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BY EMAIL

July 22, 2021

Ms. Christine E. Long
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Registrar@oeb.ca

Dear Ms. Long:

**Re: Ontario Power Generation Inc.
2022-2026 Payment Amounts Application
Ontario Energy Board (OEB) Staff Submission on Settlement Proposal
OEB File Number: EB-2020-0290**

Please find attached OEB staff's submission on the settlement proposal in the above referenced proceeding, pursuant to Procedural Order No. 4.

Yours truly,

Lawrie Gluck

Lawrie Gluck
Project Advisor, Generation and Transmission

Encl.

cc: All parties to EB-2020-0290



ONTARIO ENERGY BOARD

OEB Staff Submission on Settlement Proposal

Ontario Power Generation Inc.

2022-2026 Payment Amounts Application

EB-2020-0290

July 22, 2021

Introduction

Ontario Power Generation Inc. (OPG) filed an application dated December 31, 2020, with the Ontario Energy Board (OEB) under section 78.1 of the *Ontario Energy Board Act, 1998* (the Act) seeking approval for changes in payment amounts for the output of its nuclear generating facilities in each of the five years beginning January 1, 2022 and ending on December 31, 2026. OPG also requested approval to maintain, with no change, the base payment amount it charges for the output of its regulated hydroelectric generating facilities at the payment amount in effect December 31, 2021 for the period from January 1, 2022 to December 31, 2026.

The OEB approved an Issues List in its May 20, 2021 Decision on Issues List and amended it in the May 27, 2021 Decision on Motions. The final approved Issues List is attached as Schedule A to the Decision on Motions.

A settlement conference was held between June 7, 2021 and June 14, 2021. OPG and the following intervenors participated in the settlement conference: Association of Major Power Consumers in Ontario (AMPCO), Canadian Manufacturers & Exporters (CME), Consumers Council of Canada, Energy Probe Research Foundation (Energy Probe), Environmental Defence Canada Inc. (Environmental Defence), London Property Management Association (LPMA), Ontario Association of Physical Plant Administrators (OAPPA), Ontario Sustainable Energy Association (OSEA), Power Workers Union (PWU), Quinte Manufacturers Association (QMA), School Energy Coalition (SEC), Society of United Professionals (Society), and the Vulnerable Energy Consumers Coalition (VECC) (the Parties).¹

OPG filed a settlement proposal on July 16, 2021. All of the Parties supported the settlement proposal except Environmental Defence, the PWU and the Society, which took no position on the settlement proposal.

The settlement proposal represents a comprehensive settlement on nearly all of the issues set out in the Issues List, with only a limited number of partially settled and unsettled issues.

With respect to Issues 1.2, 13.1 and 14.1, the Parties settled on all matters within the issues, with the exception of: (i) the recording of small modular reactor (SMR)-related

¹ The Independent Electricity System Operator (IESO) and SNC Lavalin Nuclear Inc. & Aecon Construction Group Inc. (CanAtom), which are approved intervenors in the proceeding, did not participate in the settlement conference.

costs in the Nuclear Development Variance Account (NDVA) in the context of the issue identified by the OEB in its Decision on Issues List, dated May 20, 2021;² (ii) consideration of SMRs as a component of OPG's customer engagement process; and (iii) SMR-related reporting and record keeping requirements.

There is no settlement on Issue 7.6 as to whether the proposed in-service additions for the Heavy Water Storage and Drum Handling Facility (D2O Project) are reasonable. As a result of there being no settlement on the D2O Project, Issue 13.2 is partially settled as there are deferral and variance account (DVA) balances associated with the D2O Project. Except for D2O Project-related DVA balances, Issue 13.2 is otherwise settled.

With respect to Issue 15.1, the Parties agreed to defer the consideration of rate smoothing to the process of establishing the final payment amounts order arising from the OEB's decision on this settlement proposal and the remaining issues to be considered by the OEB in the pending hearing.

The net result is that, if the OEB accepts the settlement proposal, the only issues that will need to be addressed in the oral hearing will be those related to SMRs and the D2O Project.

General Comments on the Settlement Proposal

In the preamble to the settlement proposal, the Parties "explicitly request that the OEB consider and accept this Settlement Proposal as a package."³ In OEB staff's view, that is a reasonable request. As the Parties note, "Numerous compromises were made by the Parties with respect to various matters to arrive at this Settlement Proposal."⁴

Moreover, OEB staff is of the view that the Parties have provided sufficient explanation in the settlement proposal for why the agreed upon resolution is appropriate, including by citing the applicable sections of the evidence.

OEB staff would add that, as is typical for a large rate proceeding like this one, a number of stakeholders participated, representing a range of perspectives. No fewer than eight customer groups took part in the settlement conference. Many of the most experienced OEB practitioners were in the virtual settlement room.

