# UNDERTAKING J11.11

## *Undertaking*

To provide a written answer to the question, what are the revenue requirement impacts of the accounting and tax impacts of the accounting and tax policy decisions that you believe the Board is required to accept.

## *Response*

The question asks OPG to describe the accounting and tax policy decisions that the OEB is obligated to accept under O. Reg. 53/05, Section 6(2)11(ii) (the "Referenced Section").

The Referenced Section states that "the Board shall accept the values for the assets and liabilities of the generation facilities referred to in paragraph 6 of section 2 as set out in Ontario Power Generation Inc.'s most recently audited financial statements that were approved by the board of directors before the making of that order. This includes values relating to the income tax effects of timing differences and the revenue requirement impact of accounting and tax policy decisions reflected in those financial statements".

OPG's most recently audited financial statements approved by its Board of Directors are the 2013 audited consolidated financial statements. At Ex. A2-1-1 Att. 6, OPG has provided an audited schedule of the values of the assets and liabilities of the newly regulated hydroelectric facilities as at December 31, 2013, which are reflected in OPG's 2013 audited consolidated financial statements, as well as an accompanying independent auditors' opinion validating those values.

The Referenced Section requires the OEB to accept the decisions that took place in the period prior to regulation, to the extent that their impact is reflected in the asset and liability values presented in OPG's 2013 audited consolidated financial statements. As a practical matter, since the financial statements represent an accumulation of the impacts of historical transactions and accounting and tax policy decisions, all of the past items are manifest in the asset and liability values set out in Ex. A2-1-1, Attachment 6. Given the number of accounting and tax decisions since the inception of OPG, it is impractical to identify and list them all.

In general, OPG's significant accounting policies are found in the notes to its audited consolidated financial statements. With respect to tax policy decisions, OPG's approach has been to minimize its income taxes payable by claiming maximum allowable deductions, such as Capital Cost Allowance ("CCA").

1) Ex. J11.7 addresses the matter of the recovery of costs recognized after the effective date of the regulation related to OPG's pension and other post-

retirement benefit obligations (and the funded status of the pension plan) that initially arose in the period prior to the regulation of the newly regulated hydroelectric facilities. OEB is precluded by the Referenced Section from excluding from recovery the costs associated with employees who may have retired or otherwise left OPG prior to the period of regulation, as these costs flow from the obligations that are reflected in the liability values on OPG's financial statements.

2) Tr. Vol. 11, p. 146 addresses income tax implications of timing differences that arose prior to the regulation of the newly regulated hydroelectric facilities. The Referenced Section requires the OEB to accept the tax values, such as the Undepreciated Capital Cost, reflected in the audited financial statements and, therefore, limit future deductions reflected in the revenue requirement to these amounts. In other words, the Referenced Section requires the OEB to accept that past income tax deductions (e.g., CCA) giving rise to the timing differences have been used up in reducing OPG's pre-regulation taxable income and are not available to reduce income taxes included in the revenue requirement going forward.

The OEB applied the above-noted equivalent provisions of O. Reg. 53/05 in the first payment amounts order for the previously regulated hydroelectric without adjusting the revenue requirement consequences of past decisions related to OPG's pension and benefit obligations for retired employees or the income tax impacts of historical timing differences. There is no reason to treat differently the newly regulated hydroelectric facilities. In fact, to do so would be contrary to clear purpose of the Referenced Section.