



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

NOTICE OF PROCEEDING AND ACCOUNTING ORDER

EB-2020-0248

ONTARIO POWER GENERATION INC.

**Regulatory Review of any 2021 Earnings in Excess of 300 Basis
Points Above the OEB-Approved Return on Equity**

BEFORE: Lynne Anderson
Chief Commissioner (Presiding)

Allison Duff
Commissioner

November 9, 2020

1 INTRODUCTION

The Ontario Energy Board's (OEB) decision in the Ontario Power Generation Inc. (OPG) 2017-2021 payment amount proceeding included an off-ramp provision. The OEB determined that if OPG's earnings for its regulated business are more than 300 basis points above (or below) the OEB-approved return on equity (ROE), a regulatory review may be initiated.¹ The OEB also directed OPG to continue to file annual financial and operating reports as originally described in the 2011-2012 payment amount decision² (annual regulatory return filing).³

OPG reported that its actual 2019 ROE for its total regulated business (combined nuclear and hydroelectric) was 15.61%. OPG calculated the OEB-approved ROE (combined for its nuclear and hydroelectric business segments) to be 9.16%. Therefore, OPG reported its actual regulated ROE to be 645 basis points above the OEB-approved ROE (or 345 basis points above 12.16%), which triggered the off-ramp provision.

Given the magnitude of the 2019 earnings, the OEB is, on its own motion, commencing a regulatory review of any actual regulatory earnings that OPG may achieve in 2021 that are more than 300 basis points over the OEB-approved ROE. The purpose of the review will be to determine whether the 2021 payment amounts approved under section 78.1 of the *Ontario Energy Board Act, 1998* remain just and reasonable.

To enable the review, the OEB is ordering OPG to establish a variance account to record earnings achieved in 2021 that are more than 300 basis points over the OEB-approved ROE (2021 Overearnings Variance Account). This variance account is being established on a prospective basis effective January 1, 2021. If the balance in this new variance account is zero, there will be no further regulatory review.

To be clear, at this time the OEB is not making any determination in respect of the disposition of any amounts that may be recorded in this new account. All options for disposition remain open, including a determination that no disposition is required and the account can be closed. A final decision would be made following a hearing in which OPG and other stakeholders would have an opportunity to participate.

¹ EB-2016-0152, Decision and Order, December 28, 2017, p. 134.

² EB-2010-0008, Decision with Reasons, March 10, 2011, p. 151.

³ EB-2016-0152, Decision and Order, December 28, 2017, p. 146.

2 THE 2021 OVEREARNINGS VARIANCE ACCOUNT

In accordance with the OEB's decision in OPG's 2017-2021 payment amount proceeding, OPG is required to annually file financial and operating reports that include its actual regulatory return, after tax on rate base, both dollars and percentages, for the regulated business, and a comparison with the regulatory return included in payment amounts. The OEB directed OPG to file these reports by July 31 following each year end.⁴ OPG's 2019 annual regulatory return filing was filed with the OEB on July 31, 2020.

OPG reported that its actual 2019 ROE for its total regulated business (combined nuclear and hydroelectric) was 15.61%. OPG calculated the OEB-approved ROE (combined for its nuclear and hydroelectric business segments) to be 9.16%. Therefore, OPG reported its actual regulated ROE to be 645 basis points above the OEB-approved ROE of 9.16%⁵ (or 345 basis points above 12.16%). OPG also provided updated forecasts for its 2020 and 2021 regulatory ROE. OPG forecast a 2020 ROE of 12.8%, which is more than 300 basis points above the OEB-approved ROE, and a 2021 ROE of 9.0%, which is below the OEB-approved ROE.

The OEB's decision in OPG's 2017-2021 proceeding found that a regulatory review may be initiated if OPG's ROE reported for the regulated business indicates performance above (or below) 300 basis points. Consistent with that decision, the OEB is commencing a regulatory review as OPG's 2019 actual regulated ROE was 645 basis points over the OEB-approved ROE.⁶

The OEB has reviewed OPG's complete 2019 annual regulatory return filing which includes a non-confidential cover letter attached as Schedule A to this Notice of Proceeding and Accounting Order. The OEB finds that the non-confidential cover letter provides sufficient information to support the establishment of the 2021 Overearnings Variance Account. Based on the information provided, OPG achieved earnings in 2019 of 15.61% (which is 645 basis points above the OEB-approved ROE) and forecasts to achieve overearnings in 2020. The OEB is issuing this Notice of Proceeding and

⁴ EB-2016-0152, Decision and Order, December 28, 2017, p. 146.

⁵ 9.16% is the rate base weighted average of the 8.78% ROE approved in OPG's 2017-2021 payment amounts proceeding (EB-2016-0152) applicable to the nuclear business segment and the 9.33% ROE approved in OPG's 2014-2015 payment amounts proceeding (EB-2013-0321) applicable to the hydroelectric business segment.

⁶ EB-2016-0152, Decision and Order, December 28, 2017, p. 134.

Accounting Order at this time to enable a review of any overearnings that may occur on an actual basis in 2021. All options for disposition remain open, including a determination that no disposition is required and the account can be closed.

The OEB recognizes that OPG forecast its 2021 earnings to be slightly below the OEB-approved ROE, and that it provided further explanations in the text of its cover letter. However, given the magnitude of the earnings in 2019, the OEB finds that it is appropriate to establish a variance account on a prospective basis effective January 1, 2021. The purpose of the new variance account is to record any actual regulated earnings that are more than 300 basis points over the OEB-approved ROE that arise in 2021. As such, the OEB will establish the 2021 Overearnings Variance Account. OPG is directed to calculate its 2021 actual regulatory return, for the purpose of determining the balance in the noted account, in the same manner as it calculates its actual regulatory return in its annual regulatory return filing. In the event that OPG's 2021 regulated ROE does not exceed 300 basis points over the OEB-approved ROE, no entry will be made to the variance account.

The variance account will apply only to the 2021 rate year, which is the final year of OPG's current five-year payment amount framework. The OEB will have the opportunity to review OPG's payment amount framework for the post-2021 period in a future application. Any overearnings from 2019 and 2020 are related to a past period and will not be subject to the 2021 Overearnings Variance Account. As OPG's approved revenue requirement (including the regulatory ROE) was determined on an annual basis, the OEB does not find it appropriate to record any potential overearnings that may arise in the final months of 2020.

The OEB's determination to establish the 2021 Overearnings Variance Account should not be construed as predictive of the OEB's final determination on the appropriateness of any disposition of any balance recorded in the account. If there is a balance in the account for 2021, the OEB would hold a hearing. A hearing would enable the OEB to consider the variance account balance in the context of the entire 2017-2021 payment amounts period and the applicable regulatory framework.

In 2022, OPG is expected to file, for consideration of the OEB, the balance in the account and OPG's position on the appropriateness of disposition if the balance is not zero. The OEB would then determine whether any balance (or part of any balance) that is recorded in the account should be refunded to ratepayers. The OEB would provide an opportunity for OPG to file evidence and for interested parties to intervene before any

determination is made. Further notice would be provided to stakeholders at that time. For now, there is no need for stakeholders to advise the OEB of their interest in participating.

With the establishment of the variance account, the OEB concludes that the 2021 payment amount updates approved in OPG's 2017-2021 payment amount proceeding can proceed as planned. If OPG does achieve earnings in excess of 300 basis points above the OEB-approved ROE on an actual basis in 2021, those excess earnings will be recorded in the 2021 Overearnings Variance Account for future consideration by the OEB. Therefore, the nuclear payment amount for 2021 that was previously approved in the Payment Amounts Order related to OPG's 2017-2021 payment amount application⁷ should be implemented on January 1, 2021. In addition, OPG's application seeking approval of its 2021 hydroelectric payment amount based on its approved price-cap methodology⁸ should be processed.⁹

⁷ EB-2016-0152, Payment Amounts Order, March 29, 2018, p. 10.

⁸ EB-2020-0210.

⁹ The OEB notes that, by letter dated November 9, 2020 all utilities were provided the option to not apply or apply a reduced 2021 inflationary adjustment in light of the COVID-19 pandemic.

3 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. OPG shall establish a 2021 Overearnings Variance Account to record any earnings achieved in 2021 that are more than 300 basis points above the OEB-approved ROE.
2. After OPG's actual 2021 regulatory return is known in 2022, OPG shall file with the OEB the balance in the account and OPG's position on the appropriateness of the disposition of the account.

DATED at Toronto November 9, 2020

ONTARIO ENERGY BOARD

Original Signed By

Christine E. Long
Registrar

SCHEDULE A
NOTICE OF PROCEEDING AND ACCOUNTING ORDER
ONTARIO POWER GENERATION INC.
EB-2020-0248
NOVEMBER 9, 2020

July 31, 2020

Ms. Christine Long
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto, ON
M4P 1E4

Dear Ms. Long:

Re: OPG Reporting and Record Keeping Requirements – July 31, 2020 (Non-Confidential Version)

This submission responds to the OEB's direction in EB-2010-0008 (p. 151) to provide "[a]n analysis of the actual regulatory return, after tax on rate base, both dollars and percentages, for the regulated business and comparison with the regulatory return included in the payment amounts." In EB-2016-0152 (p. 146), the OEB established that this information would be filed by July 31st of each year.

Given the COVID-19 pandemic, the OEB granted an extension from April 30th to July 31st, 2020 for the following materials, in addition to the submission above:

- Information on FTEs, Construction Work in Progress (CWIP) capital and in-service additions (per the OEB's direction in EB-2010-0008, p. 151);
- OPG's MD&A and Financial Statements filed with the OSC, OPG's nuclear unit capability factors and the hydroelectric availability for its regulated facilities (per the OEB's direction in EB-2010-0008, p. 151);
- Performance reports for the nuclear business (per the OEB's direction in EB-2016-0152, p. 151); and
- Performance reports and TGC/MWh for the regulated hydroelectric business (per the OEB's direction in EB-2016-0152, p. 149).

Per the OEB's direction in EB-2016-0152 (Decision and Order, p. 151), OPG intends to file 2020 nuclear performance targets. However, due to changes in certain planning assumptions resulting from the

company's COVID-19 response, OPG is in the process of reviewing the 2020 targets and as such does not provide them at this time. OPG will be including the 2020 targets in its November 2020 submission of the 2020 nuclear performance report with benchmark quartile results.

Please find attached the following information:

OPG 2019 Regulated Return on Equity

1) Table 1 – Summary of Actual Capitalization and Cost of Capital, Year Ended December 31, 2019.

This table shows the capital structure and calculated return on equity based on the information shown in Table 2.

2) Tables 2 and 2a – Actual Regulatory Return on Equity, Year Ended December 31, 2019.

These tables show the calculation of the actual regulatory return on equity.

3) Table 3 – Comparison of Actual Regulatory Return on Equity to Board Approved, Year Ended December 31, 2019.

This table is included for comparison of the actual regulatory return with the regulatory return included in the nuclear payment amount.

Materials Normally Submitted by April 30

4) Table 4 – Full-Time Equivalentents (FTEs) by Representation, Years Ended December 31, 2019

This table shows the FTEs broken down by Management Group, Power Workers' Union, and Society of United Professionals for both the regulated Nuclear and Hydroelectric business.

5) Table 5– Continuity of Construction Work-In-Progress (CWIP) and In-Service Additions, Year Ended December 31, 2019

This table shows CWIP and In-Service-Additions broken down by Regulated Hydroelectric, Nuclear, and Corporate Support Services.

6) Table 6– Management's Discussion and Analysis (MD&A), Financial Statements, Nuclear Unit Capability Factors, and Hydroelectric Availability, Year Ended December 31, 2019

This table provides links to the disclosure of OPG's MD&A filed with the OSC, Financial Statements filed with the OSC, Nuclear Unit Capability Factors, and Availability for the Regulated Hydroelectric Facilities.

7) Table 7– Pickering Performance Report, Year Ended December 31, 2019

This table provides the Pickering Performance Report for 2019.

8) Table 8– Darlington Performance Report, Year Ended December 31, 2019

This table provides the Darlington Performance Report for 2019.

9) Table 9– OPG Nuclear Performance Report, Year Ended December 31, 2019

This table provides the Nuclear Performance Report for 2019.

10) Table 10– OPG Regulated Hydroelectric Performance Report, Year Ended December 31, 2019

This table provides the Regulated Hydroelectric Performance Report for 2019.

Confidential Information

We note that under the OEB's Practice Direction on Confidential Filings (the "Practice Direction") and the OEB's Electricity Reporting & Record Keeping Requirements ("Electricity RRR") that certain information filed is treated in confidence by the OEB.

In this RRR filing by OPG, there is OPG confidential information in Tables 2 and 2a. This information relates to margins on sales of surplus heavy water, included in Nuclear revenues, and this same information was afforded confidential protection by the OEB in EB-2010-0008 and subsequent proceedings. The information remains confidential and so a redacted version of OPG's ROE RRR filing is herewith filed for the public record. The redactions are consistent with those made in the EB-2010-0008 and subsequent payment amounts orders. A separate unredacted ROE RRR filing will be simultaneously filed with the OEB in confidence for the OEB's review only.

OPG respectfully requests that prior to any intention the OEB may develop to disclose the confidential information on the public record, that the OEB give OPG notice and afford OPG an opportunity to make submissions on the issue.

OPG's 2019 Regulated Return on Equity Performance

OPG's regulated return on equity (ROE) for 2019 is 15.61% as calculated in Tables 1, 2 and 2a. The 2019 results are 3.45% above OPG's 12.16% dead band, being the ROE of 9.16%¹ approved in payment amounts ± 300 basis points.² In EB-2016-0152, OPG indicated, that as part of its ROE reporting, if performance is outside of the dead band, it would assess the drivers of the ROE variance and submit an assessment to the OEB³.

¹ 9.16% is a rate-base-weighted average of the 8.78% ROE approved for the nuclear business in EB-2016-0152 and 9.33% ROE approved for the hydroelectric business in EB-2013-0321.

² EB-2016-0152 Decision and Order, Page 134

³ EB-2016-0152 I-11.7-1 Staff-271

The higher than expected ROE performance in 2019 is primarily attributable to higher nuclear generation due to fewer outage days than planned, reflecting improvements achieved in OPG’s nuclear asset management cycle and efficiencies realized in the execution of 2019 planned outages. Despite this higher than planned performance in 2019, the average regulated ROE to date for the 2017–2019 period, at 10.74% as shown in Figure 1 below, and the projected average ROE over the 2017–2021 IR term, at 11.0%, remain within the dead band. Figure 1 also shows OPG’s historical regulated ROE performance since inception of OEB’s regulation of the prescribed assets, a period over which OPG earned less than 5% on average. A substantial driver of OPG’s low historical performance has been variances in nuclear generation given OPG’s ongoing risk exposure to the volumetric variable nature of its nuclear payment amounts⁴.

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Actual	(3.11)%	1.10%	4.71%	4.80%	4.73%	0.46%	6.32%	3.63%	3.80%	5.91%	10.69%	15.61%
OEB-Approved	8.65%	8.65%	8.65%	9.43%	9.55%	9.55%	9.36%	9.30%	9.30%	9.16%	9.16%	9.16%

Average (2008–2019)
4.89%

Average (2017–2019)
10.74%

Figure 1: Regulated ROE Performance over Time

The Company’s response measures to COVID-19 are expected to have an impact on OPG’s regulated ROE performance for 2020 and 2021, to the extent currently known or anticipated. The single largest such impact relates to a planned deferral of a Darlington Unit 1 outage (D2011) from the Fall of 2020 to 2021 to support the revised start date of the Darlington Unit 3 refurbishment. While the change in the D2011 timing is expected to increase the 2020 ROE above the 300 basis points dead band, to 12.8%, it will have a corresponding negative effect on the 2021 ROE, which OPG expects to be slightly below the OEB-approved ROE, at 9.0%. As a result, the projected average performance over both the 2020–2021 period and over the full 2017–2021 rate term period will remain within the dead band, at 10.9% and 11.0%, respectively. Had the D2011 outage remained in 2020, the projected performance for 2020 and 2021 would be within the dead band at approximately 11.0% for each year.

⁴ EB-2016-0152, E2-1-1, Chart 2

The projections noted in the preceding paragraph include the revisions to the Darlington refurbishment schedule itself, including Unit 2 returning to service on June 4, 2020 and Unit 3 coming offline at the end of July 2020 to commence a planned outage immediately preceding the start of refurbishment.

OPG continues to monitor and assess potential future COVID-19 impacts and risks, which may negatively impact regulated ROE performance as the pandemic evolves. Due to an inherent inability to predict such impacts, they are not reflected in the projections provided. Some of the risks being monitored related to execution of nuclear outages and other work programs include extent and duration of physical distancing requirements and other enhanced safety measures, and potential impacts on vendors and supply chains.

Based on the assessment above, OPG's 2019 results represent a short term variance in the ROE and as such OPG's payment amounts continue to remain just and reasonable for the remainder of the IR term.

Yours truly,



Matt Kirk

Att.

cc: Cathy Nguyen, OEB
Stephanie Chan, OEB