

**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.

**WRITTEN REPLY SUBMISSION OF THE APPLICANT,  
ONTARIO POWER GENERATION INC.  
RE: DRAFT ISSUES LIST AND CONFIDENTIAL FILINGS**

**Introduction**

In accordance with the Ontario Energy Board's (the "OEB") Procedural Order No. 1 in this proceeding and further to the comments from Board staff and other parties on the draft Issues List and confidential filings, this is the reply submission of Ontario Power Generation Inc. ("OPG"). In this submission, OPG responds to the submissions of Board staff, Association of Major Power Consumers in Ontario ("AMPCO"), Consumers Council of Canada ("CCC"), Energy Probe, Environmental Defence, Independent Electricity System Operator ("IESO"), School Energy Coalition ("SEC"), and Sustainability-Journal.

**Issues List**

OPG's submissions on the draft Issues List are organized by issue according to the revised draft Issues List provided as Schedule A to Board staff's submissions, so that the comments of all parties on an issue are addressed under that issue. If an issue is not listed, OPG has no submissions.

**General Principles**

In support of its submissions on the draft Issues List, OPG has identified two principles that should be applied in finalizing the Issues List as follows:

*Issues Should Be Broadly Defined*

September 9, 2016

Where there is a broader issue that captures the approval requested in OPG's application, sub-issues should not be included on the Issues List. Limiting the number of issues on the Issues List by avoiding sub-issues will result in greater efficiency by simplifying the interrogatory process, which requires sorting interrogatories by issue and reducing the number of specific issues to be addressed in argument.

*Regulatory Matters Unrelated To the Application Should Be Addressed In a Separate Proceeding*

The OEB should avoid adding issues or inquiries that are unrelated to the application (and more effectively considered in another proceeding) merely because some parties believe that the proceeding provides a convenient forum for the unrelated matters to be heard. OPG has applied for payment amounts and submitted evidence on all issues that are relevant to the determination of new payment amounts for 2017-2021 in accordance with the filing guidelines established by the OEB. Introducing issues beyond the scope of OPG's application is inefficient and will reduce the focus on material issues that are central to the determination of payment amounts.

**Issue 1.2: Are OPG's economic and business planning assumptions appropriate for the nuclear assets?**

AMPCO submits that the issue should be revised to: "*Are OPG's economic and business planning assumptions appropriate for 2017 to 2021?*" OPG disagrees with this revision. OPG has filed an application based on a comprehensive incentive rate-making ("IR") framework for its prescribed hydroelectric facilities. For the five years covered by this application, the company's hydroelectric payment amounts will be determined mechanistically by a price-cap index (including a stretch factor) that parallels the OEB incentive rate-making method for electricity distributors. This methodology decouples rate making from costs. Therefore, the business planning assumptions that are the focus of this issue should only be considered for the nuclear facilities and are not relevant to the payment amounts for the hydroelectric facilities.

**Issue 1.3: Is the overall increase in nuclear payment amounts reasonable given the overall bill impact on customers?**

Energy Probe proposes to revise this issue to: "*Is the overall increase in nuclear payment amounts, including any rate riders and excluding rate smoothing, reasonable given the bill impact on customers?*" OPG submits that the revision proposed by Energy Probe should not be adopted for two reasons. First, the inclusion of the reference to rate riders is confusing. OPG has proposed rate riders for 2017 and 2018 and included them

in its determination of customer impact. It is not seeking approval of rate riders in the years 2019-2021 and any estimate of customer impacts arising from rate riders in those years would be speculative.

Second, the proposal to exclude rate smoothing is unreasonable as it seeks to evaluate a bill impact that customers will never incur. The nuclear payment amounts proposed in OPG's application are smoothed, consistent with the requirements of O. Reg. 53/05. The application is transparent with respect to the smoothed and unsmoothed nuclear payment amounts (see Ex. I1-3-1 Table 1), but customer bill impacts are determined on the basis of the smoothed payment amounts because these are the payment amounts customers will pay. In addition, the nuclear rate smoothing proposal is considered in issue 11.6. An additional issue beyond that of issue 11.6 should not be accepted by the OEB.

**Issue 2.1: Are the amounts proposed for nuclear rate base (excluding those for the Darlington Refurbishment Program) appropriate?**

**Issue 2.2: Are the amounts proposed for nuclear rate base for the Darlington Refurbishment Program appropriate?**

Board staff, AMPCO and SEC propose separating the rate base issue for nuclear into two issues: one excluding the Darlington Refurbishment Program ("DRP") and one specific to the DRP. OPG does not oppose this proposal.

**Issue 3.1: Are OPG's proposed capital structure and rate of return on equity appropriate?**

Energy Probe proposes adding "*given the heightened financial and economic risks associated with nuclear refurbishment*" to this issue. Adoption of Energy Probe's proposal is neither necessary nor appropriate. It is unnecessary because the added language does nothing to change the scope of the issue. It is inappropriate as it would put the OEB in the position of having to make a factual determination relating to financial and economic risks as part of establishing the Issues List. Energy Probe is free to argue that aspect in the context of the issue, which is sufficiently broad to include this factual assertion.

**Issue 4.2: Are the proposed nuclear capital expenditures and/or financial commitments (excluding those for the Darlington Refurbishment Program) reasonable?**

Board staff, AMPCO and SEC propose creating a separate issue for nuclear capital expenditures excluding DRP. OPG does not oppose this proposal.

Environmental Defense requests confirmation that this issue (and issue 4.1) allows parties to explore whether OPG's nuclear expenditures and financial commitments align

with the Government of Ontario's Long Term Energy Plan ("LTEP"). OPG addresses this submission from Environmental Defence under proposed issue 4.6 below.

**Issue 4.3: Are the proposed nuclear capital expenditures and/or financial commitments for the Darlington Refurbishment Program reasonable?**

Board staff, AMPCO, and SEC propose adding an issue related to the proposed capital expenditures for DRP. OPG disagrees with the addition of this issue. OPG has not sought approval of the annual capital expenditures for the Darlington Refurbishment Program because this approval is not meaningful. The DRP capital expenditures in the 5-year term of the application are attributable to different components of the DRP, including Facility and Infrastructure Projects, Safety Improvement Opportunities, Unit Refurbishment – Early In-service Projects, Unit 2 Refurbishment, Unit 3 Refurbishment and Unit 1 Refurbishment. During the execution phase, the annual costs of these components may vary from those in the application but the project is still expected to meet its schedule and cost targets. The relevant issues in this proceeding are the project in-service amounts and their timing as captured by issue 4.5 and not the forecast expenditure levels in advance of the assets coming into service.

OPG believes the approach taken by the OEB in EB-2013-0321 should continue to apply here. In that case the OEB did not approve capital expenditures for DRP, but focused on in-service amounts.

Energy Probe proposes to add to this issue: *"Is OPG's cost estimate of \$12.8 billion for the Darlington Refurbishment Project reasonable and appropriate?"* This addition would require the OEB to address costs outside the test period that are not the subject of OPG's application and are not addressed in its evidence. The application seeks approval of only those DRP costs that come into service during the 5-year term of the application. The addition proposed by Energy Probe is contrary to the OEB's decision in EB-2013-0321 (p. 60), which states: *"The Board notes that the majority of the capital expenditures proposed will not be added to rate base within the test period. The Board will not determine whether the amounts are reasonable or not, deferring that decision until OPG seeks to add these capital expenditures to rate base."* The proposal by Energy Probe should not be accepted.

**Issue 4.6: Does OPG's DRP strategy align appropriately with the Government of Ontario's Long Term Energy Plan?**

AMPCO and Environmental Defense propose addition of an issue on the alignment of DRP with the Government of Ontario's LTEP. OPG disagrees with the addition of this issue. O. Reg. 53/05 establishes that the OEB shall accept the need for the DRP in light of the LTEP:

*The Board shall accept the need for the Darlington Refurbishment Project in light of the Plan of the Ministry of Energy known as the 2013 Long-Term Energy Plan*

*and the related policy of the Minister endorsing the need for nuclear refurbishment. (O. Reg. 53/05 section 6(2)12 v.)*

In amending O. Reg. 53/05, the Government has already determined that DRP aligns with the LTEP. In this application, the OEB is only tasked with determining the appropriate costs for DRP to be included in the nuclear payment amounts. The OEB stated in determining the Issues List in EB-2013-0321 *"Parties are reminded that the Board's jurisdiction is the setting of payment amounts and not the management of OPG's activities or the selection of generation options"* (EB-2013-0321 Procedural Order No. 3, p. 10).

**Issue 5.1: Is the proposed nuclear production forecast appropriate.**

Energy Probe proposes adding *"given the heightened financial and economic risks associated nuclear refurbishment projects"* to this issue. For the reasons given in relation to issue 3.1, OPG submits that Energy Probe's proposal should not be accepted.

**Issue 6.1: Is the test period Operations, Maintenance and Administration budget for the nuclear facilities (excluding that for the Darlington Refurbishment Program) appropriate?**

Board staff, AMPCO and SEC propose specifying that this issue excludes OM&A for the DRP. OPG does not oppose this proposal.

**Issue 6.2: Is the nuclear benchmarking methodology reasonable? Are the benchmarking results and targets flowing from OPG's nuclear benchmarking reasonable?**

Board staff, AMPCO and SEC propose adding *"Is the nuclear benchmarking methodology reasonable?"* to this issue. OPG does not oppose this addition.

**Issue 6.5: Are the test period expenditures related to extended operations for Pickering appropriate?**

CCC and Sustainability-Journal propose revising the issue to: *"Are OPG's proposals related to the extended operations for Pickering and the impacts on the payment amounts appropriate?"* OPG submits that this proposal should not be accepted. The Ministry of Energy has endorsed Pickering extended operations. The proposed revision by CCC and Sustainability-Journal would broaden the OEB's review to include system planning and the consideration of whether extended operations should proceed.

The OEB considered a similar issue in EB-2013-0321 in respect of the continued operation of Pickering to 2020. In determination of the Issues List in that proceeding, the OEB said: *"Parties are reminded that the Board's jurisdiction is the setting of payment amounts and not the management of OPG's activities or the selection of generation options"* (EB-2013-0321 PO No. 3, p. 10). It reiterated its position in the decision: *"The Board reiterates its view that the project is consistent with government direction, and that benefits (while significantly reduced from OPG's estimate) were determined by the OPA*

*to be positive. The OPA also brought to the Board's attention the non-economic benefits of Pickering Continued Operations. For these reasons, the Board does not see the value of directing OPG to complete a detailed analysis of the net benefits of continued operation of Pickering units" (EB-2013-0321 Decision with Reasons, p. 51). The OEB should take the same view in the current proceeding and not adopt the issue proposed by CCC and Sustainability-Journal.*

**Issue 6.6: Are the test period human resource related costs for the nuclear facilities (wages, salaries, benefits, incentive payments, FTEs and pension costs) appropriate?**

AMPCO proposes that the issue should include the question of whether the test period resource optimization strategies are appropriate. OPG submits that the OEB should not accept this addition. The creation and implementation of resource optimization strategies remain within the purview of management at OPG. The OEB's role is to consider whether the resulting costs that flow into payment amounts are appropriate and this question is captured by the existing issue.

**Issue 6.7: Are the corporate costs allocated to the nuclear businesses appropriate?**

**Issue 6.8: Are the centrally held costs allocated to the nuclear business appropriate?**

The IESO proposes that issues 6.7 and 6.8 should address costs allocated to the regulated business rather than those costs allocated to the nuclear business. This proposal should be rejected as it does not recognize the nature of OPG's incentive regulation application for the hydroelectric facilities. As stated above for issue 1.2, OPG has filed an application based on a comprehensive incentive rate-making (IR) framework for its prescribed hydroelectric facilities. For the five years covered by this application, the company's hydroelectric payment amounts will be determined mechanistically by a price-cap index (including a stretch factor) that parallels the OEB rate-setting method for electricity distributors. This methodology decouples rate making from costs. Therefore, OPG's evidence on allocated costs relates only to the nuclear facilities.

**Issue 8.2: 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?**

AMPCO proposes the addition of issue 8.2 regarding the revenue requirement methodology for recovering nuclear liabilities. This issue should not be accepted. The methodology for recovering nuclear liabilities was established in EB-2007-0905. The OEB upheld this methodology in EB-2010-0008 and EB-2013-0321. In addition, the recovery of nuclear liabilities for the prescribed facilities and the costs OPG incurs for the nuclear liabilities with respect to the Bruce Nuclear Generating Stations are set out in O. Reg. 53/05:

Section 6(2)8. *The Board shall ensure that Ontario Power Generation Inc. recovers the revenue requirement impact of its nuclear decommissioning liability arising from the current approved reference plan.*

Section 6(2)9. *The Board shall ensure that Ontario Power Generation Inc. recovers all the costs it incurs with respect to the Bruce Nuclear Generating Stations.*

Given the extensive review the regulatory treatment of nuclear liabilities has received in past OPG proceedings and the constraints imposed by O. Reg. 53/05, OPG submits that issue 8.1: *"Is the revenue requirement impact of the nuclear liabilities appropriately determined?"* is sufficient for consideration of the nuclear liabilities.

**Issue 9.1: Are the nature or type of costs, as well as the methodologies for recording costs in the deferral and variance accounts appropriate?**

Board staff, AMPCO and SEC propose that the issue should include consideration of the methodologies for recording costs to provide clarity on the reference values for determining additions to deferral and variance accounts. OPG does not oppose this proposal.

**Issue 9.6: Is the rate smoothing deferral account related to the Darlington Refurbishment Program that OPG proposes to establish appropriate?** Board staff, AMPCO and SEC propose a new issue 9.6 as stated above. OPG does not oppose creating a separate issue to address the rate smoothing deferral account but the wording proposed by Board staff is not consistent with the requirements of O. Reg. 53/05. O. Reg. 53/05 requires that OPG establish a rate smoothing deferral account; the account is not related solely to the Darlington Refurbishment Program but relates to the nuclear facilities as a whole:

**5.5 (1) Ontario Power Generation Inc. shall establish a deferral account in connection with section 78.1 of the Act that records, on and after the commencement of the deferral period, the difference between,**

*(a) the revenue requirement amount approved by the Board that, but for subparagraph 12 i of subsection 6 (2) of this Regulation, would have been used in connection with determining the payments to be made under section 78.1 of the Act each year during the deferral period **in respect of the nuclear facilities**; and*

*(b) the portion of the revenue requirement amount referred to in clause (a) that is used in connection with determining the payments made under section 78.1 of the Act, after determining, under subparagraph 12 i of subsection 6 (2) of this Regulation, the amount of the revenue requirement to be deferred for that year **in respect of the nuclear facilities**. (emphasis added)*

OPG proposes the following wording if the OEB decides to create a specific issue to address the rate smoothing deferral account: *"Does the rate smoothing deferral account meet the requirements of O. Reg. 53/05?"*

In addition, see OPG's submissions on issue 11.6 regarding OPG's proposal for smoothing nuclear payment amounts.

**Issue 9.7: Are any other new deferral and variance accounts that OPG proposes to establish appropriate?**

Board staff and SEC propose that the issue should be worded as “*Are any other new deferral or variance accounts that OPG proposes to establish appropriate?*” OPG does not oppose this wording.

AMPCO proposes that the issue include reference to deferral and variance accounts that other parties may propose. CCC proposes that the issue should be written generally as “*Should any newly proposed deferral and variance accounts be approved by the OEB?*” to include potential proposals from other parties. OPG submits the issue should be reworded to require parties who wish to propose new deferral and variance accounts to do so by filing evidence so that the proposed accounts can be tested in the hearing. OPG proposes the following wording: “*Are any other new deferral and variance accounts proposed in evidence, appropriate?*”

**Issue 10.1: Are the proposed reporting and record keeping requirements appropriate?**

CCC proposes a new issue, similar to 10.1, but specific to the DRP. OPG submits that a new issue should not be established, as reporting requirements for DRP are a sub-issue of 10.1. In fact, OPG’s evidence specifically includes reference to the proposed reporting requirements for DRP in its evidence (Ex. D2-2-9, p. 9).

**Issue 10.2: Is the monitoring and reporting of performance proposed by OPG for the regulated hydroelectric facilities adequate?**

**Issue 10.3: Is the monitoring and reporting of performance proposed by OPG for the nuclear facilities adequate to determine whether the planned productivity and efficiency gains are achieved?**

Board staff, AMPCO and SEC propose that separate issues be added for monitoring and reporting of performance for the regulated hydroelectric facilities and the nuclear facilities. OPG submits that these issues are sub-issues of issue 10.1 and should not be added.

