



Jay Shepherd

Professional Corporation
2200 Yonge Street,
Suite 1302
Toronto, Ontario M4S 2C6

BY EMAIL and RESS

November 9, 2016
Our File No. 20160152

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2016-0152 – OPG Payment Amounts – Issues Prioritization

We are counsel for the School Energy Coalition. Pursuant to Procedural Order #1, this letter constitutes SEC's submissions with respect to prioritization of the issues in this matter.

In preparing these submissions, we have had the opportunity to review the submissions of OEB Staff and OPG, which have been most helpful. In the interests of efficiency, we have commented below only on the issues that OEB Staff or OPG have suggested should be Secondary.

Where OEB Staff and OPG have both proposed that an issue be Primary, and thus considered in the oral hearing, SEC agrees with those proposed Primary Issues.

With respect to the remaining issues, our comments are as follows:

1.1 ***OEB Directions.*** SEC agrees that this is a Secondary issue, although notes that the issue may arise collaterally with respect to a number of the Primary issues. In that case – and this is true of all Secondary issues – to the extent that it is relevant to consider it in relation to the Primary issue it would be included in the consideration at the oral hearing.

3.2 **Debt Costs.** SEC generally agrees this can be dealt with in writing, but notes that the expected rate of interest on long term debt is indirectly relevant to the issue of capital structure, which is and should be Primary.

6.3 **Nuclear Fuel Costs.** SEC agrees that this is Secondary, but notes that it arises collaterally as part of the nuclear production forecast and other issues that are clearly Primary.

6.9 **Nuclear Depreciation.** OEB Staff proposes this be Primary, but OPG proposes that it be Secondary. To the extent that the pace of capital spending on nuclear is in question in the oral hearing, as it clearly is, the depreciation will also be at issue. In addition, it would appear to us that the effective useful life of new nuclear assets may be a subject that should be explored as a minor part of questions on the spending levels on those assets.

6.10 **Nuclear Taxes.** OEB Staff proposes this be Primary, but OPG proposes that it be Secondary. SEC agrees with OEB Staff.

6.11 **Asset Service Fees.** SEC agrees that in general the asset service fees do not need to be considered in the oral hearing. The exception to that is the OPG head office, which is part of the asset service fee. SEC wishes to ask questions of OPG witnesses relating to the transactions involving that asset, and their implications on rates. See IR 2.1-SEC-008.

7.1 **Nuclear Non-Energy Revenues.** SEC agrees this issue can be dealt with in writing.

7.2 **Bruce Lease Impacts.** OEB Staff proposes this be Primary, but OPG proposes that it be Secondary. As with past payment amounts proceedings, this issue will be complex due to the accounting methodologies used. SEC believes that questions on this in the hearing may allow the Board panel to more clearly understand the details of what OPG is proposing for the Test Period in this area.

8.1 **Nuclear Liabilities Methodology.** At the present time it would appear to us that this can be dealt with in writing. SEC notes that this may change as a result of questions at the Technical Conference. We also note that issues of asset life, depreciation, and pacing of capital spending are intertwined with the nuclear liabilities calculation, and to that extent nuclear liabilities may come up in the oral hearing collateral to those issues.

9.1 **Deferral Accounts – Costs.** OEB Staff proposes this be Primary, but OPG proposes that it be Secondary. SEC agrees with OEB Staff. A significant component of the revenue requirement for OPG flows through deferral and variance accounts, and in our submission those material accounting entries should be tested in a public hearing.

9.2 **Deferral Accounts – Methodology.** OEB Staff proposes this be Primary, but OPG proposes that it be Secondary. SEC agrees with OEB Staff, for the reasons noted above.

9.3 **Deferral Accounts – Balances.** SEC agrees that, once the inquiry in 9.1 and 9.2 is dealt with, this issue does not require additional consideration in the oral hearing.

9.4 **Deferral Accounts – Disposition Amounts.** See comments in 9.3 above.

9.5 **Deferral Accounts – Disposition Methodology.** OEB Staff proposes this be Primary, but OPG proposes that it be Secondary. SEC agrees with OEB Staff.

9.6 **Deferral Accounts – Continuation.** OEB Staff proposes this be Primary, but OPG proposes that it be Secondary. SEC agrees with OEB Staff.

9.8 **Deferral Accounts – New.** OEB Staff proposes this be Primary, but OPG proposes that it be Secondary. SEC agrees with OEB Staff. OPG notes that no new deferral accounts have been proposed (other than rate smoothing). This is true, but that is precisely the reason why this should be reserved to the oral hearing. New deferral accounts will only arise in the context of another issue, and at this point only in the context of a review of that other issue either in the oral hearing or at the Technical Conference. If no new accounts arise, then the issue is moot. If they do arise during these parts of the process, then parties should not be restricted from pursuing them because of an *a priori* determination that was made before the Board had knowledge of the relevant facts. The Board always has the ability during the hearing to identify matters that, while relevant, are not material, and to limit cross-examination on them.

10.1 **Reporting and Record-Keeping.** At issue in this proceeding will be the extent to which the Board maintains ongoing transparency between OPG and the regulator during a period of massive change at OPG. While the reporting issues that do come up are likely going to come up in the context of other issues, most of which would be Primary, SEC believes that it is better to keep this as part of the oral hearing.

10.2 **Hydroelectric Performance Monitoring.** OEB Staff proposes this be Primary, but OPG proposes that it be Secondary. SEC agrees with OEB Staff. See 10.1 above.

10.3 **Nuclear Performance Monitoring.** OEB Staff proposes this be Primary, but OPG proposes that it be Secondary. SEC agrees with OEB Staff. See 10.1 above.

10.4 **DRP Reporting.** OEB Staff proposes this be Primary, but OPG proposes that it be Secondary. SEC agrees with OEB Staff. SEC is surprised that OPG does not want the Board to be able to explore the scope and content of DRP reporting during the oral hearing. A full discussion of this should be in everyone's interests.

11.2 **Hydroelectric Base Year Adjustments.** SEC notes that this is the first time OPG hydroelectric will be on IRM, and the lack of a cost of service rebasing year is unusual. SEC therefore believes that this issue should be in scope for the oral hearing, as a closely connected part of issue 11.1.

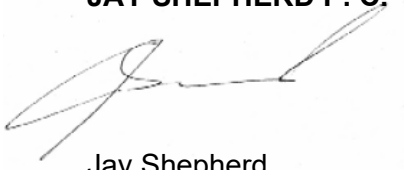
11.5 **Mid-Term Review.** OEB Staff proposes this be Primary, but OPG proposes that it be Secondary. SEC agrees with OEB Staff. In particular, we note that the mid-term review is intertwined with issues 11.3 and 11.4.

11.7 **Off-Ramp.** OEB Staff proposes this be Primary, but OPG proposes that it be Secondary. SEC agrees with OEB Staff. We note that explorations of examples of off-ramp scenarios in the oral hearing may assist the Board panel on this issue.

All of which is respectfully submitted.

Yours very truly,

JAY SHEPHERD P. C.



Jay Shepherd

cc: Wayne McNally, SEC (email)
Interested Parties