



Ontario Energy Board Commission de l'énergie de l'Ontario

DECISION AND ORDER

EB-2019-0099

ONTARIO POWER GENERATION INC.

Fee under subsection 19(3) of the *Ontario Fair Hydro Plan Act*,
2017 for 2018 costs and expenditures

BEFORE: Lynne Anderson
Presiding Member

Michael Janigan
Member

May 23, 2019

1 INTRODUCTION AND SUMMARY

This Decision and Order addresses an application submitted by Ontario Power Generation Inc. (OPG) in its capacity as the “Financial Services Manager” for the purposes of the *Ontario Fair Hydro Plan Act, 2017* (OFHPA).

Under the OFHPA, which was enacted to implement the Fair Hydro Plan, OPG is named as the Financial Services Manager.¹ One of the Financial Services Manager’s powers is to establish one or more “financing entities” to raise debt financing for the purpose of the OFHPA.² The Financial Services Manager may establish and charge fees to financing entities, subject to approval by the Ontario Energy Board (OEB).³

In this application, OPG proposes a fee of \$1,917,620.26 to recover its costs and expenditures for the 2018 calendar year. For the reasons that follow, the OEB approves OPG’s proposed fee.

¹ OFHPA, s. 18.

² OFHPA, s. 22(2).

³ OFHPA, ss. 19(3) and (4); O. Reg. 206/17 (General), s. 10.1. Recently, amendments were made to the OFHPA effective November 1, 2019, including the repeal of section 19 which authorizes the Financial Services Manager to establish and charge fees, subject to OEB approval (see Schedule 3 to the *Fixing the Hydro Mess Act, 2019*). Those amendments do not affect this application.

2 THE PROCESS

On February 28, 2019, OPG applied for approval of the fee to recover its 2018 costs and expenditures. The OEB assigned OPG's application file number EB-2019-0099.

The OFHPA provides that the OEB may exercise any of its responsibilities under the Act without a hearing.⁴ The OEB decided not to hold a hearing in this case because the scope of the OEB's jurisdiction in respect of the application is narrow. As explained below, Ontario Regulation 206/17 (General) made under the OFHPA (the Regulation) prescribes what the OEB can consider in determining whether the proposed fee should be approved.

⁴ OFHPA, s. 34(2).

3 ANALYSIS

Under section 10.13 of the Regulation, the Financial Services Manager is required to submit to the OEB a proposed fee to recover its costs and expenditures “in relation to prescribed matters”. “Prescribed matters” are defined in section 1 of the Regulation as:

... matters in relation to the establishment, management and administration of financing entities and the investment asset, including but not limited to matters in relation to,

(a) financing entities that are established or that are planned to be established, and

(b) funding obligations that have been incurred or that are planned to be incurred by financing entities.

The Regulation further clarifies that the costs and expenditures that may be recovered through the fee include, among other things, fees paid by the Financial Services Manager for underwriting, banking and legal services, as well as the direct costs for OPG employees who work exclusively on the Fair Hydro Trust.⁵

The application requests recovery of \$1,917,620.26, reflecting the amount of costs and expenditures paid by OPG in its role as the Financial Services Manager in relation to prescribed matters during the 2018 calendar year.

The Regulation stipulates that the OEB may refuse to approve the proposed fee only if the OEB finds that the cost or expenditure was not “in relation to prescribed matters”, or that the cost or expenditure was not actually paid during the period.⁶

As required by the Regulation,⁷ OPG included with its application an external auditor’s report confirming that the costs and expenditures claimed by OPG are accurate, that they were incurred by OPG, and that (except for the costs of OPG employees) the claimed amounts were paid to third parties. The auditor also confirmed that the costs

⁵ Regulation, s. 10.13(3).

⁶ Subsection 10.14(2) reads: “The Board may refuse to approve an amount of a cost or expenditure if the Board is of the view that the cost or expenditure was not incurred by the Financial Services Manager in relation to prescribed matters or that the cost or expenditure was not paid by the Financial Services Manager during the year to which the fee relates.”

⁷ Regulation, s. 10.13(7).

and expenditures were incurred by OPG for the period beginning January 1, 2018 and ending on December 31, 2018.

On the basis of the auditor's report and the other evidence filed by OPG, the OEB is satisfied that the costs and expenditures that OPG proposes to recover in this application relate to prescribed matters and were paid during the 2018 calendar year. Accordingly, the proposed fee is approved.

4 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. OPG shall establish and charge a fee under subsection 19(3) of the *Ontario Fair Hydro Plan Act, 2017* to recover costs and expenditures of \$1,917,620.26 for the period from January 1, 2018 to December 31, 2018.

DATED at Toronto May 23, 2019

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary