**Aiken & Associates**
578 McNaughton Ave. West
Chatham, Ontario, N7L 4J6
Phone: (519) 351-8624
E-mail: randy.aiken@sympatico.ca

Aug. 26, 2014

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

Dear Ms. Walli,

**RE: EB-2013-0321 - LPMA Submissions**

Please find attached the submissions of the London Property Management Association ("LPMA") in the above noted application.

Sincerely,

*Randy Aiken*

Randy Aiken
Aiken & Associates

Encl.

cc: Colin Anderson, OPG (by e-mail)
Carlton Mathias, OPG (by e-mail)
Charles Keizer, Torys (by e-mail)

**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.

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**SUBMISSIONS OF**
**LONDON PROPERTY MANAGEMENT ASSOCIATION**
**("LPMA")**

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**August 26, 2014**

## A. INTRODUCTION

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 (the "Act"). In the application, OPG sought approval for increases in payment amounts for the output of its nuclear generating facilities and the currently regulated hydroelectric generating facilities, to be effective January 1, 2014. The application also sought approval for payment amounts for newly regulated hydroelectric generating facilities, to be effective July 1, 2014.

OPG updated the application in December, 2013 and May, 2014. Additional evidence was filed in July, 2014.

Based on the Second Impact Statement (Exhibit N2, Tab 1, Schedule 1) dated May 16, 2014, the total proposed revenue requirement is $9,006.4 million. This figure can be derived from Chart 5 in the above noted exhibit, with an adjustment to the revised revenue requirement for the newly regulated hydro assets in 2014 to reflect the July 1, 2014 date for these assets being regulated.

The following are the submissions of the London Property Management Association ("LPMA") on the issues of most importance to the LPMA.

LPMA has had the opportunity to review the draft submissions of a number of parties on several issues. In particular, LPMA has had the opportunity to review draft submissions on a number of the issues from the Association of Major Power Consumers in Ontario ("AMPCO"), the School Energy Coalition ("SEC"), the Vulnerable Energy Consumers Coalition ("VECC") and the Canadian Manufacturers & Exporters ("CME"). Where LPMA is an agreement with those submissions, it is so stated. Additional comments may be included, but the submissions of others has not been repeated.

Similarly, LPMA has not provided a summary under each of the issues below. LPMA notes that Board Staff ("Staff") has done an excellent job in summarizing each of the issues (Board Staff Submission dated August 19, 2016) and there is no need for LPMA to duplicate this effort.

## B. SUBMISSIONS

### 1. GENERAL

<u>1.1 Primary - Has OPG responded appropriately to all relevant Board directions from previous proceedings?</u>

LPMA's only submission on this issue is related to the Board's direction on establishing incentive regulation. This submission is provided under Issue 11.1 below.

1.2 Primary - Are OPG's economic and business planning assumptions for 2014-2015 appropriate?

LPMA makes no submissions on this issue, as the impacts of any assumptions are dealt with in other issues.

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

LPMA has reviewed the submission of Staff and agrees that the Board should direct OPG to seek Board approval for any regulatory accounting changes. OPG should explain the nature of the changes, the reason for the changes and the impact of the changes, including the approval of a deferral or variance account to record the changes to the revenue requirement.

However, LPMA does not support the $20 million threshold as proposed by Staff. Accounting changes can have a cumulative impact over the years and so a change that may be less than this amount might result in a change of more than this amount in the subsequent year. It is not clear to LPMA why one amount would be recorded in a variance account for one year, but not for another for the exact same accounting change.

1.4 Oral Hearing: Is the overall increase in 2014 and 2015 revenue requirement reasonable given the overall bill impact on customers?

LPMA submits that the overall increase in the 2014 and 2015 revenue requirement is not reasonable. As noted in Exhibit N2, Tab 1, Schedule 1, the latest updated from OPG indicates an increase in an average residential customer bill of $5.31 per month. More importantly, OPG is seeking an increase of 23.4% on its payment amounts, including the newly regulated hydroelectric assets (Argument-in-Chief dated July 28, 2014).

LPMA submits that this increase is not reasonable.

## 2. RATE BASE

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

LPMA makes specific submissions related to the amounts proposed for rate base under several issues under Issue 4 Capital Projects.

## 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?

LPMA has had the opportunity to review the draft submissions with respect to this issue of the Vulnerable Energy Consumers Coalition ("VECC") and the School Energy Coalition ("SEC"). LPMA supports these submissions which result in maximum equity thickness of about 42%. This would be a reduction from the current approved level of 47%.

The Board's policy with respect to capital structure for regulated utilities is that the capital structure should be reviewed only when there is a significant change in financial, business or corporate fundamentals (EB-2009-0084 Report of the Board, page 49). LPMA submits that the addition of more than $2.5 billion in newly regulated hydroelectric assets is a significant change in fundamentals. Combined with the fact that business risk associated with the hydro assets are lower than the business risks associated with the nuclear assets, it is obvious to LPMA that the overall business risk of OPG has declined.

LPMA notes that OPG has claimed that the newly regulated hydroelectric assets are more risky than the previously regulated hydroelectric assets. Ms. McShane, in support of this position, appears to rely on the non-centralized location of the new plants and the different conditions under which they operate.

