



EB-2013-0321

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

AND IN THE MATTER OF an application by Ontario
Power Generation Inc. pursuant to section 78.1 of the
Ontario Energy Board Act, 1998 for an order or orders
determining payment amounts for the output of
certain of its generating facilities.

**DECISION AND ORDER ON ISSUES LIST
AND PROCEDURAL ORDER NO. 10**

June 4, 2014

Ontario Power Generation Inc. ("OPG") filed an application, dated September 27, 2013, with the Ontario Energy Board under section 78.1 of the *Ontario Energy Board Act*, 1998, S.O. 1998, c.15, Schedule B seeking approval for increases in payment amounts for the output of its nuclear generating facilities and the currently prescribed hydroelectric generating facilities, to be effective January 1, 2014. The application also seeks approval for payment amounts for newly prescribed hydroelectric generating facilities, to be effective July 1, 2014.

Issues List

The School Energy Coalition ("SEC") filed correspondence with the Board on May 26 and May 28, 2014 requesting that nine issues on the issues list provided on May 16, 2014 in the Decision on Motions, Issues List and Confidential Filings and Procedural Order No. 9, be reprioritized from secondary to primary. Based on discussions during the settlement conference, SEC states that there is a clearer picture of what still has to be put on the record. SEC states that oral evidence and cross examination on these issues are required for the Board to determine the payment amounts. SEC seeks

reprioritization of the following secondary issues to primary:

- 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?
- 5.2 Is the estimate of surplus baseload generation appropriate?
- 6.13 Are the amounts proposed to be included in the test period revenue requirement for income and property taxes appropriate?
- 7.2 Are the forecasts of nuclear business non-energy revenues appropriate?
- 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?
- 8.2 Is the revenue requirement impact of the nuclear liabilities appropriately determined?
- 9.7 Is OPG's proposal to make existing hydroelectric variance accounts applicable to the newly regulated hydroelectric generation facilities appropriate?
- 9.9 What other deferral accounts, if any, should be established for OPG?

The Association of Major Power Consumers in Ontario, the Consumers Council of Canada and the Canadian Manufacturers & Exporters filed correspondence in support of SEC's reprioritization request. In response filed on May 28, 2014, OPG stated that the Board had already made a determination on intervenor submissions on prioritizing the issues list.

The Board has broad discretion to control the process of its proceedings and will vary the Decision on Issues List issued on May 16, 2014. SEC provided specific examples to justify cross examination of these issues based on the updated evidence filed by OPG. With the exception of issue 7.2 where no new information was identified, the issues in the above list will be designated as primary. The Board is of the view that it will not benefit from further examination on issue 7.2. However, as noted by SEC, the remaining issues have the potential to be material and the Board finds that it would be assisted by oral evidence.

On May 30, 2014, the Green Energy Coalition ("GEC") requested that the Board

reprioritize, or partially reprioritize, some issues from secondary to primary so that recently obtained information on the continued operations of Pickering units 5 to 8 can be tested through oral evidence. The secondary issues are 5.2, 6.6, 6.11, 6.12, 8.1 and 8.2. GEC states that much of the new information relates to primary issue 5.5 and oral hearing issue 6.3, but that there are implications for the secondary issues noted. GEC stated that the Board could limit the reprioritization of the secondary issues to matters related to the new information on Pickering.

In correspondence filed on June 3, 2014, OPG replied that GEC's request attempts to circumvent the Board's decision on the issues list in Procedural Order No. 3. The documents referred to by GEC pre-date the OPA letter relating to Pickering Continued Operations filed in OPG's application, and GEC's assertions should be given no weight. The Board is required to set payment amounts while generation planning decisions are in the realm of the OPA and the ministry.

GEC replied that OPG mistakenly equates GEC's request for reprioritization of secondary issues, with a request for the Board to shutdown Pickering. GEC noted that it 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, to consider the implications of running Pickering on SBG, or to recognize uncertainties in Pickering life expectancy that affect depreciation or liabilities. GEC stated that all of the foregoing are within scope of the current issues list.

