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December 21, 2018

VIA RESS AND 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: EB-2018-0243 – Ontario Power Generation Inc. (OPG) - Draft Issues List – Reply Submission of the Applicant

In accordance with Procedural Order No. 3, attached is OPG's reply to submissions by intervenor parties on the draft Issues List.

OPG is also in receipt of SEC's letter dated December 21, 2018, stating that OPG should not be able to file this reply. OPG disagrees with SEC's position. Procedural Order No. 3 allowed parties to make submissions on the draft Issues List attached as Schedule A to the procedural order by December 19, 2018 ("Submissions"), and reply to Submissions by December 21, 2018. Schedule A reflects OPG's draft Issues List¹, and as such, OPG had no submissions on Schedule A. The issues as provided in Schedule A were not contested by intervenors in Submissions; in fact, Submissions from intervenors solely focused on the addition of new issues to Schedule A. As such, and in accordance with Procedural Order No. 3, OPG's reply addresses intervenors proposals to add new issues to Schedule A, which became available to OPG upon receipt of the Submissions.

OPG has submitted its reply through the Regulatory Electronic Submissions System and is providing nine (9) paper copies for the OEB. This material will also be made available shortly after filing on OPG's website at www.opg.com.

If you have any questions regarding this submission, please contact me at 416-592-2976.

¹ Excluding Issue No. 5 which was decided upon by the OEB in its Decision and Payment Amounts Order dated December 13, 2018.

Yours truly,

[original signed by]

Saba Zadeh

cc: Mel Hogg (OPG) via e-mail
Charles Keizer (Torys) via e-mail

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*;

AND IN THE MATTER OF an Application by Ontario Power Generation Inc. for an order or orders approving a payment amount for hydroelectric generating facilities prescribed under Ontario Regulation 53/05 of the Act, as amended, and the disposition of balances in its deferral and variance accounts as of December 31, 2017.

REPLY SUBMISSION OF THE APPLICANT, ONTARIO POWER GENERATION INC.

RE: DRAFT ISSUES LIST

December 21, 2018

Introduction

In accordance with the Ontario Energy Board's (the "OEB") Procedural Order No. 3 in this proceeding, these are OPG's reply submissions with respect to the proposals made by various intervenors to add new issues to the draft Issues List.¹

CCC proposes to add the following issue to the draft Issues List: "*Is OPG's proposal to defer consideration of all future balances in its deferral and variance accounts, including the balances in 2018 accounts and some 2017 accounts, until its next rebasing in 2022 appropriate?*"² AMPCO has proposed a similar issue: "*What is the appropriate schedule for clearance of each of the Applicant's deferral and variance accounts going forward?*"³ OPG submits that it is neither necessary nor appropriate to add either the CCC or AMPCO proposed issues to the Issues List.

¹ See Procedural Order No. 3, Schedule A.

² CCC submissions received December 18, 2018, p.1.

³ AMPCO submissions received December 20, 2018, p.1.

The CCC proposed issue has two parts. First, the future consideration of deferral and variance (“D&V”) accounts for the year 2018 and beyond and, second, the future consideration of the D&V accounts for the year 2017 that OPG has not sought to clear in this application.

2018 and Beyond

OPG does not support the addition of an issue related to the future consideration of D&V accounts for the year 2018 and beyond, as the clearance of D&V balances in future applications is outside the scope of this application. The approvals requested in this application relate to OPG’s audited D&V account balances as of December 31, 2017. OPG does not have audited D&V account balances for 2018 (or beyond), nor has it requested clearance of such amounts.⁴

In addition, the OEB has effectively set out its expectations with respect to the appropriate schedule for D&V account recoveries in the 2017-2021 period in its Decision and Order in EB-2016-0152. In that Decision, the OEB stated that OPG may file to dispose of the audited balances in its D&V accounts at the same time as its 2019 Hydroelectric Payment Amounts adjustment:

OPG may file to dispose of applicable audited deferral and variance account balances at the same time as its application for 2019 hydroelectric payment amounts in calendar year 2018. OPG may include its proposal for review of the Pension & OPEB Cash Versus Accrual Differential Deferral Account. (Decision and Order, p. 119)

The EB-2016-0152 proceeding established payment amounts for the five-year Incentive Regulation (“IR”) period from 2017-2021. Between the payment riders approved by the OEB in that proceeding and those proposed by OPG in this application (if accepted), the OEB will have approved payment riders that span the same five-year IR period. In OPG’s view, this set of approvals is consistent with the process contemplated in the OEB’s Decision and Order in EB-2016-0152 for D&V account clearance over the IR period.

In support of CCC’s proposed issue, SEC incorrectly submits that the *Ontario Energy Board Act, 1998* (“OEB Act”) and its regulations prohibit OPG from making an application for D&V account clearance without the OEB granting it leave to do so.⁵

⁴ For context, the D&V accounts additions between January 1, 2018 and September 30, 2018, based on OPG’s unaudited interim consolidated financial statements for Q3 2018, totalled approximately \$35M (debit), of which approximately \$11M (debit) related to the Capacity Refurbishment Variance Account (Nuclear and Hydroelectric), which OPG is not seeking to clear in this applications for the reasons set out in Ex. H1-1-1, p. 1, lines 11-14.

