



EB-2016-0152

Ontario Power Generation Inc.

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

DECISION ON CONFIDENTIAL FILINGS

February 23, 2017

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.

OPG's request for confidentiality for certain information in Amendment 2 of the Extended Services Master Services Agreement (ES MSA)

On February 10, 2017, OPG filed a letter requesting confidential treatment for certain information in Amendment 2 to the ES MSA that was filed in response to undertaking JT1.13. The ES MSA is an agreement between OPG and SNC Lavalin Nuclear Inc. /Aecon Construction Group Inc. Joint Venture (SNC/Aecon JV). In accordance with the

OEB's *Practice Direction on Confidential Filings* (the Practice Direction), OPG has filed redacted and un-redacted versions of the document.

OPG states that the noted information in the ES MSA should be protected as confidential because it includes third party commercially sensitive information such as labour rates and pricing information. OPG also notes that the OEB has granted confidential treatment for similar information in its Decision on Confidential Filings and Procedural Order No. 3, dated November 1, 2016 and in its Decision on Confidentiality, dated January 31, 2017.

FINDINGS

The OEB grants confidential treatment for the percentage values noted in item 2(a)(jjj) – Performance Fee Pool and in item 3(a) – Addition to Performance Fee Pool. The OEB also grants confidential treatment for the information in Part 1A of Schedule 4 – Reimbursable Labour Costs Table and Part 2 – Reimbursable Labour Costs for Trades Personnel. This information is consistent with the information that the OEB has previously treated as confidential in relation to the ES MSA.

The OEB denies confidential protection for the information in Part 1B of Schedule 4 – Reimbursable Labour Costs Table (pages 10 to 38). The information in Part 1B contains job descriptions of non-trades that the OEB believes should be disclosed on the public record. The OEB's decision in this matter is consistent with its approach as set out in its Decision on Confidentiality, dated January 31, 2017, which states:

OPG and its vendors have agreed on approaches to address risk, rewards and continuous improvement. These approaches impact factors such as the cost, schedule and risks of the project that the OEB would find appropriate to explore. It is always the OEB's preference to have evidence on the public record. However, the OEB accepts the argument that to reveal the specific numbers involved could be detrimental to commercial interests. Accordingly the OEB directs that the specific numbers be kept confidential but that the other information concerning the approach to costs, schedule and risks under the contracts be public. In the OEB's view the proposed approach strikes a reasonable balance between the commercial interests of the parties, and the OEB's objectives of transparency and openness, for the benefit of ratepayers.

The OEB requires that OPG to file a revised version of undertaking JT1.13, Attachment 5 reflecting the OEB's decision.

Clarification of the OEB's Decision and Order on Confidentiality, dated January 31, 2017

On February 10, 2017, OPG re-filed revised versions of several documents pursuant to the OEB's Decision and Order on Confidentiality, dated January 31, 2017. In its cover letter, OPG noted an apparent inconsistency in the Decision and Order: the OEB had granted confidentiality for pricing information in Schedule 7.1(1) of the Engineering Procurement and Construction Contract for Steam Generators, while requiring that similar information be disclosed in L-4.3-7 ED-004 and JT1.20. OPG explained that, "As a matter of precaution, OPG has retained the redactions pertaining to specific numbers from the EPC for the Steam Generators in Ex. L-4.3-7 ED-004 Attachment 1 and JT1.20 Attachment 1, as they were originally derived from Schedule 7.1(1) of the EPC for the Steam Generators. The footnotes and headings pertaining to the EPC for the Steam Generators have been unredacted and re-filed as per the OEB's order." The OEB is satisfied that OPG's approach is consistent with the intent of the Decision and Order. Nothing further is required from OPG in respect of these documents. The noted information in ED-004 and JT1.20 shall be treated as confidential.

The OEB also makes the following additional clarification in respect of its January 31, 2017 Decision and Order. L-04.3-15-SEC 34 Attachment 1 and Sections 1.1(jjj), 5.2(a), 8.1(g) and 8.12(a) of the Extended Services Master Services Agreement shall be treated as confidential. The reference to these documents and schedules were inadvertently excluded from the original Decision and Order. OPG's February 10, 2017 filings are consistent with the intent of the Decision and Order, therefore nothing further is required from OPG in respect of these documents.

THE ONTARIO ENERGY BOARD THEREFORE ORDERS THAT:

1. OPG shall file with the OEB revised versions (public and confidential) of Undertaking JT1.3, Attachment 5, reflecting the OEB's decision, by **March 1, 2017**. OPG shall provide a revised public version to all parties and a revised confidential version to intervenors that have executed the OEB's Declaration and Undertaking. If OPG wishes to withdraw, appeal or seek review of the OEB's decision it must inform the OEB by **March 1, 2017**.

DATED at Toronto, **February 23, 2017**

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary