

700 University Avenue, Toronto, Ontario M5G 1X6

Tel: 416-592-5419 Fax: 416-592-8519
barbara.reuber@opg.com

November 21, 2016

RESS & OVERNIGHT COURIER

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: Application by Ontario Power Generation Inc. for 2017-2021 Payment Amounts
(EB-2016-0152) – Confidential Treatment re Undertaking Responses**

In accordance with Rule 10 of the Ontario Energy Board's ("OEB" or the "Board") *Rules of Practice and Procedure* and section 5.3 of the OEB's *Practice Direction on Confidential Filings* (the "**Practice Direction**"), OPG hereby requests confidential treatment for a total of two undertaking responses and nine documents, or portions thereof, that are included as attachments to OPG's responses to certain undertakings arising from the technical conference held on November 14-16, 2016. The affected responses and documents are listed in **Appendix 'A'**, which also identifies, as requested by the Board in Procedural Order No. 3 dated November 1, 2016, the specific page numbers where the redactions are located in each document and the specific reasons for each request.

Certain undertaking responses remain to be filed on November 30, 2016 as set out in the OEB's November 21, 2016 letter. The remaining responses are also expected to include confidential information. OPG will file a separate request for confidential treatment of those responses when they are filed.

OPG brings to your attention that documents with or without redactions that OPG is filing publicly in response to undertakings are non-confidential. This is regardless of whether the documents themselves may be otherwise marked as "Confidential" or "OPG Confidential". Such notations would have been applicable at a prior time in the history of the document.

Below, OPG sets out the reasons for its confidentiality requests, including the potential harm that could result from public disclosure of the relevant information. While most of the requests are for redactions to portions of documents, we note that three of the requests are for the confidential treatment of documents/responses in their entirety.

In addition, OPG is seeking permanent redactions for information contained in attachments to certain of its undertaking responses. These affected documents are listed in **Appendix 'B'**,

which also identifies the specific page numbers where the redactions are located in each document. Permanently redacted information would be disclosed to the OEB, but would be redacted on the public record and would continue to be redacted in confidential documents provided to those intervenors, or their representatives, who have signed a Declaration and Undertaking in the prescribed form in the proceeding. The requested permanent redactions relate to confidential information concerning OPG's unregulated businesses and facilities. This information is similar in nature to that which was the subject to permanent redactions accepted by the OEB in Procedural Order No. 3 in this proceeding, and in OPG's previous payment amounts applications (EB-2013-0321 and in EB-2010-0008).

In respect of the responses to JT2.26, JT2.34, JTX3.17 and JT3.20, and in accordance with Procedural Order No. 4, OPG requests that the confidential portion of these undertaking responses not be provided to the consultants or counsel for the Society of Energy Professionals who have not signed the OEB's form of confidentiality undertaking nor the affidavit referenced in Procedural Order No. 4.

Based on the various categories of confidential information requests, OPG has organized the responses and documents into the following attachments, which are included with the hard copy of this letter. For the electronic copy of this letter, filed through the RESS, only this letter and the non-confidential attachments are included. The attachments are as follows:

Attachment A: Non-Confidential, redacted versions of the responses and documents that are the subject of this request (excluding responses and documents that are considered to be confidential in their entirety). These items are intended to be placed on the public record. Please note that while some of these items may inadvertently be marked "Confidential", these versions that contain redactions are no longer confidential.

Attachment B: Confidential, unredacted versions of the responses and documents that are the subject of this request, as well as the items that are to be treated as confidential in their entirety. These items are intended to be treated confidentially, and should only be provided to intervenors or their representatives who sign, or have already signed, a Declaration and Undertaking in the prescribed form in this proceeding. The specific portions of these documents that constitute the confidential information are marked with red boxes.

In this request, OPG references prior Board decisions on the confidential treatment of OPG information. As copies of these referenced materials were included in OPG's May 27, 2016 request for confidential treatment of certain documents forming part of its pre-filed evidence, OPG determined that it is not necessary to file further copies of these materials with the present request.

As an interim measure for efficiency, prior to the OEB making its final determination on OPG's request for confidential treatment, OPG would be amenable to the OEB making provision for intervenors to proceed as though OPG's request has been granted. OPG will provide each intervenor that signs or has signed a Declaration and Undertaking in the prescribed form and files or has filed it with the Board a copy of the confidential materials that are included in Attachment B.

On a final determination, should the OEB grant OPG's request for confidentiality, OPG proposes that the OEB order the confidential information to be disclosed, subject to any conditions the OEB may find appropriate, to only those persons that by then have signed, or that subsequently sign, a Declaration and Undertaking in the prescribed form in this proceeding.

In addition, consistent with section 6.2 of the Practice Direction, OPG requests that during oral proceedings any reference to information, which the Board has determined to be confidential, be conducted *in camera* so as to preserve its confidential nature.

In the event that the confidentiality request is refused, in whole or in part, and OPG in turn requests that some or all of the information that is the subject of this request be withdrawn in accordance with section 5.1.12 of the Practice Direction, all persons in possession of the said information will be required to promptly destroy or return the information to the OEB Secretary for destruction.

Reasons for Requesting Permanent Redactions

OPG received OEB approval in EB-2010-0008 and EB-2013-0321 with respect to certain permanent redactions in OPG's filings. In particular, redactions of confidential information relating solely to OPG's unregulated business and facilities (reflecting no aspect of the regulated business) were permitted to remain redacted in the confidential versions of such documents.

OPG seeks this treatment for similar information, which is contained in Attachment 1 to OPG's response to JT2.1 and in Attachment 1 to OPG's response to JT3.1. This is on the same basis as set out above. OPG has written to the OEB and provided it alone with the information for which OPG seeks permanent protection.

Reasons for Requesting Confidential Treatment

OPG is requesting confidential treatment relating to confidential information contained in a number of responses and documents, which based on their nature can largely be categorized as (a) commercially sensitive information of OPG and/or of third parties; (b) proprietary information belonging to third parties, (c) information for which OPG's contractors have specifically requested confidential treatment, and (d) collective bargaining documentation. OPG's reasons for requesting confidential treatment are set out below for each of these categories. The specific rationale for each particular request, listed by page number, is set out in **Appendix 'A'**.

(a) *Commercially Sensitive Information of OPG and/or Third Parties*

These items should be protected as confidential because they include OPG and third party commercially sensitive information such as with respect to vendor pricing, labour rates, profit and overhead levels, project cost contingencies, discount rates and unit pricing under contracts, or aggregate information that would allow determination of such commercially sensitive information. Disclosure of this information could prejudice OPG's competitive position. Similar information was treated as confidential by the OEB either in this proceeding as approved in Procedural Order #3, or in OPG's previous applications, EB-2010-0008 and EB-2013-0321.

This information is provided in the confidential, unredacted versions of the documents filed in Attachment B, with non-confidential, redacted versions provided in Attachment A.

(b) Proprietary Information of Third Parties

These items should be protected as confidential because they contain information that is proprietary to third parties. OPG is not authorized to disclose this information publicly, but has obtained permission to provide this information on a confidential basis to necessary government authorities. Disclosure on the public record would cause OPG to breach its obligations to the third parties, which could cause harm to the third parties and could adversely impact OPG's ability to obtain or rely upon such information from these parties in the future.

This information is provided in the confidential, unredacted versions of the documents filed in Attachment B, with non-confidential, redacted versions provided in Attachment A.

(c) Information for Which OPG Contractors Request Confidential Treatment

These documents contain information for which confidential treatment is being requested due to one of OPG's DRP contract counterparties having specifically requested that the information or type of information be protected. The current request for confidential treatment is made pending the OEB's ruling on this issue.

This information is provided in the confidential, unredacted versions of the documents filed in Attachment B, with non-confidential, redacted versions provided in Attachment A.

(d) Collective Bargaining Documentation

These items include information relating to OPG's collective bargaining strategies. If disclosed, this information has the potential to interfere with future collective bargaining negotiations between OPG and the unions that represent its employees.

This information is provided in the confidential, unredacted versions of the documents filed in Attachment B, with non-confidential, redacted versions provided in Attachment A.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Barbara Reuber', with a long horizontal flourish extending to the right.

Barbara Reuber

cc: Carlton Mathias, OPG (via email)
Charles Keizer, Torys (via email)
Crawford Smith, Torys (via email)

APPENDIX 'A'

Affected Undertaking Responses and Attachments

JT#	Response or Attachment	Location of Confidential Information	Reason(s) for Confidentiality Request
JT1.4	Attachment 1	p. 5 of 18	Commercially sensitive information - Value of certain non-approved Darlington Scope Requests.
		p. 6 of 18	Commercially sensitive information - Value of additional spend associated with non-OEM vendor.
		p. 8 of 18	Commercially sensitive information - Labour cost study results showing average hourly rates for engineering and project management, which were used in estimating costs.
		p. 10 of 18 – s. 4.0	Commercially sensitive information - Percentages added to certain cost estimates on account of risk, disallowed cost, profit, and overhead.
		p. 10 of 18 – s. 5.0	Commercially sensitive information - Profit margin.
		p. 14-18 of 18	Commercially sensitive information – Contingency.
	Attachment 2	p. 49 of 51	OPG and third party commercially sensitive information - Percentage discount vs. Alstom standard rates under various customer agreements and volume averages/amounts relating to same.
	Attachment 3	p. 1 of 12	OPG and third party commercially sensitive information - Cost variance between historical OPG pricing and Alstom proposal for TG Project.
		p. 3 of 12	OPG and third party commercially sensitive information - Total unit price as per Alstom proposal, and cost variance relative to historical OPG pricing.

