



BY EMAIL and RESS

Mark Rubenstein
mark@shepherdrubenstein.com
Dir. 647-483-0113

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

May 14, 2021
Our File: EB20200290

Attn: Christine Long, Registrar

Dear Ms. Long:

Re: EB-2020-0290 – Ontario Power Generation Inc. 2020-2026 – Motions Day

We are counsel to the School Energy Coalition ("SEC"). Pursuant to Procedural Order No. 2, below is a list of refused interrogatories, questions, and undertakings which SEC will address at the Motions Day, and the rationale for why the information is relevant and should be produced by Ontario Power Generation Inc. ("OPG").

1. SEC-8 (L-A1-03-SEC-8)

This question seeks information on a claim in OPG's OEB Scorecard Management Discussion and Analysis that it has higher fuel costs for hydroelectric.¹ Since hydroelectric does not have fuel, this likely refers to the Gross Revenue Charge ("GRC"), but SEC was seeking to ensure that we were clear on the reference. This is tied to the issue of whether the Board accepts OPG's position that it cannot look at existing hydroelectric costs due to section 6(3)13 of O.Reg. 53/05.

2. SEC-13 (L-A2-02-SEC-013)

SEC seeks this information to understand more completely whether hydroelectric costs have gone down materially since they were last established, and whether they are likely to continue to go down over the next five years. The information is relevant to two potential questions: a) Should the hydroelectric payment amounts be adjusted prior to December 31, 2021?, and b) Should the Board establish an asymmetrical Earning Sharing Mechanism ("ESM") account for hydroelectric for the period January 1, 2022 to December 31, 2026? Neither of these questions are precluded by O.Reg.53/05. SEC followed up in the Technical Conference (Day 3, p.2-4) and again was met with a refusal, even though segmented information is a regular feature of financial reporting.

3. SEC-46 (L-C1-01-SEC-046)

As with SEC-13 above, SEC seeks this information to understand more completely whether hydroelectric costs have gone down materially since they were last established (for example due to

¹ Exhibit A1-3-2, Attachment 2, p.3

declining interest rates), and whether they are likely to continue to go down over the next five years. The information is relevant to two potential questions: a) Should the hydroelectric payment amounts be adjusted prior to December 31, 2021?, and b) Should the Board establish an asymmetrical ESM account for hydroelectric for the period January 1, 2022 to December 31, 2026? Neither of these questions are precluded by O.Reg.53/05. SEC followed up on this at the Technical Conference, Day 2, p.160-161, and it does appear clear that interest costs for hydroelectric are going down. Declining costs and flat payment amounts create a likelihood of increasing ROE.

4. SEC-154 (L-H1-01-SEC-154)

OPG objects to providing information relevant to the Capital Refurbishment Variance Account (“CRVA”) reference amount for hydroelectric. In this case, SEC seeks information on the forecast, so that we can compare that to the amounts already included in rates. This will allow the Board to determine if the proposed reference amount truly reflects the amounts included in existing rates that are available for new capital spending.

5. OPG’s 2018-2021 Business Plan (Technical Conference Transcript, Day 1, May 3, 2021), p.117, Ln 1-4.

SEC seeks this information for several overlapping reasons. First, the information is relevant to understanding OPG’s business planning for the period after the issuance of the Board’s decision in EB-2016-0152. In that decision, the Board ordered reductions to the proposed 2017 to 2021 capital in-service additions.² OPG’s evidence is that it incorporated those reductions into its first business plan after the issuance of the Board’s decision.³ Yet, it is refusing to provide the relevant evidence to demonstrate this. Second, OPG’s 2017 to 2021 in-service additions are higher than the Board approved amounts.⁴ It is seeking approval to add that variance to its 2022 opening rate base. The 2018-2021 Business Plan is relevant to understanding OPG’s business planning and internal annual forecasts that led to the increase in capital additions compared to the Board approved levels. What did OPG manage its in-service additions to, the OEB approved levels or those in the Business Plan? if the latter, what were those amounts? Third, the evidence also indicates that OPG’s nuclear benchmarking annual targets that were provided on the record in EB-2016-0152 subsequently changed because of the revised business plan.⁵ SEC seeks to understand the drivers of the changes to those targets.

6. Economic Protocols for PGS Pumping (Technical Conference Transcript, Day 2, May 6, 2021) p.83.

Counsel for Environmental Defence asked a number of questions about the operational and economic rules for the Sir Adam Beck pumped storage facility. SEC is also interested in this question, because it is OPG’s responsibility to minimize SBG, and optimizing pumped storage is one way to do it. SEC followed up in the same Technical Conference session (p.150-2), and obtained some information, but it is still incomplete. OPG should provide the economic protocols for the PGS, so that the Board can assess whether SBG is being minimized appropriately.

² [Decision and Order \(EB-2016-0152\), December 28, 2017](#), p.18

³ Technical Conference Transcript, Day 1, p.163-164; D2-01-SEC-49

⁴ Exhibit D2-1-3, Table 4a-b

⁵ Technical Conference Transcript, Day 1, p.168-169



7. *Hydroelectric Costs in 2021* (Technical Conference Transcript Day 2, May 6, 2021) p.167.

SEC sought information on whether the Applicant expects regulated hydroelectric costs in 2021 to be lower than prior years, but counsel refused to allow the witnesses to respond. If the current hydroelectric payment amounts are materially above cost, plus a reasonable return, they are prima facie no longer just and reasonable. This goes to the same two issues as SEC-13 and SEC-46, above.

Yours very truly,
Shepherd Rubenstein P.C.

Mark Rubenstein

cc: Ted Doherty, SEC (by email)
Applicant and intervenors (by email)