LPMA submits that this is not a source of higher risk, but actually a source of lower risk overall for the total hydroelectric assets. There are 48 newly regulated generation facilities being added to the six previously regulated hydroelectric facilities. These 48 facilities are on average much smaller than the original 6. Their operation is based on more diverse characteristics, including water constraints and geographical location.

The added diversity to the hydroelectric facilities based on going from 6 facilities to 54, the geographical diversity and the differing water constraints have, in the view of LPMA, resulted in an overall reduction in risk associated with the facilities. Ontario is a large geographical area. Weather can be significantly different across it. Some areas may be experiencing a shortfall of rain, while others are not. This adds value to the diversity of the facilities. Instead of only 6 facilities in small geographical areas, the new facilities are spread across the province. Factors that negatively affect one area are not likely to affect another.

Whereas VECC and SEC both have calculated a maximum equity ratio of around 42%, LPMA believes that it is appropriate to estimate a range. The calculation of this range would follow the same approach as used by VECC and SEC. That is, the 77% of rate base associated with hydroelectric assets and 23% of rate base associated with nuclear assets would be applied by the equity ratio for each. An equity ratio of 40% for the hydroelectric assets would be used in both scenarios. The 50% equity ratio for the nuclear assets would be utility to calculate the top of the range, which is the VECC and SEC proposal that results in an overall equity ratio of just over 42%.

LPMA submits that the lower end of the range would be based on using an equity ratio of 45% for the nuclear assets. This results in an equity ratio of approximately 41.2%. The resulting range is thus very narrow, ranging from a low of 41.2% to a high of 42.3%. LPMA submits that the Board should set the deemed equity ratio in this range, reflecting the change in risk associated not only with the addition of the newly regulated hydroelectric facilities but also with the inclusion of the Niagara Tunnel Project. Both additions are less risky than the nuclear facilities.

LPMA also submits that if the Board disallows any of the amounts included in or proposed for rate base over the 2014 and 2015 period, then it should adjust the weighting factors for hydroelectric and nuclear assets in determining an appropriate equity ratio.

With respect to the return on equity ("ROE") LPMA supports the use of the 9.36% that was determined by the Board for 2014 rate applications. This figure is based on the Board's current policy and reflects the calculation of the formula using data from September, 2013 for 2014.

OPG proposes that the ROE for 2015 be set based on the same basis. That is, the ROE for 2015 would be based on data from September, 2014 using the adjustment mechanism that is consistent with Board policy. LPMA supports this proposal. The 2015 ROE should be updated and included in the revenue requirement for 2015, consistent with past practice.

<u>3.2 Secondary - Are OPG's proposed costs for its long-term and short-term debt components of its capital structure appropriate?</u>

LPMA submits that the Board should accept the short-term and long-term debt rates as forecast in Exhibit C1, Tab 1, Schedules 1, 2 and 3. However, these rates should be applied to the final level of debt which will be subject to any changes approved by the Board for rate base. LPMA also submits that any reduction in the equity ratio that may be directed by the Board should be reflected as an increase in the deemed long-term debt ratio.

## 4. CAPITAL PROJECTS

### Regulated Hydroelectric

<u>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?</u>

See Issue 4.3 below.

<u>4.2 Secondary - Are the proposed regulated hydroelectric capital expenditures and/or financial commitments reasonable?</u>

See Issue 4.3 below.

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

As can be seen the response to Exhibit L, Tab 4.3, Schedule 17 SEC 30, which deals with projects over $5 million in cost, the average forecasted in-service additions in 2010 through 2012 was $42.9 million. Actual in-service additions over the same period averaged $24.7 million, or $18.2 million lower than forecast. This represents a reduction in the forecast level of about 42% over this 3 year period.

Similarly, as calculated by SEC in Issue 4.3 of their submission, the actual in-service capital additions (excluding NTP) for previously regulated hydroelectric facilities was only 72.8% of the forecast on average over the 2010 through 2013 period.

LPMA submits that OPG has not provided any evidence that it has changed or modified or improved its forecasting methodology for this proceeding. There is also no evidence to suggest that OPG would be any more accurate in forecasting in-service capital additions for the newly regulated facilities than they are with the previously regulated facilities.

LPMA, therefore, submits that the Board should reduce the in-service capital additions for hydroelectric facilities (previously and newly regulated) to reflect 72.8% of the forecast.

OPG has provided the proposed in-service additions (excluding NTP) that make up the proposed hydroelectric rate base in their Argument-in-Chief. Staff have provided these numbers in Table 6 in their submission.

Applying the 72.8% historical average, LPMA submits that the 2014 in-service additions should be reduced from $86.1 million to $62.7 million (reduction of $23.4 million) and 2015 in-service additions should be reduced from $151.6 million to $109.8 million (reduction of $41.8 million).

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?

LPMA has had the opportunity to review the extensive submissions of AMPCO related to the Niagara Tunnel Project. LPMA adopts those submissions.

