



EB-2016-0152

**Ontario Power Generation Inc.**

**Application for payment amounts for the period from  
January 1, 2017 to December 31, 2021**

**DECISION ON ISSUES LIST PRIORITIZATION  
December 21, 2016**

Ontario Power Generation Inc. (OPG) filed an application with the Ontario Energy Board (OEB) on May 27, 2016 under section 78.1 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes in payment amounts for the output of its nuclear generating facilities and most of its hydroelectric generating facilities. The request seeks approval for nuclear payment amounts to be effective January 1, 2017 and for each following year through to December 31, 2021. The request seeks approval for hydroelectric payment amounts to be effective January 1, 2017 to December 31, 2017 and approval of the hydroelectric payment amount setting formula for the period January 1, 2017 to December 31, 2021.

On September 23, 2016, the OEB issued the final issues list for this proceeding. In Procedural Order No. 1, issued on August 12, 2016, the OEB made provision for submissions on prioritization of the issues list following the filing of the interrogatory responses. The majority of interrogatory responses were filed on October 26, 2016 and the balance were filed on November 1, 2016. Submissions on categorizing the issues into primary and secondary issues were filed on November 9, 2016 by OPG, OEB staff, School Energy Coalition (SEC), Consumers Council of Canada (CCC), Energy Probe Research Foundation (Energy Probe), Environmental Defence Canada Inc. (Environmental Defence), Ontario Association of Physical Plant Administrators (OAPPA) and the Vulnerable Energy Consumers Coalition (VECC). A submission was filed by the Association of Major Power Consumers in Ontario (AMPCO) on November 14, 2016. Reply submissions were filed by OPG on November 14 and 15, 2016.

Procedural Order No. 1 stated that the OEB would make a determination on the categorization of issues after considering the submissions and that the OEB may direct that certain issues be excluded from settlement consideration and proceed by way of oral hearing.

### **Secondary Issues**

The OEB has determined that the following issues will be secondary issues: 1.1, 3.2, 6.3, 6.11, 7.1, 8.1, 9.3, 9.4, 9.6, 10.1 and 11.2. Any unsettled secondary issues will proceed by way of written hearing.

All parties agreed that issues 1.1, 7.1 and 8.1 should be secondary issues.

All parties except VECC agreed that issue 3.2, *Are OPG's proposed costs for the long-term and short-term debt components of its capital structure appropriate?* should be a secondary issue. Both OEB staff and OPG noted that debt component matters are mechanistic. However, VECC submitted that it was premature to categorize debt components as secondary and noted that OEB staff was filing evidence on cost of capital. The OEB agrees that the debt component matters are mechanistic and the OEB finds that issue 3.2 will be a secondary issue.

AMPCO was the only party to submit that issue 6.3, *Is the forecast of nuclear fuel costs appropriate?* should be a primary issue. AMPCO stated that it wished to explore the uranium cost forecast in the oral hearing. OPG replied that nuclear fuel costs are flat in the test period and that the costs had been thoroughly examined in previous proceedings. OEB staff noted that there were only a small number of interrogatories filed on nuclear fuel costs. The OEB considers that the nuclear fuel costs can be examined via a written hearing given the fact that they are flat in the test period. Accordingly the OEB finds that issue 6.3 will be a secondary issue.

SEC, supported by CCC, was the only party to submit that issue 6.11, *Are the asset service fee amounts charged to the nuclear business appropriate?* should be a primary issue. OEB staff noted that the asset service fees are approximately \$25 million annually, similar to historical levels and that there is a decline over the test period. While SEC submitted that asset service fees in general are a secondary matter, SEC wishes to pose oral questions on the transactions relating to OPG's head office. The OEB agrees with OEB staff that the current level and declining trend in the asset service fees makes it appropriate to treat this issue as a secondary issue. The OEB also notes that OPG's head office is not a regulated asset.

