priority issue. OPG has offered extensive evidence that confirms that its approach to project budgeting, planning and capitalization follow those previously reviewed and approved by the OEB.

*6.5 Is the forecast of nuclear fuel costs appropriate? Has OPG responded appropriately to the suggestions and recommendations in the Uranium Procurement Program Assessment report?*

With respect to nuclear fuel, OPG has fully complied with the OEB's direction to file an independent review of its nuclear fuel procurement. OPG has adopted most of the

recommendations arising from that review and for the recommendations which were not adopted; it has provided evidence explaining why.

*6.6 Are the test period expenditures related to continued operations for Pickering Units 5 to 8 appropriate?*

The OEB fully considered Pickering Continued Operations in EB-2010-0008. The project is also included in the Long-Term Energy Plan (LTEP). To the extent that the LTEP suggests circumstances where the issue of Pickering Continued Operations might be revisited, as the OEB has agreed, these are beyond the test period.

*6.11 Is the proposed test period depreciation expense appropriate?*

*6.12 Are the depreciation studies and associated proposed changes to depreciation expense appropriate?*

GEC alone among the parties thinks these are primary issues. It wants to use depreciation to mount a challenge to the Pickering Continued Operations and Darlington Refurbishment projects. Such a challenge, however, is beyond the scope of this proceeding and designating these two issues as primary would do nothing to change that.

*7.3 Are the test period costs related to the Bruce Nuclear Generating Station, and costs and revenues related to the Bruce lease appropriate?*

There have been no changes in the methods of calculating Bruce Lease Costs and Revenues. The impact of the adoption of US GAAP that is mentioned in the submission of AMPCO+ was fully discussed in EB-2012-0002 as shown in L1.3-17, SEC 19.

*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?*

Contrary to the submission of AMPCO+, the adoption of a new ONFA Reference Plan does not make this a primary issue. OPG continues to apply the previously approved methodology to recover nuclear waste management and decommissioning costs. The newly approved ONFA reference plan simply results in changes to certain costs pursuant to the new plan.

*8.2 Is the revenue requirement impact of the nuclear liabilities appropriately determined?*

OPG's approach to determining nuclear liabilities is unchanged from that approved by the OEB in the EB-2007-0905 and subsequent cases.

*9.1 Is the nature or type of costs recorded in the deferral and variance accounts appropriate?*

*9.2 Are the balances for recovery in each of the deferral and variance accounts appropriate?*

*9.3 Are the proposed disposition amounts appropriate?*

- 9.4 *Is the disposition methodology appropriate?*  
9.5 *Is the proposed continuation of deferral and variance accounts appropriate?*  
9.7 *Is OPG's proposal to make existing hydroelectric variance accounts applicable to the newly regulated hydroelectric generation facilities appropriate?*  
9.8 *Is the proposal to discontinue the Hydroelectric Incentive Mechanism Variance Account appropriate?*  
9.9 *What other deferral accounts, if any, should be established for the test period?*

The OEB recently concluded a proceeding (EB-2012-0002) that fully examined all but four of OPG's variance accounts and established mechanisms to clear the balances in them. Given this recent examination, there is no reason why any remaining issues with these accounts cannot be addressed in writing.

All of which is respectfully submitted.

[Original signed by]

Colin Anderson  
Director, Ontario Regulatory Affairs  
Ontario Power Generation

Copies: Carlton Mathias, OPG  
Charles Keizer, Torys LLP  
Crawford Smith, Torys LLP  
Intervenors of Record

## Appendix A

**Table 2 - Original Issues Where Priority is Disputed\***

Issue		OPG	Board Staff	AMPCO+
<b>1. GENERAL</b>				
1.3	Has OPG appropriately applied USGAAP accounting requirements, including identification of all accounting treatment differences from its last payment order proceeding?	S	P	P
<b>3. CAPITAL STRUCTURE AND COST OF CAPITAL</b>				
3.1	What is the appropriate capital structure and rate of return on equity for the currently regulated facilities and newly regulated facilities?	S	S	P
<b>4. CAPITAL PROJECTS</b>				
<b>Hydroelectric</b>				
4.1	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 (excluding the Niagara Tunnel Project), meet the requirements of that section?	S	S	P
4.2	Are the proposed regulated hydroelectric capital expenditures and/or financial commitments reasonable?	S	P	P
4.3	Are the proposed test period in-service additions for regulated hydroelectric projects (excluding the Niagara Tunnel Project) appropriate?	S	P	P
<b>Nuclear</b>				
4.6	Do the costs associated with the nuclear projects that are subject to section 6(2)4 of O. Reg. 53/05 and proposed for recovery, meet the requirements of that section?	S	S	P
4.8	Are the proposed test period in-service additions for nuclear projects (excluding those for the Darlington Refurbishment Project) appropriate?	S	P	P
<b>5. PRODUCTION FORECAST</b>				
<b>Hydroelectric</b>				
5.1	Is the proposed regulated hydroelectric production forecast appropriate?	S	P	P
5.2	Is the estimate of surplus baseload generation appropriate?	S	P	P
5.3	Has the incentive mechanism encouraged	S	P	P

Issue	OPG	Board Staff	AMPCO+
appropriate use of the regulated hydroelectric facilities to supply energy in response to market prices?			
<b>6. OPERATING COSTS</b>			
<b>Nuclear</b>			
6.5 Is the forecast of nuclear fuel costs appropriate? Has OPG responded appropriately to the suggestions and recommendations in the Uranium Procurement Program Assessment report?	S	P	P
6.6 Are the test period expenditures related to continued operations for Pickering Units 5 to 8 appropriate?	S	P	P
6.7 Is the test period Operations, Maintenance and Administration budget for the Darlington Refurbishment Project appropriate?	S	P	P
<b>Depreciation</b>			
6.11 Is the proposed test period depreciation expense appropriate?	S	P	S**
6.12 Are the depreciation studies and associated proposed changes to depreciation expense appropriate?	S	P	S**
<b>7. Other Revenues</b>			
<b>Nuclear</b>			
7.3 Are the test period costs related to the Bruce Nuclear Generating Station, and costs and revenues related to the Bruce lease appropriate?	S	P	P
<b>8. Nuclear Waste Management and Decommissioning Liabilities</b>			
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?	S	S	P
8.2 Is the revenue requirement impact of the nuclear liabilities appropriately determined?	S	P	P
<b>9. Deferral and Variance Account</b>			
9.1 Is the nature or type of costs recorded in the deferral and variance accounts appropriate?	S	S	P



Issue	OPG	Board Staff	AMPCO+
9.2 Are the balances for recovery in each of the deferral and variance accounts appropriate?	S	S	P
9.3 Are the proposed disposition amounts appropriate?	S	S	P
9.4 Is the disposition methodology appropriate?	S	S	P
9.5 Is the proposed continuation of deferral and variance accounts appropriate?	S	S	P
9.7 Is OPG's proposal to make existing hydroelectric variance accounts applicable to the newly regulated hydroelectric generation facilities appropriate?	S	P	P
9.8 Is the proposal to discontinue the Hydroelectric Incentive Mechanism Variance Account appropriate?	S	P	P
9.9 What other deferral accounts, if any, should be established for the test period?	S	P	P

**S= Secondary; P=Primary**

\* Issue 5.1(a) is not included in this Table because neither Board staff nor AMPCO+ addressed it in their submissions. It is discussed in the text above.

\*\* GEC views issues 6.11 and 6.12 as primary issues.