4.5 Primary - Are the proposed test period in-service additions for the Niagara Tunnel Project reasonable?

LPMA has had the opportunity to review the extensive submissions of AMPCO related to the Niagara Tunnel Project. LPMA adopts those submissions.

**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?

LPMA agrees with the Staff submission on this issue.

4.7 Oral Hearing: Are the proposed nuclear capital expenditures and/or financial commitments reasonable?

LPMA agrees with the Staff submission on this issue.

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

LPMA agrees with the Staff submission on this issue.

4.9 Primary - Are the proposed test period in-service additions for the Darlington Refurbishment Project) appropriate?

LPMA agrees with the Staff submission on this issue.

4.10 Primary - Are the proposed test period capital expenditures associated with the Darlington Refurbishment Project reasonable?

LPMA submits that the Board should not make a finding on the reasonableness of the proposed capital expenditures. Given that these expenditures do not go into service in the test period, it is not clear what the finding would mean.

OPG has indicated that the capital expenditures remain subject to the Board's future finding of reasonableness or prudence prior to their closing to rate base (Tr. Vol. 15, page 132). Given that this is the case, LPMA sees no value in finding that the proposed test period capital expenditures are reasonable, only to review this once again, after actual costs have been incurred.

4.11 Oral Hearing: Are the commercial and contracting strategies used in the Darlington Refurbishment Project reasonable?

LPMA agrees with the Staff submission on this issue and submits that no specific approval should be provided under this issue.

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?

LPMA makes no submissions on this issue.

## 5. PRODUCTION FORECASTS

### Regulated Hydroelectric

5.1 Secondary - Is the proposed regulated hydroelectric production forecast appropriate?

LPMA has no issue with the regulated hydroelectric production forecast.

5.1(a) Primary - Could the storage of energy improve the efficiency of hydroelectric generating stations?

LPMA makes no submissions with respect to this issue.

5.2 Primary (reprioritized) - Is the estimate of surplus baseload generation appropriate?

LPMA submits that the surplus baseload generation ("SBG") should be maintained. By its very nature, SBG is difficult to forecast. Given that there is a variance account in place, any difference from forecast will be trued up.

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

LPMA supports the submissions of Staff on this issue. LPMA submits that the continuation of this incentive mechanism is appropriate, with the modifications necessary to adjust for the interaction of SBG with HIM.

This adjustment is a simple adjustment to the HIM monthly average hourly production threshold that corrects for the SBG impacts. OPG has indicated that it has the information needed to adjust the HIM threshold to reflect the interaction with the SBG.

LPMA also submits that the revenue requirement should be continue to be adjusted as a method of distributing the HIM revenues to consumers.

LPMA agrees with the Staff submission related to the sharing of the first amount being done a minimum of 50% for consumers. In particular, the first $22 million in 2014 and the first $37 million in 2015 should be incorporated in the revenue requirement. OPG would receive the next $22 million in 2014 and the next $37 million in 2015.

Any revenue generated in excess of these amounts (i.e. $44 million in 2014 and $74 million in 2015) should also be shared between consumers and OPG. However, rather than 50/50 sharing, LPMA submits that the Board should direct a higher percentage to consumers. Staff give some examples of shares and thresholds but they are for illustrative purposes only and are not meant to be a recommendation.

LPMA recommends that the first $20 million in revenue generated in excess of the amounts noted in the previous paragraph should be shared 75% to consumers and 25% to OPG. Amounts in excess of the $20 million would again be shared 50% to consumers and 50% to OPG. LPMA submits that this would still result in an incentive to OPG to maximize the amounts in this account.

OPG's evidence with respect to the need for the incentive and how OPG would operate is not clear. As noted in the Staff submission, OPG indicated that it would operate the facilities in the same manner as previously, taking advantage of price differentials to time shift generation, regardless of the HIM mechanism (incentives) that is in place. On the other hand, OPG also indicated that it would respond to higher incentives by accepting greater risk and costs, implying that it would also respond to lower incentives by accepting less risk and costs.

LPMA submits that it is unlikely that OPG would not continue to try and maximize revenues if the incentive sharing dropped to 25% for the first $20 million over the thresholds of $44 million in 2014 and $74 million in 2015 when any additional excess over the $20 million would revert back to the 50/50 sharing. If anything, this would give OPG an added incentive to maximize the revenues generated.

Another option the Board may wish to consider is the sharing of the initial $44 million and $74 million in 2014 and 2015, respectively, 75% in favour of consumers and 25% in favour of OPG, with all revenues in excess of this amount shared equally. This would incent OPG to exceed the $44 million and $74 million figures. Again the consumers share would included as an offset in the revenue requirement.

5.4 Primary - Is the proposed new incentive mechanism appropriate?

LPMA has reviewed the submissions of Staff on this issue and supports reject of eHIM. In particular, LPMA submits that the eHIM proposal could result in OPG generating results that could be beneficial to OPG without any corresponding benefits being shared with consumers.

**Nuclear**

5.5 Primary - Is the proposed nuclear production forecast appropriate?

LPMA supports the Staff submission for an increase of approximately 1.3 TWh at Darlington. This was the reduction for 2015 based on the Exhibit N1 update. As noted in the Staff submission, this reduction does not appear to be based on a rigorous ground up analysis, as had initially been done for the nuclear production forecast. Rather it appears to have been a reduction based on senior management direction which, in all likelihood, is simply a risk mitigation effort in anticipation of cost reductions that would be imposed by the OEB.

## 6. OPERATING COSTS

### Regulated Hydroelectric

6.1 Oral Hearing: Is the test period Operations, Maintenance and Administration budget for the regulated hydroelectric facilities appropriate?

OPG has historically over forecast the OM&A expenditures for the regulated hydroelectric facilities. As the following table illustrates, on average over the last 4 years, OPG has over forecast the base and project OM&A by an average of 4.2%.

Regulated Hydroelectric Facilities - Base & Project OM&A

| | 2010 | 2011 | 2012 | 2013 | Average |
|---|---|---|---|---|---|
| Actual | 204.6 | 184.3 | 197.0 | 202.9 | 197.2 |
| Forecast | 197.9 | 209.4 | 201.6 | 214.1 | 205.8 |
| Difference | 6.7 | -25.1 | -4.6 | -11.2 | -8.6 |
| % Difference | 3.4% | -12.0% | -2.3% | -5.2% | -4.2% |

Source: Exhibit L, Tab 6.1, Schedule 4 CCC-017 & CCC-018
Exhibit L, Tab 1.0, Schedule 1 Staff-002, Tables 15 & 16

OPG has provided no evidence that it has changed its forecasting methodology in an effort to improve its accuracy.

LPMA submits that the Board should reduce the base and project OM&A by 4.2% in each of 2014 and 2015. This would result in a reduction of $9.5 million in 2014 and $9.8 million in 2015.

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?

LPMA has reviewed the draft submissions of SEC related to this issue and adopt those submissions.

### Nuclear

6.3 Oral Hearing: Is the test period Operations, Maintenance and Administration budget for the nuclear facilities appropriate?

LPMA has reviewed the submissions of Staff on this issue. While we are in general agreement with the comments, and agree with their conclusions, it is submitted that the reduction of $100 million over the test period is insufficient. Since the majority of costs are related to compensation, this issue is dealt with in more detail in Issue 6.8 below. It should be noted that the decrease is in addition to the decrease proposed for corporate costs allocated to the nuclear facilities which is dealt with in Issue 6.9 below.

6.4 Oral Hearing: Is the benchmarking methodology reasonable? Are the benchmarking results and targets flowing from those results for the nuclear facilities reasonable?

LPMA has reviewed the draft submissions of CME on this issue and support them. It is LPMA's view that OPG has failed to set targets that would reflect any significant improvement. In fact, it appears that OPG no longer has an objective of improving its performance relative to its peers.

For the high costs they are paying, consumers demand better results from OPG. In the absence of better results, LPMA submits that the Board needs to reduce the costs that consumers pay. The quantum of this reduction is discussed in Issue 6.8 below.

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?

LPMA adopts the Staff submissions on this issue.

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

LPMA has no issues with the costs as forecast.

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

LPMA has no issues with the costs as forecast.

**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?

LPMA has had the opportunity to review the extensive draft submissions of SEC and the submissions of Staff related to compensation. LPMA agrees with SEC that the compensation levels should be reduced by $100 million in each of the test years.

This conclusion is based on staffing levels that continue to be too high, especially in the management area, and compensation levels that continue to be well in excess of the 50th percentile. This is highlighted in the response to Undertaking J9.11 where it is indicated that if the PWU compensation was at the median, there would be a reduction in costs of $96 million in 2014 and $94 million in 2015.

OPG says it is not possible to move the costs to this level during the test period. What is obvious, however, is that OPG should have been moving these costs toward this level for several years leading up to the test years. OPG has failed to show any desire or motivation to control these costs and move towards the median.

Parties have also raised issues with the management of overtime, incentive payments, management staffing levels and the general lack of oversight and accountability at OPG, as highlighted in the Auditor General's Report.

In addition, moving the pension contribution level from 3:1 (company to employees) or 5:1 when special payments are included to the standard Ontario Public Service ratio of 1:1, the savings would be in the range of $60 million to $140 million a year (Exhibit L, Tab 6.8, Schedule 1 Staff-121 & Exhibit Kt2.4 and J9.6).

Based on all of these issues and concerns, LPMA submits that a reduction of $100 million in each of 2014 and 2015 would be reasonable.

With respect to Pensions and Other Post-Employment Benefits ("OPEBS"), LPMA supports the submissions of both Staff and SEC that the Board should direct OPG to move to the cash basis of accounting for setting rates.

<u>6.9 Oral Hearing: Are the corporate costs allocated to the regulated hydroelectric and nuclear businesses appropriate?</u>

LPMA submits that the Board should reduce the corporate costs allocated to both the regulated hydroelectric and nuclear businesses based on past forecasting experience.

With respect to the regulated hydroelectric business, the following table shows that on average over the 2010 through 2013 period, OPG has over forecast corporate costs by an astonishing 11.7%. Moreover, this over forecast has been very consistent over this period, ranging from 10.5% to 15.5%.

<u>Regulated Hydroelectric Facilities - Corporate Costs</u>

| | 2010 | 2011 | 2012 | 2013 | Average |
|---|---|---|---|---|---|
| Actual | 22.4 | 22.0 | 24.5 | 61.3 | 32.6 |
| Forecast | 25.1 | 24.8 | 29.0 | 68.5 | 36.9 |
| Difference | -2.7 | -2.8 | -4.5 | -7.2 | -4.3 |
| % Difference | -10.8% | -11.3% | -15.5% | -10.5% | -11.7% |

Note: 2013 includes previously and newly regulated facilities
Source: Exhibit F3, Tab 1, Schedule 2, Tables 1 & 2
Exhibit L, Tab 1.0, Schedule 1 Staff-002, Tables 15 & 16
Exhibit F3, Tab 1, Schedule 1, pages 2 & 3

LPMA submits that the Board should reflect a 11.7% reduction in the 2014 and 2015 figures to reflect this consistent over forecast of corporate costs allocated to the regulated hydroelectric facilities. This would result in a reduction of $8.4 million in 2014 (11.7% of $29.8 million plus $42.1 million) and a reduction of $7.8 million in 2015 (11.7% of $26.9 million plus $39.6 million).

With respect to the nuclear business, a similar analysis shows that on average over the 2010 through 2013 period, the forecast level of corporate costs allocated to the nuclear facilities has been more than $25 million per year higher than the forecast.

The following table shows that on average over the 2010 through 2013 period, OPG has over forecast corporate costs allocated to the nuclear facilities by an average 7.2%. Moreover, this over forecast has been very consistent over this period, ranging from 5% to more than 9%.

Nuclear Facilities - Corporate Costs

| | 2010 | 2011 | 2012 | 2013 | Average |
|---|---|---|---|---|---|
| Actual | 226.5 | 233.1 | 408.4 | 428.3 | 324.1 |
| Forecast | 247.0 | 249.2 | 450.3 | 451.0 | 349.4 |
| Difference | -20.5 | -16.1 | -41.9 | -22.7 | -25.3 |
| % Difference | -8.3% | -6.5% | -9.3% | -5.0% | -7.2% |

Source: Exhibit F3, Tab 1, Schedule 2,Table 3
Exhibit L, Tab 1.0, Schedule 1 Staff-002, Table 19
Exhibit F3, Tab 1, Schedule 1, pages 2 & 3

LPMA submits that the Board should reflect a 7.2% reduction in the 2014 and 2015 figures to reflect this consistent over forecast of corporate costs allocated to the regulated nuclear facilities. This would result in a reduction of $31.2 million in 2014 (7.2% of $433.9) and a reduction of $30.1 million in 2015 (7.2% of $417.4 million).

As noted elsewhere in these submissions, OPG has not provided any evidence to suggest that it has changed its forecasting methodology in order to try and improve its forecasting accuracy.

6.10 Oral Hearing: Are the centrally held costs allocated to the regulated hydroelectric business and nuclear business appropriate?

LPMA has included centrally held costs under Issue 6.8 above.

**Depreciation**

6.11 Secondary - Is the proposed test period depreciation expense appropriate?

LPMA has no issues with the test period depreciation expense, with two exceptions. The first is related to the appropriate life for the Niagara Tunnel Project ("NTP"). The second is dealt with under Issue 6.12 below.

With respect to the NTP, LPMA submits that the proposed life of 90 years is significantly understated.

Gannet Fleming Inc. ("GFI"), which was retained by OPG to provide an independent review and assessment of the asset service life estimates, stated that in its view, the NTP would have a similar life of 100 years as expected for the two existing Niagara tunnels (Exhibit F5, Tab 3, Schedule 1).

However, the existing Niagara tunnels are expected to have a total life of about 120 years (Exhibit L, Tab 6.2, Schedule 1 Staff-16) based on an in-service date of 1955 and useful life to 2074.

LPMA therefore submits that the Board should extend the life of the NTP for depreciation purposes to a minimum of 120 years.

However, in addition LPMA notes that the NTP utilized advanced technology, construction practices and materials that were not available in 1955 that should result in a longer life for the tunnel than tunnels build 50 years ago. Based on these improvements, LPMA submits that an increase in the life expectancy in the order of 10% to 20% is appropriate. Taking the mid-point of this range would result in an increase of 18 years, resulting in an asset life of 138 years.

<u>6.12 Secondary - Are the depreciation studies and associated proposed changes to depreciation expense appropriate?</u>

LPMA shares the concerns expressed by Staff on their submissions related to the inability to assess the impacts on the estimated service lives of assets due to the lack of data resulting from the changeover from the former Ontario Hydro to OPG.

LPMA supports the Staff submission that the Board should direct OPG to retain an independent expert to conduct a statistical retirement analysis of OPG's hydroelectric assets (both previous and newly regulated) for the purposes of determining asset service lives and depreciation rates based on the equal life group method which puts assets into groups with the same life expectancy.

**Income and Property Taxes**

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

LPMA notes that there are two sub-issues in this section related to the 2013 loss carry-forward and the deferred taxes on the newly regulated hydroelectric facilities.

LPMA deals first with the application of the 2013 loss carry-forward sub-issue.

Based on the latest impact statement (Exhibit N2, Tab 1, Schedule 1, Attachment 5), OPG is forecasting regulatory taxable income of $793.5 million and total income taxes of $188 million for 2014. The 2014 regulatory taxable income has not been adjusted for the regulatory tax loss of $211.6 million that was incurred in 2013. This figure has been taken from Undertaking J13.4, Attachment 1 and represents that tax loss associated with regulated assets in 2013.

LPMA has reviewed the submissions of Staff on this issue and fully support them.

Ratepayers paid for the PILs that were included in the 2013 payment amounts. Those PILs expenses never materialized. OPG's actual PILs expense for 2014 will be lower than that forecast because OPG will use the loss from 2013 to reduce PILs payable for 2014. LPMA submits that the Board should not permit this.

As noted in the Staff submission, the Board's filing requirements require distributors to utilize loss carry forwards in the calculation of the test year PILs. This reflects the Board's long standing policy with respect to tax loss carry forwards for the utilities it regulates.

LPMA submits that OPG has not provided any evidence as to why the standard practice of requiring loss carry forwards to be used in test year to reduce the regulatory taxable income should not be applicable to them.

OPG submits that it is entitled to the benefit associated with the tax loss in 2013, which was the result of a nuclear operating loss, because it had to bear the operating loss and not ratepayers. LPMA strongly disagrees. Ratepayers bore the cost of PILs in the 2013 payment amounts.

In the EB-2007-0905 proceeding, the Board established the principles to evaluate the appropriate amounts attributable to ratepayers for regulatory income taxes. As noted in OPG`s Argument-in-Chief, at page 117, these principles were that the party that bears a cost should be entitled to any related tax savings or benefits and that only the prescribed assets are to be considered in the evaluation.

OPG has indicated that the loss is due to a nuclear operating loss. The nuclear assets are prescribed assets and are included in the previously regulated facilities. As noted above, ratepayers bore the cost of the tax through the 2013 payment amounts. OPG does not bear the cost of PILs. This cost is part of the revenue requirement that is borne by ratepayers. Clearly the benefit of the tax loss should flow through to ratepayers.

Based on a PILs rate of 25%, LPMA estimates that the impact of flowing the 2013 tax loss into 2014 PILs is a reduction of approximately $70.5 million in the revenue requirement.

With respect to the second issue, the deferred taxes on the newly regulated hydroelectric facilities, LPMA has reviewed the submissions of SEC. LPMA supports those submissions.

**Other Costs**

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

LPMA makes no submissions on this issue.

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

LPMA makes no submissions on this issue, other than the submissions already provided under Issues 6.11, 6.12 and 6.13.

**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?

LPMA's issues under this section deal with revenue from ancillary services and segregated mode of operation ("SMO"). LPMA makes no submissions on the revenues associated with water transactions and believes the forecast for that item is appropriate.

The forecast value for the SMO is based on the OEB approved methodology of averaging the three prior years, which was established in EB-2007-0905 and reaffirmed in EB-2010-0008 (Exhibit G1, Tab 1, Schedule 1, page 1). LPMA submits that the Board should continue to use this methodology, but it should update the forecast to incorporate the latest information available.

In particular, OPG has forecast $0 for 2014 and 2015, as this was the average of the actual revenues for 2010 through 2012. LPMA notes that based on the response to Exhibit L, Tab 7.1 Schedule 13 LPMA-015, the average of the 2011 through 2013 actuals is $1.7 million per year. LPMA submits that this is the appropriate forecast for both test years as it reflects the approved methodology applied to the last 3 years of actual data available.

With respect to the forecast of ancillary revenues for both the previously regulated and newly regulated facilities, OPG has forecast the 2014 and 2015 revenues based on the 2013 budget figures, with an inflationary increase of 2% in each year. LPMA submits that this approach is appropriate, except that the Board now has actual 2013 data upon which to apply the inflationary increases.

Based on the response to the LPMA interrogatory noted above, the ancillary services revenues for the previously regulated facilities in 2013 was $37.1 million. Applying inflation of 2% per year yields figures of $37.8 million in 2014 and $38.6 million in 2015. These figures compare to the forecasts of $32.4 million and $32.8 million, respectively, that were reflected in the impact statement Exhibit N1, Tab 1, Schedule 1 where OPG increased the forecasts by about $14 million per year. The net result is a further increase over the updated forecast of $5.4 million in 2014 and $5.8 million in 2015.

Turning to the forecast of ancillary revenues for the newly regulated facilities, the 2013 budget was $22.2 million, resulting in forecasts for 2014 and 2015 of $22.7 million and $23.1 million, respectively, again based on inflationary increases of 2% per year.

Based on the response to the LPMA interrogatory noted above, the ancillary services revenues for the newly regulated facilities in 2013 was $35.7 million. Applying inflation of 2% per year yields figures of $36.4 million in 2014 and $37.1 million in 2015. These figures compare to the forecasts of $22.7 million and $23.1 million, respectively, that were reflected in the original evidence in Exhibit G1, Tab 1, Schedule 1. OPG did not update these figures in any impact statement. The net result of using the actual 2013 revenues is an increase over the forecast of $13.7 million in 2014 and $14.0 million in 2015.