⁵ SEC submissions received December 19, 2018, p. 1-2.

SEC has mischaracterized the statutory regime set out in the OEB Act and Regulation 53/05 (“O. Reg. 53/05”). The provisions in the OEB Act related to D&V accounts are set out at Section 78. That section applies to distribution and transmission of electricity and, in particular, the subsections related to D&V accounts apply primarily to distributors. OPG is governed by a different section of the OEB Act - Section 78.1. Section 78.1 is silent on D&V accounts and any requirements as to timing of a rate application. The only provision in that section related to rate application timing is that the OEB could consider payment amounts on its own motion if it considered the payment amount to not be just and reasonable. The sections SEC references for O.Reg. 53/05 relate to the Rate Smoothing Deferral Account (“RSDA”), which records a portion of OPG’s approved nuclear revenue requirement as determined by the OEB. Both the 2017-2021 nuclear revenue requirements and the portions thereof to be recorded in the RSDA were approved by the OEB in the EB-2016-0152 proceeding and are not at issue in this proceeding. Therefore, while the OEB has broad discretion (subject to the objects and purposes of the OEB Act) through which to consider applications, there is no similar statutory timing requirement or restriction (as in section 78 of the OEB Act) with respect to OPG filing an application.

Intervenors’ submissions⁶ reference the November 29, 2018 Technical Conference where OPG stated that, at this point in time, it does not intend to file for D&V clearance prior to its next payment amounts application (which is expected to cover the period beginning in 2022).⁷ Based on this statement, intervenors submit that ratepayers may be faced with significant balances for recovery beginning in the rebasing year. These submissions are wholly speculative. The net credit or debit balances to be recorded in the D&V accounts in the period between January 1, 2018 and the point in time as of which the balances would be considered for clearance in the payment amounts application are not known at this time, and by their nature cannot be predicted with a meaningful degree of certainty. The treatment of these balances is best considered when they are known, in the appropriate context, instead of based on arbitrary requirements rooted in speculation. Consideration of these balances in a payment amounts application with a requested effective date of January 1, 2022, which OPG assumes would include account additions recorded in 2018, 2019 and potentially 2020, would be reasonable and consistent with the periods of account additions in past applications which have been acceptable to the OEB. Such an approach would also be consistent with the OEB’s commentary in EB-2013-0321 wherein the OEB expressed a desire for

⁶ CCC, AMPCO, CME, Energy Probe, VECC and SEC.

⁷ Tr. p. 22, lines 10-12.

the clearance of D&V accounts to occur at the time of a payment amounts application in order to assess the full rate impacts.⁸

Accordingly, OPG submits that the OEB should not adopt the CCC and AMPCO proposed issues in this application.

2017 Unrecovered Balances

OPG is proposing to clear audited balances as at December 31, 2017 for all but two of its D&V accounts as part of this proceeding; namely, the Capacity Refurbishment Variance Account (CRVA) and Fitness for Duty Deferral Account (Ex. H1-1-1, p. 1, lines 11-14). CCC includes in its proposed issue OPG's deferral of these 2017 balances into the future. AMPCO's proposed issue makes reference to all D&V accounts and therefore includes these accounts and the 2017 balances. OPG disagrees with this submission. OPG provides its rationale for excluding these balances at Ex. H1-1-1, p. 10, lines 18-29 (CRVA-Hydroelectric), p. 11, lines 4-15 (CRVA-Nuclear), and p. 25, lines 2-14 (Fitness for Duty Deferral Account). In relation to the CRVA-Nuclear account specifically, which is a single account including both the Darlington Refurbishment Program ("DRP") and Non-DRP amounts, OPG believes its proposal to exclude recovery of those balances from this proceeding is consistent with the OEB's decision in EB-2016-0152:

The OEB rejects the argument by OEB staff and some intervenors that a future assessment of amounts in excess of the forecast costs (through the CRVA) should be done on a component-by-component basis. If OPG were to face CRVA scrutiny for each component part of the Unit 2 project, it may lead to unintended consequences and lessen the ability of OPG to deal with issues as they arise. As OPG argues convincingly in its reply submission, the refurbishment of Unit 2 is a single integrated project, not a web of independent projects. It must be managed on a holistic, dynamic basis... At the end of the day, it is OPG's responsibility to deliver the Unit 2 project (and the campus plan projects) within the budget envelope approved in this proceeding...OPG should have some flexibility in doing so. (Decision and Order, p. 41)

OPG further submits that it is not generally efficient from a regulatory perspective to apply to clear partial balances in its D&V accounts, as AMPCO has suggested (November 29, 2018 Technical Conference, Tr. p. 33, lines 2-5) and therefore, the CRVA-Nuclear, in particular, should be considered in its entirety.

⁸ EB-2013-0321, Decision with Reasons, pp. 124-125.