All parties except Energy Probe agreed that issue 9.3, *Are the balances for recovery in each of the deferral and variance accounts appropriate?*, and issue 9.4, *Are the proposed disposition amounts appropriate?*, are secondary issues. In Energy Probe's view, it is premature to designate deferral and variance account issues 9.1 to 9.5 as secondary. Only SEC, supported by CCC, proposed that issue 9.6, *Is the proposed continuation of deferral and variance accounts appropriate?* should be primary. OEB staff noted that there was only one interrogatory for each of issues 9.3 and 9.4 and no interrogatories under issue 9.6, and that it was reasonable to deal with the mechanics of account entries by way of written hearing. The OEB notes that deferral and variance account matters are generally mechanistic and the OEB finds that issue 9.3, 9.4 and 9.6 will be secondary issues.

SEC, supported by CCC, and AMPCO, submitted that issue 10.1, *Are the proposed reporting and record keeping requirements appropriate?* should be a primary issue. SEC submitted that reporting issues could arise in the context of other primary issues. OEB staff noted that no interrogatories were filed under issue 10.1 and OPG submitted that secondary categorization was consistent with the determination in the previous proceeding. The OEB finds that issue 10.1 will be a secondary issue as the matters to be considered can adequately be explored in writing. However, the OEB notes that if specific reporting issues arise in the oral hearing in the context of other primary issues they can be addressed at that time.

SEC, supported by CCC, submitted that issue 11.2, *Are the adjustments OPG has made to the regulated hydroelectric payment amounts arising from EB-2013-0321 appropriate for establishing base rates for applying the hydroelectric incentive regulation mechanism?*, should be a primary issue. It is SEC's view that issue 11.2 is closely connected to issue 11.1 relating to setting payment amounts under incentive rate-setting. OEB staff submitted that the determination of the base payment amount is mechanistic and therefore that a secondary categorization was appropriate. The OEB agrees the determination of the base payment amount is mechanistic and the OEB finds that issue 11.2 will be a secondary issue.

### **Primary Issues**

The OEB has determined that the following issues will be primary issues: 1.2, 2.1, 3.1, 4.2, 4.4, 5.1, 6.9, 6.10, 7.2, 8.2, 9.1, 9.2, 9.5, 9.7, 9.8, 10.2, 10.3, 11.5, 11.7, and 12.1. Any unsettled primary issues will proceed by way of oral hearing.

All parties agreed that issues 1.2, 2.1, 3.1, 4.2, 4.4, 5.1, 8.2, 9.7, 10.2, 10.3, 11.5 and 12.1 should be primary issues.

All parties, except OPG, proposed that issue 6.9, *Is the proposed test period nuclear depreciation expense appropriate?*, should be a primary issue. SEC submitted that to the extent the pace of nuclear capital spending is in question, depreciation is also at issue. OPG replied that all parties agreed that issues 4.4 and 4.5 relating to in-service additions should be primary issues and that useful life could be explored as part of those issues. The OEB accepts that there may be aspects of the depreciation expense that require oral examination and therefore finds issue 6.9 is a primary issue.

All parties except OPG agreed that issue 6.10, *Are the amounts proposed to be included in the test period nuclear revenue requirement for income and property taxes appropriate?* should be a primary issue. OPG submitted that the methodology for calculating tax implications was explored in previous proceedings and that therefore a secondary categorization was appropriate. The OEB concurs with the parties and therefore issue 6.10 will be a primary issue.

All parties, except OPG, proposed that issue 7.2, *Are the test period costs related to the Bruce Nuclear Generating Station, and costs and revenues related to the Bruce lease appropriate?*, should be a primary issue. SEC submitted that the issue is complex and OAPPA referred to the materiality of the \$400 million forecast net loss in the test period. It is OPG's view that because there have been no changes to the methodology for calculating Bruce lease costs and revenues, a secondary categorization was appropriate. The OEB considers that the magnitude of the net loss requires oral examination and therefore finds issue 7.2 is a primary issue.