JT#	Response or Attachment	Location of Confidential Information	Reason(s) for Confidentiality Request
		pp. 4-10 of 12 columns "Highest Alstom Price", "Difference", "single price ea part. U 1/3/4", "single price ea part. U 2", and "Item Price"	OPG and third party commercially sensitive information - Detailed component-by-component benchmarking of OPG historical pricing with Alstom proposal.
		p. 10 of 12	OPG and third party commercially sensitive information - Total unit price as per Alstom proposal, and cost variance relative to historical OPG pricing.
		p. 11-12 of 12	Third party commercially sensitive information - Detailed labour rates comparison for various contractors
JT1.6	Body of Undertaking Response	Bullets 1, 2 and 4	Contractor-requested confidential information – The relevant counterparty for the information in Bullets 1 and 2 is a joint venture between SNC-Lavalin Nuclear Inc. and Aecon Construction Group Inc. and the relevant counterparty for the information in Bullet 4 is Candu Energy Inc.
		Bullet 5	Commercially sensitive information - Information relating to pricing in the contract. OPG uses 3 contractors who compete amongst each other for this type of work and therefore the disclosure of pricing information would harm OPG's competitive position. OPG claimed this type of information as confidential in its previous submissions in this proceeding and the OEB approved OPG's request in PO#3.
JT1.7	Attachment 2	Entire Attachment	Proprietary Information of Third Party - Information is proprietary to AACE, produced on consent from AACE.
JT1.20	Attachment 1	Information Redacted in Major Category "Steam Generators".	Contractor-requested confidential information – The relevant counterparty for the information in Bullet 4 is Candu Energy Inc.
		All other redactions in table.	Commercially sensitive information - Information relating to pricing in the contract. OPG uses 3 contractors who compete amongst each other for this type of work and therefore the disclosure of pricing

JT#	Response or Attachment	Location of Confidential Information	Reason(s) for Confidentiality Request
			information would harm OPG's competitive position. OPG claimed this type of information as confidential in its previous submissions in this proceeding and the OEB approved OPG's request in PO#3.
JT2.10	Attachment 1	Entire Attachment	Commercially sensitive information - OPG consistently treats this uranium price forecast information as confidential. Disclosure would prejudice OPG's competitive and negotiating positions, diminish its capacity to fulfill existing contractual obligations or produce a significant loss to it. The OEB had previously ruled that this information should be treated as confidential in EB-2010-0008 (Undertaking 5.10).
JT2.26	Body of Undertaking Response	Forecast Headcount for 2016-2021 in Figure 1	Information on OPG's collective bargaining strategies (Labour Relations Sensitivity) - Disclosure could potentially interfere with future collective bargaining negotiations.
JT2.34	Attachment 1	Values in lines B, C, E, G, H, J, L, M, O and Q of the table for 2016-2021.	Information on OPG's collective bargaining strategies (Labour Relations Sensitivity) - Disclosure could potentially interfere with future collective bargaining negotiations.
JTX3.17	Attachment 1	Tables relating to PWU and Society.	Information on OPG's collective bargaining strategies (Labour Relations Sensitivity) - Disclosure could potentially interfere with future collective bargaining negotiations.
JT3.20	Attachment 1	Entire Attachment (which presents the Nuclear staffing plans in OPG's 2016 business plan)	Information on OPG's collective bargaining strategies (Labour Relations Sensitivity) - Disclosure could potentially interfere with future collective bargaining negotiations.

APPENDIX 'B'

Confidential Information for OEB Review Only

JT#	Response or Attachment	Location of Confidential Information	Reason(s) for Confidentiality Request
JT2.1	Attachment 1	p. 1 – Permanent redaction in the 4th paragraph in body of letter	Unregulated Business (for OEB review only) - Confidential information relating solely to OPG's unregulated business and facilities.
JT3.1	Attachment 1	Permanent redaction for 2013 Key performance results relating to Thermal start Guarantee Rate, Lower Mattagami Projects and Atikokan Conversion	Unregulated Business (for OEB review only) - Confidential information relating solely to OPG's unregulated business and facilities.

ATTACHMENT 'A'

Non-Confidential, Redacted Documents

ATTACHMENT 'B'

Confidential, Unredacted Documents