

August 31, 2016

**BY COURIER (2 COPIES) AND RESS**

**Ms. Kirsten Walli**

Board Secretary

Ontario Energy Board

2300 Yonge Street, Suite 2700, P.O. Box 2319

Toronto, Ontario M4P 1E4

Dear Ms. Walli:

**Re: EB-2016-0152 – Ontario Power Generation (“OPG”) – 2017 to 2018  
Payment Amounts**

We are writing on behalf of Environmental Defence pursuant to *Procedural Order #1* to provide submissions regarding the issues list and confidentiality.

**Issues List**

Environmental Defence believes that all of the issues it wishes to raise are contained within the draft issues list. However, we would like to confirm that the current issues list would allow the parties to explore whether OPG’s nuclear expenditures and financial commitments align with the Government of Ontario’s Long Term Energy Plan (“LTEP”). We raise this because the issues list for the previous payment amounts application included specific reference to alignment with LTEP while the draft for this proceeding does not.<sup>1</sup>

The LTEP outlines seven principles that the nuclear refurbishment process must adhere to, including that it must “entrench appropriate and realistic off-ramps.”<sup>2</sup> Environmental Defence wishes to examine whether the proposed expenditures and financial commitments are consistent with those principles. We believe this would be subsumed in issues 4.1 and 4.2, which ask whether the requirements of O. Reg 53/05 s. 6(2)4 are met and whether the expenditures and commitments are reasonable. However, if the Board believes that this is not the case, Environmental Defence respectfully requests that an issue be added to the list asking whether OPG’s expenditures and financial commitments align with the Government of Ontario’s Long-Term Energy Plan.

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<sup>1</sup> The relevant issue in the previous application (EB-2013-0321) read as follows: “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?”

<sup>2</sup> Long-Term Energy Plan, December 2013, p. 29

## Confidentiality

Environmental Defence does not consent or agree with OPG's extensive confidentiality requests and submits that OPG has not provided sufficient information to assess each specific piece of information that has been redacted. For example, in relation to the nuclear business case summaries, OPG's entire submissions read as follows:

The redacted portions of the BCSs should be protected as confidential as this information includes commercially sensitive information such as contingencies, certain costs for contracted or purchased work or materials, or aggregate information that would allow determination of commercially sensitive information. Disclosure of the redacted portions of the BCSs that include OPG commercially sensitive information would prejudice OPG's competitive position and significantly interfere with its negotiations and existing relationships in a variety of aspects of its business. Furthermore, similar information was treated as confidential by the OEB in OPG's previous applications, EB-2010-0008 and EB-2013-0321.

These submissions simply assert that the information is commercially sensitive. OPG does not explain *why* the information is purportedly sensitive. Nor does it explain how release of the information would prejudice OPG's competitive position. Intervenors such as Environmental Defence are therefore left to view each piece of information and guess why OPG believes it is sensitive and could hurt its competitive position.

Although some of the redacted information is likely sensitive, OPG has not provided sufficient submissions to separate the information that is from the information that is not. In the absence of detailed submissions from OPG, we cannot address each and every piece of information. Instead, Environmental Defence will attempt to make its case based on non-confidential information wherever possible. However, if it becomes clear that a certain important piece of information should be made public, Environmental Defence may ask that the Board order that said information be placed on the public record.

Yours truly,



Kent Elson