

UNDERTAKING NO. J1.1

REFERENCE

September 18, 2014 Transcript Volume 2 p. 15

UNDERTAKING NO. J1.1: TO ADVISE IN WHICH PREVIOUS OPA PROCEEDING OPA HAS SOUGHT TO RETAIN MONEY IN THE FORECAST VARIANCE DEFERRAL ACCOUNT BECAUSE OF UNFORESEEN OR UNPLANNED WORK THAT MAY COME UP

RESPONSE

In the OPA's 2014 Revenue Requirement Submission (EB-2013-0326), the OPA has, for the first time, requested that it retain a portion of the surplus in its Forecast Variance Deferral Account ("FVDA") for unforeseen or unplanned work. The retention of the surplus in the FVDA is in lieu of seeking a contingency amount from any other source, including adjusting its revenue requirement.

In previous proceedings, the OPA asked for both a contingency fund for unexpected expenses as part of its revenue requirement, and the use of an FVDA in which to record revenue and cost variances not otherwise incorporated into the revenue requirement submission. Any surplus or deficit in the account due to collection of the OPA's usage fee is also recorded in the FVDA.

The OPA has proposed a contingency fund to address unexpected operating costs and additional work associated with new directions from the Minister or the OEB in each of its Revenue Requirement Submissions since its inception, as shown in the table below. The exception was EB-2010-0279 (2011 Revenue Requirement) where it stated that "In prior years the OPA budgeted for unforeseeable expenses through a contingency provisions. In the 2011 Budget this has been eliminated. Given conditions expected in 2011, the OPA has confidence in its ability to manage within the amount budgeted." (It should be noted that the OPA was unable to file both its 2012 and 2013 Revenue Requirements as it was unable to obtain the Minister's approval of its Business Plans.) Please see the table below for a summary of the OPA's requests for a contingency fund, an FVDA, and retention of funds in the FVDA.

OPA Revenue Requirement Submissions	Contingency in Revenue Requirement	No Contingency	FVDA	Retention of Surplus in FVDA for Contingency
EB-2005-0489 (2006 RRS)	•			
EB-2006-0233 (2007 RRS)	•		•	
EB-2007-0791 (2008 RRS)	•		•	
EB-2008-0312 (2009 RRS)	•		•	
EB-2009-0347 (2010 RRS)	•		•	
EB-2010-0279 (2011 RRS)		•	•	
EB-2013-0326 (2014 RRS)			•	•

Although this is the first time that the OPA has asked for funds to be retained in its FVDA to cover unexpected costs, the OPA believes that this is consistent with the original intent of the FVDA. Since the OPA has no other source of revenue, there was a need for an FVDA account to record variances between the OPA's actual expenses and actual revenues, and those budgeted and approved in the revenue requirement submission. The FVDA is broad enough to capture a difference between actual costs and actual revenues that is caused, in part, by merger costs.

The OPA believes it may be helpful to provide an example of an analogous situation that occurred when the OPA was created. O. Reg. 47/05 *Fees for OPA's 2005 Fiscal Year*, under the *Electricity Act, 1998* provided that the IESO would pay the OPA's established fees out of any surplus collected to the end of December 2004. In its 2006 revenue requirement submission, the OPA stated in EB-2005-0489 at Exhibit A-4-1, page 2 that:

Activities in 2005 were funded by a transfer of \$15 million in "seed money" from surplus operating reserves of the Independent Electricity System Operator ("IESO") to fund start up activities. This initial seed money was provided without any supporting analysis or intention that this amount would represent an appropriate amount for ongoing operations in future years. The seed money covered costs that included initial staffing, temporary accommodations, information technology tools, and consulting fees that were necessary to design the organization, its functions and administrative processes, and perform activities mandated by specific Government directives.

UNDERTAKING NO. J1.2

REFERENCE

September 18, 2014 Transcript Volume 2 p. 17

UNDERTAKING NO. J1.2: TO PROVIDE A COPY OF THE JULY 25, 2014 LETTER
FROM THE MINISTER TO THE OPA

RESPONSE

The letter that provided direction to the OPA and the IESO that a merger is to take effect as of January 1, 2015 was actually dated July 17, 2014 and not July 25, 2014 as originally stated in the OPA's updated evidence. The OPA apologizes for this error. Please find attached a copy of this letter found as Appendix 1 to this exhibit.

The OPA has been advised that an Order in Council has now been made proclaiming the amendments to the *Electricity Act, 1998*, which implement the merger in force effective January 1, 2015. This Order in Council is attached as Appendix 2 to this exhibit.