**Nuclear**

<u>7.2 Secondary - Are the forecasts of nuclear business non-energy revenues appropriate?</u>

LPMA has had the opportunity to review the submissions of Staff, SEC and AMPCO related to this issue. LPMA's submissions on this issue are focused on Heavy Water Sales. LPMA does not have any issues with the other components of Nuclear Other Revenues, as shown in Table 33 of the Staff submission.

As illustrated in the AMPCO submission, OPG has continually under forecast revenues from Heavy Water Sales. The most accurate forecast was an under forecast of more than 15% in 2010, while the level of under forecast in 2011 through 2013 is more than 160%, representing an average under forecast over the last 3 years of more than $35 million per year.

As indicated in the SEC submission, there are a number of ways that the Board can look at the reasonableness of the forecast for the 2014 and 2015 test years.

LPMA submits that most appropriate way is to look at the average of the last three years of actual revenues. This is consistent with the way OPG has forecast Segregated Mode of Operation revenues under Issue 7.1 above, which is a Board approved methodology.

Using this methodology, the average actual revenue from Heavy Water Sales is $56.9 million.  This compares to the OPG forecasts of $26.3 and $20.4, respectively for 2014 and 2015.  Over the test period this would add $67.1 million to Nuclear Other Revenues.

LPMA submits that this is a reasonable amount in that it utilizes the same three year methodology used by OPG for other revenues and reflects the enormous level of under forecasting over the past number of years.

Further, LPMA notes that OPG has not provided any evidence that it has corrected its chronic forecasting problems related to Heavy Water Sales.  In the absence of any improvements to the forecast methodology, LPMA submits that the use of the 3 year average is appropriate.

**Bruce Nuclear Generating Station**

<u>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?</u>

LPMA makes no submissions on this issue.

## 8. NUCLEAR WASTE MANAGEMENT AND DECOMMISSIONING LIABILITIES

<u>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?</u>

LPMA has had the opportunity to review the draft submissions of AMPCO on this issue. LPMA supports those submissions.

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

LPMA has had the opportunity to review the draft submissions of AMPCO on this issue. LPMA supports those submissions.

## 9. DEFERRAL AND VARIANCE ACCOUNTS

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

LPMA submits that the nature or type of costs recorded in the deferral and variance accounts is appropriate. The costs recorded in the accounts appear to consistent with the purpose of the accounts.

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

LPMA has no issue with the balances proposed for recovery.

9.3 Secondary - Are the proposed disposition amounts appropriate?

LPMA submits that the proposed disposition amounts are appropriate.

9.4 Secondary - Is the disposition methodology appropriate?

LPMA accepts the disposition methodology as being appropriate. However, should the Board adjust the production forecast, the calculation of the of the proposed riders should be updated.

In addition, as noted below in Issue 11.3, if the Board determines that rate mitigation is required, then the recovery of these accounts should be extended over a longer time horizon to help reduce the impact on ratepayers in 2014 and 2015.

9.5 Secondary - Is the proposed continuation of deferral and variance accounts appropriate?

LPMA supports the continuation of existing deferral and variance accounts as being appropriate where the accounts still serve a function. LPMA notes that OPG proposes to close the Tax Loss Variance Account and the Impact for USGAAP Deferral Account as of December 31, 2014. LPMA supports these closures.

LPMA has reviewed the submissions of Staff related to eHIM and HIM accounts and supports those submissions.

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?

LPMA submits that the Board should direct OPG to clear all deferral and variance account balances at the same time in future proceedings. This ensures that costs or rebates are recovered or refunded close to the time they were incurred. Delaying the clearance of accounts results in intergenerational inequities.

LPMA is also concerned with the additional carrying costs of balances to be recovered from ratepayers. It is submitted that the Board should consider denying any additional carrying costs that would accrue because OPG decided to not seek approval for all account balances.

In determining the allowed revenue requirement in this proceeding, LPMA submits that the Board should take into consideration the account balances that OPG plans to clear as part of a separate application to be filed later this year and cleared in 2015.

9.7 Primary (reprioritized) - Is OPG's proposal to make existing hydroelectric variance accounts applicable to the newly regulated hydroelectric generation facilities appropriate?

OPG proposes to extend the application of four variance accounts specific to hydroelectric operation and three common cost variance accounts to its newly regulated hydroelectric operations. LPMA supports this extension and notes the accounts are listed in the Staff submission.

LPMA, like Staff, also submit that the Hydroelectric Incentive Mechanism Variance Account should also apply to the incentive mechanism revenue related to the newly regulated hydroelectric facilities.

9.8 Secondary - Is the proposal to discontinue the Hydroelectric Incentive Mechanism Variance Account appropriate?

LPMA does not support the discontinuance of the Hydroelectric Incentive Mechanism Variance Account for the same reasons as provided by Staff in their submissions. LPMA submits that this account should be maintained and it should continue to operate as it does now.

9.9 Primary (reprioritized) - What other deferral accounts, if any, should be established for OPG?

LPMA submits that the Board should establish two new deferral accounts for OPG.

The first would be related to the potential gross revenue charge ("GRC") holiday discussed in Exhibit L, Tab 6.1 Schedule 13 LPMA-011. In that interrogatory response, OPG indicates that it has not proposed a variance account related to the potential deduction allowed under Ontario Regulation 124/02 for eligible capacity of new, redeveloped, or upgraded stations. OPG indicates that it is unlikely that a decision will be received from the Ministry of Natural Resources ("MNR") before the end of the test period. However in the response to Undertaking JY1.8, OPG indicates that if the MNR approves OPG's application for a GRC refund, it would credit that refund amount back to ratepayers. LPMA submits that the Board should credit a variance account to record all amounts that should flow back to ratepayers. As noted in the interrogatory response, this could amount to around $20 million per year and even if no decision is received from the MNR during the test period, the deduction could be applied retroactively to when OPG files the application.

The second account that LPMA submits should be established would be to the Board approving a cash basis for pension and OPEB costs. This variance account would track the difference between forecast cash payments included in the revenue requirement and actual cash payments made.

## 10. REPORTING AND RECORD KEEPING REQUIREMENTS

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

LPMA makes no submissions on this issue.

## 11. METHODOLOGIES FOR SETTING PAYMENT AMOUNTS

11.1 Oral Hearing: Has OPG responded appropriately to Board direction on establishing incentive regulation?

LPMA has reviewed the Staff submissions and share a concern around the timing of moving the previously regulated and newly regulated hydroelectric facilities to some form of incentive regulation.

However, unlike Staff, this concern is not based on getting something done for 2016, but rather quite the opposite. LPMA is concerned that moving to incentive regulation for the hydroelectric facilities for 2016 rates may be premature. This is because of the newly regulated facilities. LPMA believes that it is very important to have the right base rates in place before incentive regulation adjusts those rates. At this time, the Board and parties have no history related to the newly regulated hydroelectric facilities while they are regulated. If the incentive mechanism were deferred to 2017, then all parties would have information on the actual costs associated with these newly regulated facilities in relation to Board approve amounts for 18 months (July 1, 2014 through December, 2015).

LPMA does agree that OPG should file the London Economics Inc. study as soon as it is available and that the working group should be established and commence its work as soon as is possible. However, as noted above, LPMA believes that the working group would be greatly assisted by some historical results for the newly regulated assets in terms of potential adjustments to base rates.

11.2 Secondary - Is the design of the regulated hydroelectric and nuclear payment amounts appropriate?

LPMA has not issue with the design of the regulated hydroelectric and nuclear payment amounts.

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?

LPMA submits that the Board should direct OPG to implement mitigation measures if the final revenue requirement and rate increase is determined by the Board to result in significant increases to ratepayers.

LPMA believes that the mitigation should be focused on the disposition and recovery of balances in the deferral and variance accounts, including those accounts for which OPG is not seeking recovery in this application, but for which it will seek recovery in a separate application later this year. By extending the recovery period of all of these accounts, the impact on rates can be moderated.

## 12. IMPLEMENTATION

<u>12.1 Oral Hearing: Are the effective dates for new payment amounts and riders appropriate?</u>

OPG has requested payment amounts effective January 1, 2014 for the previously regulated hydroelectric and nuclear facilities and July 1, 2014 for the newly regulated hydroelectric facilities.

LPMA understands that by regulation, the Board is required to set an effective date of July 1, 2014 for the newly regulated hydroelectric facilities. It is not clear to LPMA that the revenue requirement needs to be determined based on the July 1, 2014 date.

With regards to the previously regulated hydroelectric and nuclear facilities, LPMA submits that January 1, 2014 as an effective date is out of the question given that OPG did not file its application until September, 2013.

It is submitted that the onus is on the applicant to ensure that a complete filing is made in a timely manner in order to allow completion of the hearing prior to the proposed effective date.

Clearly in this proceeding, this was not the case. Not only did OPG not file until September, 2013, but it also filed an incomplete application, made updates that were so substantial that the Board determined that additional notice was required.

LPMA submits that the appropriate effective date for these payment amounts is the first day of the month following release of the Board's decision in this proceeding. LPMA submits that this would be consistent with prior decisions of the Board and send a strong signal to utilities that late filings will result in later effective dates than proposed. Only in exceptional circumstances should the Board approve an effective date that is before the date of the Board's decision. LPMA submits that no such exceptional circumstance exists in this case.

## C. COSTS

LPMA requests that it be awarded 100% of its reasonably incurred costs for participating in this proceeding. It is submitted that the LPMA has participated responsibly in all aspects of this process in an efficient manner. While LPMA was unable to attend the hearing in person, it was ensured that the issues that were of major concern to the LPMA were covered by the cross-examination of other parties.

As previously noted, LPMA has had the opportunity to review the draft submissions of a number of other parties and, where we agree, have supported those submissions. This has reduced the time spent by LPMA reviewing transcripts and preparing submissions.

All of which is respectfully submitted this 26th day of August, 2014.

*Randall E. Aiken*_

Randall E. Aiken
Consultant to
London Property Management Association