

BY RESS

March 15, 2021

Ms. Christine Long
Registrar
Ontario Energy Board
27th Floor - 2300 Yonge Street
Toronto, Ontario
M4P 1E4

Dear Ms. Long:

**Re: EB-2020-0290 Application by Ontario Power Generation Inc.
For 2022-2026 Payment Amounts (the "Application")
Reply Submissions Re: Confidential Filings**

In accordance with the Ontario Energy Board's (the "**OEB**") Procedural Order No. 1 in this proceeding and further to the comments from OEB staff and other parties on confidential filings, this is the reply submission of Ontario Power Generation Inc. ("**OPG**"). In this submission, OPG responds to the submissions of (1) OEB staff dated March 2, 2021, the (2) Power Workers' Union ("**PWU**") dated March 10, 2021, and (3) School Energy Coalition ("**SEC**") dated March 5, 2021.

1. OPG Response to Submission of OEB staff

In its submission, OEB staff objects to OPG's request for confidential treatment of the information proposed for redaction in The Report on the Estimated Accounting Cost for Post-Employment Benefit Plans for Fiscal Years 2021 to 2026 located at Ex. F4-3-2, Attachment 1 of OPG's pre-filed evidence (the "**Aon Report**"). Please refer to OPG's letter dated March 5, 2021 and below in Section 2 for OPG's further submissions for its request for confidential treatment of the Aon Report.

2. OPG Response to Submission of PWU

In its submission, PWU objects to (a) OPG's request for confidential treatment of the Aon Report and (b) the relief sought by OPG on the basis of a decision rendered in the most recent Toronto Hydro-Electric System Limited ("**THESL**") case (EB-2018-0165). OPG's reply on these two submissions is as follows:

- a. The submission objecting to confidential treatment should have been delivered in accordance with Procedural Order #1, that is, by March 5, 2021. Since no explanation for the late submission is provided, the submission should be

disregarded. In any event, the argument proposing what OPG must do to demonstrate that the Aon Report is in fact confidential does not hold, because the premise for the argument is incorrect. PWU submits that confidential treatment should not be provided on the premise that the data in the Aon Report is aligned with data already on public record, specifically the data set out in the standard 2K Table for the nuclear facilities filed by OPG in Attachment 1 to Ex. F4-3-1 (the “**2K Table**”). The premise is incorrect because there is no such alignment: the Aon Report includes material assumptions and corresponding amounts of which may be recorded in the Pickering Closure Costs Deferral Account pursuant to *Ontario Regulation 53/05*, whereas the 2K Table (and any other OPG pre-filed evidence for the nuclear facilities on the public record) does not include such amounts.

- b. The Toronto Hydro case referred to in PWU's submission has no application. As PWU notes, the Toronto Hydro case is different. There, THESL sought relief different than what OPG is seeking as the PWU will nevertheless be able to examine the materials in question in OPG's Application. This relief has been granted by the OEB in EB-2016-0152. The correspondence attached to PWU's letter and the submissions it made in that case provide no relevant guidance to the OEB. What does matter is that the arguments made by PWU, to the extent they relate at all to the relief sought by OPG, were made and rejected by the OEB in EB-2016-0152. As the OEB concluded¹:

Labour negotiations between OPG and the PWU have historically been difficult and labour costs represent a significant portion of the costs the OEB is asked to approve in this application.

The OEB has reviewed the information that is the subject of OPG's request and is of the view that it is not appropriate for PWU's counsel (or its representatives) who have access to this information to also be able to be involved in collective bargaining negotiations of behalf of the PWU for the period covered by the application.

The objective of the OEB's decision on this issue is to give ratepayers the highest degree of confidence in the OEB's processes and treatment of highly sensitive information. It addresses what the OEB considers to be a reasonable concern of OPG in respect of this information. It is not intended to question your integrity or to suggest that you have not complied with previous undertakings.

While the OEB's Declaration and Undertaking does under normal circumstances offer the adequate protections you have noted, in this particular instance, the OEB believes the additional protection is warranted.

¹ Letter dated from the OEB to Richard P. Stephenson re: Power Workers' Union objections regarding filing of affidavit File No. EB-2016-0152 dated January 31, 2017 at p. 5.

The OEB notes that regardless of whether you choose to swear the required affidavit, PWU will have access to the information in question via the two PWU representatives who have confirmed that they will not engage in collective bargaining.

3. OPG Response to the Submission of SEC

In its submission, SEC accepts OPG's concern that public disclosure of the forecast total cost for the Clarington Corporate Campus could harm OPG's competitive position in a tendering process for the project. SEC suggests the total forecast could be made public if only portions of the project will go out for tender. OPG expects that substantially all of the project (i.e. the Execution Phase) will go out for a single tender. Therefore, it is essential that the entire amount of total project cost be held as confidential (see the cost allocation to the Execution Phase of the project at Appendix A1: Summary of Estimate set out in Ex. D3-1-2, Attachment 2). Accordingly, this is not a situation where it is possible to disclose the forecast of total cost while also maintaining confidentiality on the breakdown of the component costs.

Respectfully submitted,



Evelyn Wong

cc: Aimee Collier, OPG
Crawford Smith, Lax O'Sullivan Lisus Gottlieb LLP
Charles Keizer, Torys LLP