Ministry of Energy

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JUL 17 2014

RECEIVED JUL 22 2014

MC-2014-1689

Mr. James Hinds
Chair
Ontario Power Authority
1600-120 Adelaide Street West
Toronto ON M5H 1T1

Dear Mr. Hinds:

As you are aware, the 2014 Ontario Budget, *Building Opportunity and Securing Our Future Act (Budget Measures), 2014* was introduced and includes proposed legislation to merge the Independent Electricity System Operator (IESO) and the Ontario Power Authority (OPA). With regard to the amalgamation, the proposed legislation is the same as that introduced on May 2, 2014, prior to the calling of the recent provincial general election.

Until the proposed legislation receives Royal Assent and is proclaimed into force, the current legislative framework will continue to be in effect, meaning each agency will remain a separate legal entity with its own board of directors and Chief Executive Officer, and its existing activities will continue unabated.

In advance of the legislation receiving Royal Assent, I would propose to engage both agencies in the development of a merger work plan, given that we can expect speedy passage and Royal Assent, subject to legislative approval. I expect that the board and the senior executive team of the IESO may wish to begin preparing and scoping out issues that will need to be managed during the transition period, working jointly with the OPA. It will be expeditious to establish a joint working committee with appropriate representation from each entity to develop the work plan and engage necessary expertise to advise on the transition toward the new entity.

The Ministry of Energy as well as representatives from my office are prepared to participate in the working committee, and I would appreciate receiving monthly updates from you on the progress toward the merger. I also expect to be able to announce the incoming CEO of the merged entity in late September or early October, and expect that individual to play an active role in preparation for the merger with the support of both agencies.

.../cont'd

-2-

Based on the wealth of experience that resides within both the IESO and OPA, I expect all preparations to be in place for a seamless transition to the proposed new entity by January 1, 2015. The government's goal is to ensure any disruption to each entity's staff, stakeholders and the market is minimized during this period of change, and that the merger process is as smooth and as efficient as possible.

Finally, I would ask that you pass along my best wishes and compliments to your dedicated and professional staff. Over the course of the last three years, the prospect of agency merger has hung over both the OPA and IESO with corresponding uncertainty and anxiety for staff at all levels. During that time, both agencies have continued to provide excellent service delivery and worked to protect ratepayer interests professionally and with extreme dedication. To that end, I would ask you to pass along my gratitude to your staff.

Thank you in advance for your support and expert leadership during this period, and I welcome your counsel on how best to move forward with the transition.

Sincerely,



Bob Chiarelli
Minister

c: Colin Andersen, CEO, OPA
Serge Imbrogno, Deputy Minister of Energy
Andrew Teliszewsky, Chief of Staff, Ministry of Energy

SCHEDULE

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Canada and her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

PROCLAMATION

Building Opportunity and Securing Our Future Act (Budget Measures), 2014

We, by and with the advice of the Executive Council of Ontario, name January 1, 2015 as the day on which the following provisions of the *Building Opportunity and Securing Our Future Act (Budget Measures), 2014*, c. 7, come into force:

- (a) Schedule 2, which amends the *Broader Public Sector Accountability Act, 2010*.
- (b) Schedule 7, ss. 1, 2, 3 (1), 4-9, 10 (1), (2), 11-14, 15 (1), (3)-(14), which amend the *Electricity Act, 1998*.
- (c) Schedule 7, s. 16, which amends the *Broader Public Sector Executive Compensation Act, 2014*, set out in Schedule 1 to Bill 8 (*Public Sector and MPP Accountability and Transparency Act, 2014*) introduced on July 8, 2014.
- (d) Schedule 8, which amends the *Environmental Bill of Rights, 1993*.
- (e) Schedule 18, which amends the *Lobbyists Registration Act, 1998*.
- (f) Schedule 20, which amends the *Ministry of Energy Act, 2011*.
- (g) Schedule 23, which amends the *Ontario Energy Board Act, 1998*.

ANNEXE

ELIZABETH DEUX, par la grâce de Dieu, Reine du Royaume-Uni, du Canada et de ses autres royaumes et territoires, Chef du Commonwealth, Défenseur de la Foi.

PROCLAMATION

Loi de 2014 ouvrant des perspectives et assurant notre avenir (mesures budgétaires)

Sur l'avis du Conseil exécutif de l'Ontario, nous fixons le 1^{er} janvier 2015 comme jour d'entrée en vigueur des dispositions suivantes de la *Loi de 2014 ouvrant des perspectives et assurant notre avenir (mesures budgétaires)*, chap. 7 :

- a) Annexe 2 qui modifie la *Loi de 2010 sur la responsabilisation du secteur parapublic*.
- b) Annexe 7, art. 1, 2, 3 (1), 4-9, 10 (1), (2), 11-14, 15 (1), (3)-(14), qui modifient la *Loi de 1998 sur l'électricité*.
- c) Annexe 7, art. 16 qui modifie la *Loi de 2014 sur la rémunération des cadres du secteur parapublic*, figurant à l'annexe 1 du projet de loi 8 (*Loi de 2014 sur la responsabilisation et la transparence du secteur public et des députés*) déposé le 8 juillet 2014.
- d) Annexe 8 qui modifie la *Charte des droits environnementaux de 1993*.
- e) Annexe 18 qui modifie la *Loi de 1998 sur l'enregistrement des lobbyistes*.
- f) Annexe 20 qui modifie la *Loi de 2011 sur le ministère de l'Énergie*.
- g) Annexe 23 qui modifie la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*.



Ontario

Executive Council
Conseil exécutif

Order in Council Décret

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and concurrence of the Executive Council, orders that:

A proclamation in respect of the *Building Opportunity and Securing Our Future Act (Budget Measures), 2014* be issued in the form set out in the Schedule.

Sur la recommandation de la personne soussignée, le lieutenant-gouverneur, sur l'avis et avec le consentement du Conseil exécutif, décrète ce qui suit :

Est prise une proclamation à l'égard de la *Loi de 2014 ouvrant des perspectives et assurant notre avenir (mesures budgétaires)*, rédigée selon la formule figurant à l'annexe.

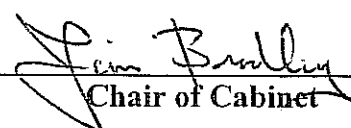
Recommandé par : Le ministre de l'Énergie,

Recommended 
Minister of Energy

Approuvé et décrété le

Approved and Ordered SEP 17 2014
Date

Appuyé par : Le président du Conseil des ministres,

Concurred 
Chair of Cabinet

Le lieutenant-gouverneur,


Lieutenant Governor

UNDERTAKING NO. J1.3

REFERENCE

September 18, 2014 Transcript Volume 2 p. 19

UNDERTAKING NO. J1.3: TO INQUIRE WHETHER THERE IS ANY OTHER
CORRESPONDENCE FROM THE MINISTRY IN RELATION TO THE MERGER
BETWEEN THE OPA AND THE IESO, OTHER THAN THE JULY 25TH LETTER, AND TO
FILE THE SAME

RESPONSE

The OPA has received minimal other correspondence from the Minister of Energy
regarding the IESO/OPA merger. This correspondence does not provide any direction to
the OPA and does not provide any additional relevant information beyond that already
provided in the July 17, 2014 letter. The OPA is not disclosing this correspondence on the
basis of relevance and in light of ongoing labour negotiations related to the merger.

Please note that as clarified in the OPA's response to undertaking J1.2 that the OPA made
an inadvertent error when it referred to a July 25, 2014 letter. The letter that set out the
date for the IESO/OPA merger is in fact dated July 17, 2014.

UNDERTAKING NO. J1.4

REFERENCE

September 18, 2014 Transcript Volume 2 p. 43

UNDERTAKING NO. J1.4: OPA TO PROVIDE INFORMATION AND FILE INFORMATION ON THE CONTINUITY OF THE ACCOUNT, THAT IS THE FVDA, SINCE IT WAS LAST CLEARED; TO EXPLAIN THE BASIS ON WHICH INTEREST ON THE ACCOUNT WAS CALCULATED, UP TO THE END OF 2013 AND RECONCILIATION OF THE \$33.788 MILLION THAT THEY HAVE SAID IS IN THE ACCOUNT

RESPONSE

The Forecast Variance Deferral Account ("FVDA") was established to record revenue variances and cost variances not otherwise incorporated into the revenue requirement submission of the prior year. As requested, the table below illustrates the activity since the FVDA was last cleared (at the end of 2010):

OPA FVDA Continuity Schedule (\$000's)	Beginning FVDA Surplus/(Deficit)	Revenue variance	Expense variance	Ending FVDA Surplus/(Deficit)
Year ended 2010				(1,154)
Year Ended 2011	(1,154)	(2,434)	3,285	(303)
Year Ended 2012	(303)	14,814	1,013	15,524
Year Ended 2013	15,524	17,366	898	33,788

The OPA notes that the components that contribute to the variance directly flow from the OPA's operations. Since the end of 2010, the accumulation can be attributed to 1) fees collected utilizing the interim 2011 rate and 2) under-spend in costs. Bank interest earned on the FVDA has been returned to ratepayers as a credit through the global adjustment mechanism.

UNDERTAKING NO. J1.5

REFERENCE

September 18, 2014 Transcript Volume 2 p. 51

UNDERTAKING NO. J1.5: TO EXPLAIN WHAT PAGE 4 OF THE HAY REPORT SHOWS IN TERMS OF WHERE 2013 OPA COMPENSATION FOR THE DIFFERENT GROUPS IS, RELATIVE TO THE BENCHMARK

RESPONSE

Page 4 of the Hay Report compares the *design* of the OPA's total direct cash compensation plan (or cash compensation structure) to that of a group of 24 organizations (12 public and 12 private sector organizations with core functions in the areas of asset management, engineering, professional services, public policy, and/or electricity/energy).

Specifically, the Report compares the mid-points (or job rates) of the OPA salary ranges to the mid-points (or job rates) of the blended group of 24 organizations, and shows that the OPA's mid-points are on average 5.2% above the mid-points of the blended group of 24. Further, it shows that the mid-point comparisons vary by salary range from 7.8% below the comparator group's mid-point to 20.8% above the comparator group's mid-point.

As a result of this analysis, and similar analysis in previous years, the OPA has not increased its total direct cash compensation structure since January, 2010.

It is important to note that 2013 was the first year that the OPA benchmarked its total direct cash compensation structure against this particular group of comparator organizations.

When the OPA was first established, the total direct cash compensation structure was modeled upon a group of companies in the electricity and energy sectors in the four largest Canadian provinces (Ontario, Quebec, British Columbia and Alberta). At that time, the OPA was staffing-up quickly to meet its original mandate of producing an Integrated Power System Plan within 3 years, and was competing in a very tight labour market for highly seasoned people who had worked in electricity agencies and gas utilities; therefore, that original, higher paying, benchmark group made sense in the beginning.

Over time, the OPA's mandate evolved, and it began to hire people with more diverse backgrounds and working experience; by 2013, it made sense to benchmark against a broader group of companies, from different sectors, that had core functions similar to the OPA's.

It is also important to note that the OPA's *actual* salary administration practices (i.e. how individuals' actual salaries have progressed through the compensation structure) have been extremely conservative for a number of years:

- 1 • In 2010, the OPA's actual average annual salary increase was 1.85%; the
2 Consumer Price Index increase was 1.8%; and compensation consulting firms
3 reported average increases across Canada ranging from 2.4% - 2.9%.
- 4 • In 2011, the OPA's actual average annual salary increase was 1.8%; the Consumer
5 Price Index increase was 2.9%; and compensation consulting firms reported
6 average increases across Canada ranging from 2.7% - 3%.
- 7 • In 2012, the OPA's actual average annual salary increase was .95%; the Consumer
8 Price Index increase was 1.5%; and compensation consulting firms reported
9 average increases across Canada ranging from 3% - 3.2%.
- 10 • In 2013, the OPA instituted an across-the-board freeze on all salary increases (i.e.
11 actual annual salary increase of 0%); the Consumer Price Index increase was 1.2%;
12 and compensation consulting firms reported average increases across Canada
13 ranging from 2.8% - 3.2%.
- 14 • In 2014, the OPA maintained its across-the-board freeze on all salary increases (i.e.
15 actual annual salary increase of 0%); the annual Consumer Price Index increase is
16 projected to be marginally above 2%; and compensation consulting firms reported
17 average increases across Canada ranging from 2.6% - 3%.

UNDERTAKING NO. J1.6

REFERENCE

September 18, 2014 Transcript Volume 2 p. 94

UNDERTAKING NO. J1.6: TO CONFIRM WHETHER THE MINISTER IS AWARE OF THE REQUEST FOR \$15 MILLION FOR MERGER COSTS AND WHETHER IT WAS APPROVED, AND TO PROVIDE ANY CORRESPONDENCE INDICATING THAT

RESPONSE

The Merger Working Group agreed with the OPA's recommendation to amend its 2014 Revenue Requirement Submission to retain additional funds in the amount of \$15 million in the FVDA to cover costs incurred in carrying out the merger, as well as other potential volatility in spending. The OPA and IESO determined the dollar amount. The Merger Working Group is composed of the chairs and CEOs from the IESO and OPA, as well as members of the management team from both organizations, the Deputy Minister of Energy, and the Minister of Energy's Chief of Staff.

