

June 3, 2014

EMAIL AND RESS

Kirsten Walli
Board Secretary
Ontario Energy Board
27th Floor, 2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Walli:

Re: EB-2013-0321 – OPG 2013/2014 Payment Amounts – Issues Prioritization

We are the solicitors to Ontario Power Generation Inc. ("OPG") in this matter. We are writing in response to Green Energy Coalition's ("GEC") letter dated May 30, 2014 in which GEC asks the Board to vary its order with respect to the prioritization of issues. OPG submits that the Board should deny GEC's request.

If GEC's request to reprioritize the issues set out in its letter is granted, the effect would be to allow GEC to circumvent the Board's earlier decision on the Issues List and bring into consideration the operation of the Pickering units, which is properly a matter for the Long-Term Energy Plan ("LTEP"), and, as noted below, beyond section 78.1 of the *OEB Act*. In the Board's Issues Decision, which is set out in Procedural Order No.3 dated February 19, 2014, the Board noted that GEC sought to expand an issue to include the consideration of the life extension of Pickering and to do so by referencing the possible early shut down of the Pickering units in the LTEP. GEC mischaracterized the LTEP and OPG noted in its submissions that early shut down of the Pickering units will not be considered in the 2014-2015 test period. The Board agreed and stated that "the potential early shut down of Pickering is not a test period consideration". The LTEP is clear with respect to the early shut down of Pickering and states:

The Pickering Generating Station is expected to be in service until 2020. An earlier shutdown of the Pickering units may be possible depending on projected demand going forward, the progress of the fleet refurbishment program, and the timely completion of the Clarington Transformer Station. (see p. 5) The Pickering Generating Station is a critical source of electricity for the eastern part of the Greater Toronto Area. The Clarington Transformer Station, which will connect high voltage 500kV lines and 250kV lines in the area, will be required to come into service before Pickering Generating Station can be shut down, to ensure reliable supply for customers in the Eastern Greater Toronto Area. (see p.57)

The OPA and the Ministry considered a range of factors in reaching their conclusion regarding the continued operation of Pickering GS as set out in the LTEP. This fact is apparent from the OPA's letter to OPG dated August 15, 2012 set out at Exhibit F2-2-3. It would be inappropriate to overturn or vary that policy decision of the Government at all, let alone based on excerpts of

documents that predate the OPA's letter to OPG, are marked draft and have been selected by GEC from among a broader selection of documents provided by the OPA, all as discussed below.

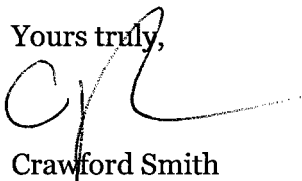
GEC implies that the documentation attached to Mr. Stensil's affidavit bring into question the conclusions of the LTEP and the OPA's letter of August 15, 2012. This assertion should be given no weight by the Board. To begin, all of the documents predate the OPA's letter to OPG and the LTEP itself. Whatever conclusions Mr. Stensil would like to draw from those documents must be regarded as superceded. Consistent with this, the documents are all marked "Preliminary Draft". Moreover, the Board can have no confidence on the basis of the affidavit as to whether there were other documents in the 964 page FOI response that qualified or contradicted Mr. Stensil's assertions. Finally, Mr. Stensil's affidavit provides no information as to his qualifications or his ability to interpret the results of this preliminary draft or for him to make the assertions set out in his affidavit.

OPG also notes that not only should the Board give Mr. Stensil's affidavit no weight with respect to request to the reprioritization of issues, but it should not by virtue of GEC's request in this regard be construed as evidence admissible in the proceeding. GEC has not requested in its letter to introduce the affidavit into evidence or to seek to amend Procedural Order No. 4 wherein the Board prescribed March 26, 2014 as the date by which intervenors were to have advised the OEB that they intended to file evidence. If GEC does so, OPG reserves its right to make submissions in that regard and further reserves its right to pose interrogatories and to file reply evidence.

The purpose underlying GEC's request is to support its position that the Board should consider a reduction of payments for the test period as a means to discourage the continued operation of Pickering GS. Pursuant to section 78.1 of the *OEB Act*, the Board is required to set payment amounts that are just and reasonable. This standard is well understood at law. Respectfully, it does not permit the Board to undermine the LTEP, through the reduction to revenue requirement on a basis unrelated to the reasonable and prudent actions of the utility in carrying out the regulated operations of the facility. The purpose of section 78.1 is to set rates on the basis of OPG's costs and revenues applicable to the production of generation. Planning decisions are within the realm of the OPA pursuant to its function established by the *Electricity Act* or in the realm of the Minister with respect to the LTEP. The Board is not vested with the power to make energy policy decisions that have broad implications in the context of setting rates.

For all of the above reasons, OPG respectfully requests that the Board refuse GEC's request for reprioritization, along with the other, similar requests received from other intervenors.

Yours truly,

A handwritten signature in black ink, appearing to read 'C. Smith', written over the typed name 'Crawford Smith'.

Crawford Smith

CS/tm