All parties, except OPG, proposed that the following issues should be primary issues.

9. 1 Is the nature or type of costs recorded in the deferral and variance accounts appropriate?
9. 2 Are the methodologies for recording costs in the deferral and variance accounts appropriate?
9. 5 Is the disposition methodology appropriate?
9. 8 Should any newly proposed deferral and variance accounts be approved by the OEB?

As noted above, in Energy Probe's view, it is premature to designate issues 9.1 to 9.5 as secondary. SEC, supported by CCC and AMPCO, submitted that a significant amount of the revenue requirement flows through deferral and variance accounts, and therefore should be tested in a public hearing. OPG replied that issues 9.1 to 9.5 have been previously considered by the OEB. OPG submitted that issues 9.1, 9.2, 9.5 and 9.8 could be addressed fully in writing. While the parties have not identified any new

accounts at this time, SEC submitted that the parties should not be prevented from pursuing them. The OEB considers that the magnitude of the deferral and variance accounts may require oral examination and therefore finds issues 9.1, 9.2, 9.5 and 9.8 are primary issues.

All parties, except OPG, proposed that issue 11.7, *Is OPG's proposed off-ramp appropriate?*, should be a primary issue. SEC, supported by CCC, submitted that exploring off-ramp scenarios orally would assist the OEB panel. Energy Probe and Environmental Defence referred to the billions of dollars requested by OPG in this application and submitted that because of this the issue should be primary. OPG replied that its off-ramp proposal is consistent with that set out for distributors in the *Renewed Regulatory Framework for Electricity (RRFE)* and that therefore the issue can be fully considered by written hearing. The OEB agrees with SEC and CCC that it may be useful to explore potential off-ramp options in the oral hearing and therefore finds that issue 11.7 is a primary issue.

### Oral Hearing Only

The OEB has determined that the following issues, which all parties agreed should be primary issues, will be excluded from the settlement conference and will proceed by way of oral hearing.

The Darlington Refurbishment Program (DRP) is the largest single project that has ever been presented to the OEB. The OEB has therefore determined that issues 2.2, 4.1, 4.3, 4.5, 6.4, and 10.4, which relate to the DRP, should not be settled and will be considered at the oral hearing.

The following other issues concerning nuclear operations will also proceed by way of oral hearing:

6. 1 Is the test period Operations, Maintenance and Administration budget for the nuclear facilities (excluding that for the Darlington Refurbishment Program) appropriate?
6. 2 Is the nuclear benchmarking methodology reasonable? Are the benchmarking results and targets flowing from OPG's nuclear benchmarking reasonable?
6. 5 Are the test period expenditures related to extended operations for Pickering appropriate?
6. 6 Are the test period human resource related costs for the nuclear facilities (including wages, salaries, payments under contractual work arrangements, benefits, incentive payments, overtime, FTEs and pension costs, etc.) appropriate?

- 6.7 Are the corporate costs allocated to the nuclear business appropriate?
- 6.8 Are the centrally held costs allocated to the nuclear business appropriate?

The OEB notes that the costs for OM&A and human resource related costs are material amounts and have historically been the subject of significant scrutiny in OEB proceedings.

All parties agree that issue 6.5, relating to Pickering Extended Operations should be a primary issue. The OEB observes that expenditures related to extended operation of Pickering are significant and that the appropriateness of proceeding with these expenditures was questioned by several parties at the motion hearing on December 16, 2016. The OEB has decided that it would be appropriate to explore this issue orally.

This is the first incentive rate-setting application for OPG's nuclear and hydroelectric generating facilities and may set a precedent for future incentive applications. The OEB has therefore determined that the following issues should not be the subject of a settlement proposal and will proceed by way of oral hearing.

- 11.1 Is OPG's approach to incentive rate-setting for establishing the regulated hydroelectric payment amounts appropriate?
- 11.3 Is OPG's approach to incentive rate-setting for establishing the nuclear payment amounts appropriate?
- 11.4 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?

