

03 June 2014

Ontario Energy Board
2300 Yonge St., 27th Floor
Toronto, ON
M4P 1E4

Attn: Ms Kirsten Walli
Board Secretary

By electronic filing and e-mail

Dear Ms Walli:

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

We are in receipt of Mr. Smith's correspondence to the Board dated June 3rd responding to the GEC letter of May 30th. Mr. Smith, on behalf of OPG, raises several matters that were not addressed in our initial letter and to which we will respond herein.

OPG suggests that GEC is inappropriately seeking to "circumvent" the Board's earlier decision. GEC's request to alter the issue prioritization is based upon new information that was unavailable to us at the time that the Board heard submissions on prioritization. It is therefore entirely appropriate for GEC to make, and the Board to consider, this request. The weight to be given to the new information is a matter for the hearing.

OPG mistakenly equates our request for reprioritization of secondary issues, accepted by the Board as appropriate in this case, with a request for the Board to shutdown Pickering. GEC agrees that shutting down Pickering is a government decision. That does not relieve the Board of its obligation to set payments that ensure value for customers (issues 6.3 & 6.6), to consider the implications of running Pickering on SBG (issue 5.2), or to recognize uncertainties in Pickering life expectancy that affect depreciation (issue 6.11) or liabilities. What the information obtained under freedom of information does suggest is that OPA and (perhaps inadvertently) OPG may not have provided the Board with the full story needed to inform these issues that are within scope.

OPG also refers to the Board's rejection of GEC's earlier request to extend issue 4.10 (now 4.12) to Pickering life extension. That issue was about the applicability of the LTEP principles to Pickering. The Board's indication that earlier shutdown is not a test period consideration must be read in light of the Board's decision on Issues 6.3 and 6.6. In rejecting proposed issue ED4 the Board distinguished between the planning decision and the "cost effectiveness of OM&A

expense in the test period” which the Board has held is within scope. Given the new information that Pickering operation is severely exacerbating SBG in the test period GEC submits that Issues 5.2 and 6.6 are of increased importance at this time. The new information also suggests that Pickering operations are even less cost-effective than the benchmarking data would indicate. Further, in its EB-2010-0008 Decision the Board expressed concern about Pickering costs and made specific reference to the need for an independent assessment of the cost effectiveness of the life extension. We quote:

In this proceeding, the Board is of the view that its role is limited to determining the following:

- whether the planned spending on the Pickering B Continued Operations in 2011 and 2012 is reasonable based on the business case; and
- whether OPG’s decision not to extend the end of life for Pickering B for accounting purposes is reasonable. This issue is addressed in Chapter 8.

The Board will consider spending for years beyond the current test period in OPG’s next application, at which time there will be examination of the progress to date **and an assessment of project economics** and the company’s confidence level on the basis of that experience and more current information.

With respect to the planned spending during the test period, the Board has determined that the proposed O&M budget is reasonable, except for the double counting of the fuel channel life cycle management project which will be corrected. The Board is satisfied that the business case substantiates the reasonableness of test period expenditures. However, the Board does have concerns with respect to the analysis. Parties have raised a number of other issues regarding the specifics of the benefits analysis, including the unit capability factors, the price used for comparative purposes and the absence of a contingency component in the cost estimate. The Board expects OPG to address these issues more fully in its next application when the Board considers the next segment of spending, as well as any variance in the account. In seeking to provide the best evidence, OPG should consider seeking an independent assessment by the OPA to be filed with its next application¹. (*emphasis added*)

In that Decision the Board recognized the relevance of the benefits analysis and of cost comparisons, matters that the FOI response sheds new light upon. The new information also sheds light upon the adequacy of the response to the Board’s suggestion of an independent assessment.

OPG suggests that the Board cannot have regard to the information provided in Mr. Stensil’s affidavit. First, as a matter of procedure, the use of an affidavit was simply to provide the Board with some assurance as to the source of the material and as a guide to facilitate its interpretation for purposes of our procedural request. We plan to introduce the entire Freedom of Information response of OPA (now a public document) into evidence during our cross-examination of OPG so that OPG can be assured that we are not unfairly characterizing the matter. Of note is the fact that the FOI request was for the information behind the very

¹ EB-2010-0008, ONTARIO POWER GENERATION INC., Decision with Reasons, March 10, 2011, p.52

letter that OPA provided to OPG. Also of note is that the new information offers a means to assess the impact of the latest LTEP Load forecast on the economics of Pickering – a load forecast that was not considered in the OPA letter to OPG. Accordingly, Mr. Smith's suggestion that the FOI information has been superseded is misplaced.

Finally, Mr. Smith asserts that reducing payments due to the non-cost effectiveness of Pickering would undermine the LTEP and be beyond the Board's section 78.1 jurisdiction to set just and reasonable rates. We respectfully disagree. If the Board could not adjust payments to reflect its view of what is cost-effective then virtually every issue currently before the Board in this application would be *ultra vires*. The Board's determination of just and reasonable payments is distinct from the company's and shareholder's determination of whether to run the facility.

Sincerely,

A handwritten signature in black ink, appearing to read "David Poch". The signature is fluid and cursive, with the first name "David" and the last name "Poch" clearly distinguishable.

David Poch
Cc: all parties