With respect to the nuclear facilities, the proposed wording includes consideration of the planned productivity and efficiency gains. This wording should not be adopted as it is inconsistent with OPG’s proposal for a stretch factor for the nuclear facilities. OPG’s evidence is that it has established a stretch factor which requires actions to find increasing amounts of savings above those currently planned in each year of the IR term. OPG’s proposed stretch factor provides customers with the benefits of these



savings in advance of OPG's identification of the productivity and efficiency gains that will produce the savings.

**Issue 11.1: Has OPG responded appropriately to OEB direction on establishing incentive regulation for the regulated hydroelectric facilities?** Board staff, AMPCO, and SEC propose that the Issues List include separate issues for incentive regulation for the regulated hydroelectric and the nuclear facilities. OPG does not oppose the creation of separate issues.

CCC and Sustainability-Journal propose that the issue be rewritten more generally as: *"Is OPG's approach to IR for establishing the hydroelectric payment amounts appropriate?"* OPG does not oppose this wording.

Energy Probe proposes as a new issue: *"Is OPG's Total Factor Productivity proposal appropriate and in line with the Board's move to incentive regulation?"* OPG submits that this issue should not be added to the list as it is a sub-issue of issue 11.1, especially if the CCC and Sustainability-Journal's proposed wording is accepted.

**Issue 11.2: Are OPG's hydroelectric payment amounts arising from EB-2013-0321, as adjusted, appropriate as base rates for applying the hydroelectric incentive regulation mechanism over the 2017-2021 period?**

Board staff, AMPCO and SEC propose a new issue related to the base rates for OPG's regulated hydroelectric payment amounts. This issue should not be accepted by the OEB as proposed because it does not recognize the nature of OPG's application and the broad wording proposed could potentially open the question of rebasing the hydroelectric payment amounts. As stated above (issues 1.2 and 6.8), OPG has filed an application based on a comprehensive IR framework for its prescribed hydroelectric facilities. The base payment amounts that are the starting point for IR arise from EB-2013-0321. These payment amounts were determined by the OEB to be just and reasonable in that proceeding. The proposed issue as worded would open the proceeding to a full re-evaluation of the costs underpinning these approved payment amounts.

In its submissions, Board staff references the tax loss adjustment OPG has made to hydroelectric payment amounts from EB-2013-0321 to establish the starting point for incentive regulation. OPG agrees that any adjustments to payment amounts from EB-2013-0321 are appropriately considered and proposes the following wording for the issue: *"Are the adjustments OPG has made to regulated hydroelectric payment amounts arising from EB-2013-0321 appropriate for establishing base rates for applying the hydroelectric incentive regulation mechanism?"*

**Issue 11.2A Are OPG's payment amounts appropriately designed to incent OPG to operate its regulated generation facilities to earn Other Revenues so as to fairly benefit both OPG and ratepayers**

The IESO has proposed a new issue on other revenues for OPG's regulated facilities. This issue is not appropriately considered in the current payment amounts proceeding for three reasons:

- The issue as described in the IESO's submission relates primarily to OPG's regulated hydroelectric facilities, and hydroelectric other revenues are not considered in this application;
- The issue as it relates to ancillary services is not an OPG-specific issue but one that engages a number of IESO market participants;
- The IESO either has market mechanisms available to it under the market rules or under consideration through the IESO's stakeholder engagement initiatives<sup>1</sup> for obtaining the ancillary services and other forms of operating flexibility it requires, including ancillary service contracts.

Each of these reasons is considered separately below.

As stated above, OPG's application in respect of the regulated hydroelectric facilities is a pure incentive regulation application. It uses rates previously established by the OEB in EB-2013-0321 as base rates and the issue before the OEB is the adjustment formula that should be applied. Hydroelectric costs and revenues are not a consideration in the current proceeding – they will next be considered by the OEB when OPG files for rebasing the hydroelectric payment amounts.

Ancillary services are competitively procured within the IESO administered procurement markets. The IESO contracts with market participants, including OPG, for ancillary services to ensure the reliable operation of the power system. The IESO's website states: "*The IESO is committed to a fair, competitive process to award ancillary service contracts.*"

<http://www.ieso.ca/Pages/Participate/Markets-and-Programs/Ancillary-Services-Market.aspx>

Any incentive for provision of these services is best developed by the IESO with the involvement of all eligible market participants rather than through an OPG payment amounts proceeding.

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<sup>1</sup> <http://www.ieso.ca/Pages/Participate/Stakeholder-Engagement/Active-Consultations.aspx>

The IESO has market mechanisms available to it to obtain the products it requires for system operation. In fact, it has recently issued a request for information on this very subject, the *IESO Regulation Service Request for Information*. OPG intends to participate in this request for information. In addition, OPG is participating in the IESO stakeholder engagement initiative related to this issue.

**Issue 11.3: Has OPG responded appropriately to OEB direction on establishing incentive regulation for the nuclear facilities?**

Board staff, AMPCO, and SEC propose that the Issues List include separate issues for incentive regulation for the regulated hydroelectric and the nuclear facilities. OPG does not oppose the creation of separate issues.

CCC and Sustainability-Journal propose that the issue be rewritten more generally as: *"Is OPG's approach to IR for establishing the nuclear payment amounts appropriate?"* OPG does not oppose this wording.

**Issue 11.4: Does the nuclear Custom IR application adequately account for productivity and efficiency gains in its forecasts? Does the Custom IR application adequately include expectations for productivity and efficiency gains relative to benchmarks and establish an appropriately structured incentive-based rate framework?**

Board staff and SEC propose an additional issue on productivity and efficiency gains in the nuclear IR framework. OPG submits that this issue is a sub-issue of issue 11.3 and should not be established as a separate issue, especially if CCC and Sustainability-Journal's proposed wording is adopted for issue 11.3.

**Issue 11.5: Are OPG's proposed nuclear off-ramps and mid-term review appropriate?**

Board staff and SEC propose a new issue for off-ramps and the proposed mid-term review. While OPG does not oppose the issue with respect to the mid-term review, the issue is not appropriately framed with respect to off-ramps. OPG does not propose a nuclear off-ramp in its application. OPG's off ramp proposal is based on OPG's regulated ROE (not determined separately for regulated hydroelectric and nuclear facilities) and is entirely consistent with the RRFE (p. 13). It is appropriately considered under issues 11.1 and 11.3.

**Issue 11.6: Is OPG's proposal for smoothing nuclear payment amounts consistent with O. Reg. 53/05?**

CCC and Sustainability-Journal propose the issue be revised to establish whether OPG's rate smoothing proposals are appropriate and in the public interest. Energy

Probe submits that the issue should include consideration of whether the rate smoothing proposal is in the best interests of ratepayers. OPG submits that both of these proposals should be rejected. The requirement for nuclear rate smoothing is established in O. Reg. 53/05. The issue must include consideration of the requirements of the regulation. OPG accepts that the OEB will want to consider how OPG has implemented the requirements of the regulation and proposes the following wording: *"Is OPG's proposal for smoothing nuclear payment amounts appropriate and consistent with O. Reg. 53/05."*

### **Confidentiality**

Submissions as to whether confidential treatment should be afforded to the information proposed by OPG were made by Board staff, SEC, Environmental Defence, CCC, and Energy Probe. Board staff, CCC, and Energy Probe had no objections to OPG's request for confidential treatment of the proposed information.

This submission addresses:

1. A response to the submission of SEC dated August 31, 2016; and
2. A response to the submission of Environmental Defense dated August 31, 2016.