O. Reg. 53/05 requires that, for each year from 2017 to the end of DRP, the OEB must approve a nuclear revenue requirement and must also determine a portion of that approved revenue requirement to defer. In doing so, the OEB is required to consider increasing the stability of year-over-year changes. Issue 11.6, *Is OPG's proposal for smoothing nuclear payment amounts consistent with O. Reg. 53/05 and appropriate?*, should not be settled and will proceed by way of oral hearing. In considering the impact of year-over-year changes, the OEB has also determined that issue 1.3, *Is the overall increase in nuclear payment amounts including rate riders reasonable given the overall bill impact on customers?*, will proceed by way of oral hearing.

## General

Some parties submitted that it was premature to prioritize issues at this point while other parties suggested that the issues list could be reprioritized following the settlement conference. The OEB considers that at this point there is sufficient information about the

issues in the proceeding to make a decision on prioritization, which among other things should assist the parties to prepare efficiently for the settlement conference. The OEB does not intend to reprioritize issues after the settlement conference.

The prioritized issues list is attached as Schedule A to this Decision.

**DATED** at Toronto, **December 21, 2016**

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

**Schedule A**

**Ontario Power Generation Inc.  
2017-2021 Payment Amounts for  
Prescribed Generating Facilities  
EB-2016-0152**

**FINAL ISSUES LIST (PRIORITIZED)**

**1. GENERAL**

- 1.1 Secondary: Has OPG responded appropriately to all relevant OEB directions from previous proceedings?
- 1.2 Primary: Are OPG's economic and business planning assumptions appropriate that impact the nuclear facilities appropriate?
- 1.3 Oral Hearing: Is the overall increase in nuclear payment amounts including rate riders reasonable given the overall bill impact on customers?

**2. RATE BASE**

- 2.1 Primary: Are the amounts proposed for nuclear rate base (excluding those for the Darlington Refurbishment Program) appropriate?
- 2.2 Oral Hearing: Are the amounts proposed for nuclear rate base for the Darlington Refurbishment Program appropriate?

**3. CAPITAL STRUCTURE AND COST OF CAPITAL**

- 3.1 Primary: Are OPG's proposed capital structure and rate of return on equity appropriate?
- 3.2 Secondary: Are OPG's proposed costs for the long-term and short-term debt components of its capital structure appropriate?

**4. CAPITAL PROJECTS**

- 4.1 Oral Hearing: Do the costs associated with the nuclear projects that are subject to section 6(2)4 of O. Reg. 53/05 and proposed for recovery meet the requirements of that section?
- 4.2 Primary: Are the proposed nuclear capital expenditures and/or financial commitments (excluding those for the Darlington Refurbishment Program) reasonable?



- 4.3 Oral Hearing: Are the proposed nuclear capital expenditures and/or financial commitments for the Darlington Refurbishment Program reasonable?
- 4.4 Primary: Are the proposed test period in-service additions for nuclear projects (excluding those for the Darlington Refurbishment Program) appropriate?
- 4.5 Oral Hearing: Are the proposed test period in-service additions for the Darlington Refurbishment Program appropriate?

## **5. PRODUCTION FORECASTS**

- 5.1 Primary: Is the proposed nuclear production forecast appropriate?

## **6. OPERATING COSTS**

- 6.1 Oral Hearing: Is the test period Operations, Maintenance and Administration budget for the nuclear facilities (excluding that for the Darlington Refurbishment Program) appropriate?
- 6.2 Oral Hearing: Is the nuclear benchmarking methodology reasonable? Are the benchmarking results and targets flowing from OPG's nuclear benchmarking reasonable?
- 6.3 Secondary: Is the forecast of nuclear fuel costs appropriate?
- 6.4 Oral Hearing: Is the test period Operations, Maintenance and Administration budget for the Darlington Refurbishment Program appropriate?
- 6.5 Oral Hearing: Are the test period expenditures related to extended operations for Pickering appropriate?

### **Corporate Costs**

- 6.6 Oral Hearing: Are the test period human resource related costs for the nuclear facilities (including wages, salaries, payments under contractual work arrangements, benefits, incentive payments, overtime, FTEs and pension costs, etc.) appropriate?
- 6.7 Oral Hearing: Are the corporate costs allocated to the nuclear business appropriate?
- 6.8 Oral Hearing: Are the centrally held costs allocated to the nuclear business appropriate?

### **Depreciation**

- 6.9 Primary: Is the proposed test period nuclear depreciation expense appropriate?

## **Income and Property Taxes**

6.10 Primary: Are the amounts proposed to be included in the test period nuclear revenue requirement for income and property taxes appropriate?

## **Other Costs**

6.11 Secondary: Are the asset service fee amounts charged to the nuclear business appropriate?

## **7. OTHER REVENUES**

### **Nuclear**

7.1 Secondary: Are the forecasts of nuclear business non-energy revenues appropriate?

### **Bruce Nuclear Generating Station**

7.2 Primary: Are the test period costs related to the Bruce Nuclear Generating Station, and costs and revenues related to the Bruce lease appropriate?

## **8. NUCLEAR WASTE MANAGEMENT AND DECOMMISSIONING LIABILITIES**

8.1 Secondary: 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?

8.2 Primary: Is the revenue requirement impact of the nuclear liabilities appropriately determined?

## **9. DEFERRAL AND VARIANCE ACCOUNTS**

9.1 Primary: Is the nature or type of costs recorded in the deferral and variance accounts appropriate?

9.2 Primary: Are the methodologies for recording costs in the deferral and variance accounts appropriate?

9.3 Secondary: Are the balances for recovery in each of the deferral and variance accounts appropriate?

9.4 Secondary: Are the proposed disposition amounts appropriate?

9.5 Primary: Is the disposition methodology appropriate?

- 9.6 Secondary: Is the proposed continuation of deferral and variance accounts appropriate?
- 9.7 Primary: Is the rate smoothing deferral account in respect of the nuclear facilities that OPG proposes to establish consistent with O. Reg. 53/05 and appropriate?
- 9.8 Primary: Should any newly proposed deferral and variance accounts be approved by the OEB?

## **10. REPORTING AND RECORD KEEPING REQUIREMENTS**

- 10.1 Secondary: Are the proposed reporting and record keeping requirements appropriate?
- 10.2 Primary: Is the monitoring and reporting of performance proposed by OPG for the regulated hydroelectric facilities appropriate?
- 10.3 Primary: Is the monitoring and reporting of performance proposed by OPG for the nuclear facilities appropriate?
- 10.4 Oral Hearing: Is the proposed reporting for the Darlington Refurbishment Program appropriate?

## **11. METHODOLOGIES FOR SETTING PAYMENT AMOUNTS**

### **Hydroelectric**

- 11.1 Oral Hearing: Is OPG's approach to incentive rate-setting for establishing the regulated hydroelectric payment amounts appropriate?
- 11.2 Secondary: Are the adjustments OPG has made to the regulated hydroelectric payment amounts arising from EB-2013-0321 appropriate for establishing base rates for applying the hydroelectric incentive regulation mechanism?

### **Nuclear**

- 11.3 Oral Hearing: Is OPG's approach to incentive rate-setting for establishing the nuclear payment amounts appropriate?
- 11.4 Oral Hearing: 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?
- 11.5 Primary: Is OPG's proposed mid-term review appropriate?
- 11.6 Oral Hearing: Is OPG's proposal for smoothing nuclear payment amounts consistent with O. Reg. 53/05 and appropriate?

**General**

11.7 Primary: Is OPG's proposed off-ramp appropriate?

**12. IMPLEMENTATION**

12.1 Primary: Are the effective dates for new payment amounts and riders appropriate?