GEC also noted that in the 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. GEC stated that the information obtained from the OPA was in response to an FOI for information that was behind the OPA letter to OPG.

OPG filed an additional reply noting that nothing in the GEC reply changes OPG's position on this matter.

The Board agrees with OPG that generation planning is not within the scope of this proceeding. However, the costs sought for Pickering continued operations throughout the test period are within the scope and to the extent that the recently obtained information can be helpful in assessing the reasonableness of those costs, the Board is

interested in oral examination of this issue. Therefore, the Board will re-prioritize issue 6.6 to primary but will not do so for issues 6.11 and 6.12 relating to depreciation, as the life of the assets, which determine the amount of depreciation, does not require oral examination. The Board has already re-prioritized issues 5.2, 8.1 and 8.2, as noted above.

This is the first time the Board has employed this type of issue prioritization to facilitate the efficiency of the hearing process. It is the Board's expectation that requests to change prioritization in future proceedings will be limited as parties acquire experience with the process.

At the oral hearing, it is the Board's expectation that the parties will focus their attention on the substance of the issues as opposed to strictly procedural matters.

Confidential Filings

In correspondence filed on May 15, 2014, OPG requested review by the "Board only" of certain information contained in undertaking JT2.23, Attachment 1. OPG seeks permanent redaction for this information. The Board has reviewed the document and is satisfied that the redacted information relates solely to OPG's unregulated business. The information will be permanently redacted for this proceeding.

On May 23, 2014, OPG requested confidential treatment for updated and new documents related to the Darlington Refurbishment Project, certain tables in the Impact Statement filed on May 16, 2014 and hydroelectric benchmarking data filed in response to Exh L-6.2-SEC-84.

The Board will make provision for oral submissions on the request for confidential treatment for these documents. The documents will be considered confidential until the Board renders a decision.

Oral Hearing

In order to provide parties with additional time to file a comprehensive settlement proposal, the Board will extend the deadline to Monday June 9 at 12:00pm, and commence the oral hearing on Tuesday June 10, 2014 with the presentation of the

settlement proposal, the review of the hearing plan, all submissions on confidentiality and any other procedural matters.

The Board considers it necessary to make provision for the following matters related to this proceeding.

THE BOARD ORDERS THAT:

1. The final Issues List (Reprioritized) (attached as Appendix A) is approved for this proceeding.
2. OPG shall file the list of witnesses and any outstanding undertakings by **June 6, 2014**.
3. Any settlement proposal shall be filed by 12:00pm on **Monday June 9, 2014**.
4. The oral hearing shall commence on **Tuesday June 10, 2014** at 10:00am in the Board's hearing room.
5. Board staff and parties wishing to make submissions on the request for confidential treatment for updated and new documents related to the Darlington Refurbishment Project, certain tables in the Impact Statement filed on May 16, 2014 and hydroelectric benchmarking data shall make such submissions to the Board on **June 10, 2014**, at the oral hearing.
6. If OPG wishes to respond to any submissions on its request for confidential treatment of for updated and new documents related to the Darlington Refurbishment Project, certain tables in the Impact Statement filed on May 16, 2014 and hydroelectric benchmarking data, it shall make such submissions to the Board at the oral hearing on **June 10, 2014**.

All filings to the Board must quote the file number, **EB-2013-0321**, be made through the Board's web portal at www.pes.ontarioenergyboard.ca/eservice/, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and

document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca/OEB/Industry. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Violet Binette at violet.binette@ontarioenergyboard.ca and Board Counsel, Michael Millar at michael.millar@ontarioenergyboard.ca.

ADDRESS

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DATED at Toronto, June 2, 2014

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A

**ONTARIO POWER GENERATION INC.
2014-2015 PAYMENT AMOUNTS**

EB-2013-0321

FINAL ISSUES LIST (REPRIORITIZED)

**Ontario Power Generation Inc.
2014-2015 Payment Amounts for
Prescribed Generating Facilities
EB-2013-0321**

FINAL ISSUES LIST (REPRIORITIZED)

1. GENERAL

- 1.1 Primary - Has OPG responded appropriately to all relevant Board directions from previous proceedings?
- 1.2 Primary - Are OPG's economic and business planning assumptions for 2014-2015 appropriate?
- 1.3 Secondary - Has OPG appropriately applied USGAAP accounting requirements, including identification of all accounting treatment differences from its last payment order proceeding?
- 1.4 Oral Hearing: Is the overall increase in 2014 and 2015 revenue requirement reasonable given the overall bill impact on customers?

2. RATE BASE

- 2.1 Primary - Are the amounts proposed for rate base appropriate?

3. CAPITAL STRUCTURE AND COST OF CAPITAL

- 3.1 Primary - What is the appropriate capital structure and rate of return on equity for the currently regulated facilities and newly regulated facilities?
- 3.2 Secondary - Are OPG's proposed costs for its long-term and short-term debt components of its capital structure appropriate?

4. CAPITAL PROJECTS

Regulated Hydroelectric

- 4.1 Secondary - 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 Secondary - Are the proposed regulated hydroelectric capital expenditures and/or financial commitments reasonable?
- 4.3 Secondary - Are the proposed test period in-service additions for regulated hydroelectric projects (excluding the Niagara Tunnel Project) appropriate?

- 4.4 Primary - Do the costs associated with the Niagara Tunnel Project that are subject to section 6(2)4 of O. Reg. 53/05 and proposed for recovery, meet the requirements of that section?
- 4.5 Primary - Are the proposed test period in-service additions for the Niagara Tunnel Project reasonable?

Nuclear

- 4.6 Primary (reprioritized) - 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?
- 4.7 Oral Hearing: Are the proposed nuclear capital expenditures and/or financial commitments reasonable?
- 4.8 Primary (reprioritized) - Are the proposed test period in-service additions for nuclear projects (excluding those for the Darlington Refurbishment Project) appropriate?
- 4.9 Primary - Are the proposed test period in-service additions for the Darlington Refurbishment Project) appropriate?
- 4.10 Primary - Are the proposed test period capital expenditures associated with the Darlington Refurbishment Project reasonable?
- 4.11 Oral Hearing: Are the commercial and contracting strategies used in the Darlington Refurbishment Project reasonable?
- 4.12 Primary - Does OPG's nuclear refurbishment process align appropriately with the principles stated in the Government of Ontario's Long Term Energy Plan issued on December 2, 2013?

5. PRODUCTION FORECASTS

Regulated Hydroelectric

- 5.1 Secondary - Is the proposed regulated hydroelectric production forecast appropriate?
- 5.1(a) Primary - Could the storage of energy improve the efficiency of hydroelectric generating stations?
- 5.2 Primary (reprioritized) - Is the estimate of surplus baseload generation appropriate?
- 5.3 Secondary - Has the incentive mechanism encouraged appropriate use of the regulated hydroelectric facilities to supply energy in response to market prices?
- 5.4 Primary - Is the proposed new incentive mechanism appropriate?

Nuclear

5.5 Primary - Is the proposed nuclear production forecast appropriate?

6. OPERATING COSTS

Regulated Hydroelectric

- 6.1 Oral Hearing: Is the test period Operations, Maintenance and Administration budget for the regulated hydroelectric facilities appropriate?
- 6.2 Oral Hearing: Is the benchmarking methodology reasonable? Are the benchmarking results and targets flowing from those results for the regulated hydroelectric facilities reasonable?

Nuclear

- 6.3 Oral Hearing: Is the test period Operations, Maintenance and Administration budget for the nuclear facilities appropriate?
- 6.4 Oral Hearing: Is the benchmarking methodology reasonable? Are the benchmarking results and targets flowing from those results for the nuclear facilities reasonable?
- 6.5 Secondary - Is the forecast of nuclear fuel costs appropriate? Has OPG responded appropriately to the suggestions and recommendations in the Uranium Procurement Program Assessment report?
- 6.6 Primary - Are the test period expenditures related to continued operations for Pickering Units 5 to 8 appropriate?
- 6.7 Primary - Is the test period Operations, Maintenance and Administration budget for the Darlington Refurbishment Project appropriate?

Corporate Costs

- 6.8 Oral Hearing: Are the 2014 and 2015 human resource related costs (wages, salaries, benefits, incentive payments, FTEs and pension costs) appropriate?
- 6.9 Oral Hearing: Are the corporate costs allocated to the regulated hydroelectric and nuclear businesses appropriate?
- 6.10 Oral Hearing: Are the centrally held costs allocated to the regulated hydroelectric business and nuclear business appropriate?

Depreciation

- 6.11 Secondary - Is the proposed test period depreciation expense appropriate?
- 6.12 Secondary - Are the depreciation studies and associated proposed changes to depreciation expense appropriate?

Income and Property Taxes

6.13 Primary (reprioritized) - Are the amounts proposed to be included in the test period revenue requirement for income and property taxes appropriate?

Other Costs

6.14 Secondary - Are the asset service fee amounts charged to the regulated hydroelectric and nuclear businesses appropriate?

6.15 Secondary - Are the amounts proposed to be included in the test period revenue requirement for other operating cost items appropriate?

7. OTHER REVENUES

Regulated Hydroelectric

7.1 Secondary - Are the proposed test period revenues from ancillary services, segregated mode of operation and water transactions appropriate?

Nuclear

7.2 Secondary - Are the forecasts of nuclear business non-energy revenues appropriate?

Bruce Nuclear Generating Station

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

8. NUCLEAR WASTE MANAGEMENT AND DECOMMISSIONING LIABILITIES

8.1 Primary (reprioritized) - 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?

8.2 Primary (reprioritized) - Is the revenue requirement impact of the nuclear liabilities appropriately determined?

9. DEFERRAL AND VARIANCE ACCOUNTS

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

- 9.2 Secondary - Are the balances for recovery in each of the deferral and variance accounts appropriate?
- 9.3 Secondary - Are the proposed disposition amounts appropriate?
- 9.4 Secondary - Is the disposition methodology appropriate?
- 9.5 Secondary - Is the proposed continuation of deferral and variance accounts appropriate?
- 9.6 Oral Hearing: Is OPG's proposal to not clear deferral and variance account balances in this proceeding (other than the four accounts directed for clearance in EB-2012-0002) appropriate?
- 9.7 Primary (reprioritized) - Is OPG's proposal to make existing hydroelectric variance accounts applicable to the newly regulated hydroelectric generation facilities appropriate?
- 9.8 Secondary - Is the proposal to discontinue the Hydroelectric Incentive Mechanism Variance Account appropriate?
- 9.9 Primary (reprioritized) - What other deferral accounts, if any, should be established for OPG?

10. REPORTING AND RECORD KEEPING REQUIREMENTS

- 10.1 Secondary - What additional reporting and record keeping requirements should be established for OPG?

11. METHODOLOGIES FOR SETTING PAYMENT AMOUNTS

- 11.1 Oral Hearing: Has OPG responded appropriately to Board direction on establishing incentive regulation?
- 11.2 Secondary - Is the design of the regulated hydroelectric and nuclear payment amounts appropriate?
- 11.3 Oral Hearing: To what extent, if any, should OPG implement mitigation of any rate increases determined by the Board? If mitigation should be implemented, what is the appropriate mechanism that should be used?

12. IMPLEMENTATION

- 12.1 Oral Hearing: Are the effective dates for new payment amounts and riders appropriate?