### **OPG Response to the Submission of SEC**

#### **DRP Contracts and Contract Summaries**

The submission of SEC on confidentiality dated August 31, 2016, states:

*Regardless, since it is SNC/AECON JV and Candu who are really seeking the confidentiality over most of this information and not OPG, the IPC decision regarding section 18(1)(c) of FIPPA cannot be a basis for the Board granting confidentiality status. Section 18(1)(c) is about protecting the disclosure of information that would harm the economic interests or competitive position of an institution, which is an entity under the purview of FIPPA (i.e. OPG), not a third-party (i.e. SNC/AECON JV or Candu) to the request, as is the case section under 17(1)(a) or (c).*

*With respect to the information for which OPG is seeking confidential treatment independent of SNC/AECON JV and Candu, besides the Extended Services Master Services Agreement, which SEC accepts, it has not provided any specific rationale for why it should be confidential. It is not even clear to SEC which redactions are those it independently seeks confidential treatment on, or that were done so as to not prejudice any request SNC/AECON JV or Candu would make. **OPG should specifically identify redactions of the contracts and contract summaries that it is seeking independent of that sought by SNC/AECON JV or Candu, and the reasons for it.** [emphasis added]*

The redactions that OPG is seeking independent of those sought by the SNC/Aecon JV or Candu are the protections that relate to section 17(1)(a) and (c) of FIPPA per the IPC decision referenced by SEC. OPG is not independently seeking, except as OPG has previously submitted with respect to the information in the Extended Services Master

Service Agreement (“ESMSA”) agreements, any protections related to section 18 of FIPPA per the IPC decision or otherwise. OPG takes no position on whether protection of the subject information as claimed by the SNC/Aecon JV or Candu is available to them under section 18 of FIPPA or otherwise.

As set out in OPG’s confidentiality request letter of May 27, 2016, the redactions which OPG itself seeks to protect are some of the pricing information in the ESMSA:

1. Section 1.1 (ggg) (overhead percentage);
2. Section 1.1 (rrr) (profit percentage);
3. Section 8.1 (f), (g) and (i) (agreed to administrative fees in respect of goods, subcontracts and equipment rental); and
4. Schedule 4 (reimbursable labour cost table).

Where applicable, OPG also requested that the above information be redacted from the ESMSA Contract Summary. Furthermore, the same information was redacted from page 66 of Exhibit D2-2-8, Attachment 3 (specifically, the second and third redactions). The balance of the proposed redactions in the ESMSA and the ESMSA Contract Summary are requested by the SNC/Aecon JV.

#### DRP Reports

As stated in OPG’s confidentiality request letter of May 27, 2016, in addition to the information OPG requested to be redacted so as to not prejudice the position of the SNC/Aecon JV, OPG also redacted information concerning commentary on the performance of specific vendors in the DRP. The information OPG itself seeks to protect in the DRP reports can be found at:

1. Exhibit D2-2-8, Attachment 2, page 11, second redaction;
2. Exhibit D2-2-8, Attachment 2, page 15;
3. Exhibit D2-2-8, Attachment 2, page 16;
4. Exhibit D2-2-8, Attachment 2, page 28;
5. Exhibit D2-2-9, Attachment 2, page 4;
6. Exhibit D2-2-9, Attachment 2, page 9;
7. Exhibit D2-2-9, Attachment 2, page 16;
8. Exhibit D2-2-9, Attachment 2, page 23;
9. Exhibit D2-2-9, Attachment 2, page 24;
10. Exhibit D2-2-10, Attachment 1, page 2, first redaction; and
11. Exhibit D2-2-10, Attachment 1, page 20.

#### **OPG Response to the Submission of Environmental Defense**

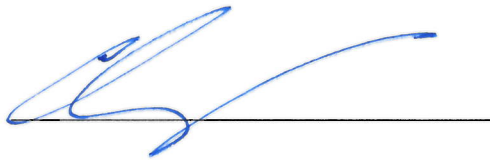
Environmental Defense submits that OPG has not provided sufficient information to assess each specific piece of information redacted, and that OPG does not explain why the information is purportedly sensitive. OPG disagrees with this submission. In the example cited in Environmental Defense’s submission itself, OPG identifies that the

information is commercially sensitive because disclosure would “prejudice OPG’s competitive position and significantly interfere with its negotiations and existing relationships in a variety of aspects of its business.” OPG submits that its submissions in this regard have been sufficient in prior OPG cases to permit the OEB to determine whether confidential protection should be granted or not.

In addition, Environmental Defense also submits that OPG has not provided sufficient submissions to separate the information that is from the information that is not confidential. OPG again disagrees, as OPG’s redactions are detailed and minimal, and appropriately separate information that is confidential from that which is not.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

*[Original signed by]*



Charles Keizer  
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Ontario Power Generation Inc.