² Decision on Issues List / p. 9. The OEB defined the issue in this proceeding with respect to SMRs as, "[t]he OEB will consider the narrow issue of whether OPG's SMR-related costs are consistent with the purpose of the NDVA and thereby appropriate to be booked in the account."

³ Settlement Proposal / p. 6.

⁴ *Ibid.*

For those reasons, in this submission, OEB staff will examine the settlement proposal as a whole, rather than commenting on every aspect on an issue by issue basis.

The settlement proposal would result in: (i) a significant reduction to the 2022-2026 revenue requirements relative to the amounts proposed by OPG; (ii) an increase to the production forecast in each year of the 2022-2026 term; and (iii) a reduction to the amortization of DVA balances and other amounts.⁵

In the tables that follow, OEB staff provides a brief summary of the financial impacts of the settlement proposal relative to OPG's proposed amounts.⁶

Table 1
Impact of Settlement Proposal on Rate Base⁷

(\$M)	2022	2023	2024	2025	2026
Proposed Rate Base	\$8,719.00	\$8,788.80	\$11,262.40	\$12,471.60	\$13,316.60
Settled Rate Base	\$8,689.80	\$8,701.40	\$11,117.00	\$12,269.50	\$13,069.40
Variance	\$(29.20)	\$(87.40)	\$(145.40)	\$(202.10)	\$(247.20)

Table 2
Impact of Settlement Proposal on Revenue Requirement⁸

(\$M)	2022	2023	2024	2025	2026	Total
Proposed Revenue Requirement (RR)	\$3,609.30	\$3,538.80	\$3,642.00	\$3,325.80	\$2,552.40	\$16,668.30
Cost of Capital	\$(28.20)	\$(31.80)	\$(39.60)	\$(44.80)	\$(48.90)	\$(193.30)
OM&A	\$(64.50)	\$(66.50)	\$(69.30)	\$(68.40)	\$(47.10)	\$(315.80)
Other Expenses	\$(2.40)	\$(5.00)	\$(6.80)	\$(8.10)	\$(11.90)	\$(34.20)

⁵ The other amounts include tax impacts associated with the recovery of the Pension & OPEB Cash Versus Accrual Differential Deferral Account and the recovery (hydroelectric business segment) and refund (nuclear business segment) of the impact of the COVID-19 pandemic.

⁶ The proposed amounts discussed in the following tables are updated for certain corrections as described in Draft Payment Amount Order / Appendix A / Table 6. In addition, some of the settled amounts in the tables below are subject to change based on the OEB's determinations with respect to the partially settled and unsettled issues and the update to the ROE rate for the 2022-2026 period based on the prevailing ROE specified by the OEB in accordance with the OEB's Cost of Capital Parameters letter as of the effective date of the final payment amounts order in this proceeding.

⁷ Settlement Proposal / pp. 9-13.

⁸ Settlement Proposal / pp. 9-13.

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Other Revenues	\$(2.40)	\$(4.20)	\$(5.20)	\$(2.20)	\$(6.40)	\$(20.40)
Stretch Factor	\$ -	\$(5.40)	\$(10.60)	\$(14.40)	\$(9.50)	\$(39.90)
Settled RR	\$3,511.80	\$3,425.90	\$3,510.50	\$3,187.90	\$2,428.60	\$16,064.70
Variance (\$)	\$(97.50)	\$(112.90)	\$(131.50)	\$(137.90)	\$(123.80)	\$(603.60)
Variance (%)	-2.70%	-3.19%	-3.61%	-4.15%	-4.85%	-3.62%

Table 3
Impact of Settlement Proposal on Revenue Deficiency⁹

(\$M)	2022	2023	2024	2025	2026	Total
Proposed RR Deficiency	\$631.20	\$773.60	\$655.00	\$617.80	\$622.80	\$3,300.40
Production Forecast Increase (TWh)	0.4	0.4	0.7	0.9	0.4	2.8
Production Forecast Increase - Impact on Deficiency	\$(35.90)	\$(35.90)	\$(62.80)	\$(80.70)	\$(35.90)	\$(251.20)
Total RR Reduction + Production Increase - Impact on Deficiency	\$(133.40)	\$(148.80)	\$(194.30)	\$(218.60)	\$(159.70)	\$(854.80)
Settled RR Deficiency	\$497.80	\$624.80	\$460.70	\$399.20	\$463.10	\$2,445.60
Total RR Reduction + Production Increase - Impact on Deficiency (%)	-21.13%	-19.23%	-29.66%	-35.38%	-25.64%	-25.90%

⁹ Settlement Proposal / Draft Payment Amounts Order / Appendix G / Revenue Requirement Workform. The proposed revenue deficiency as set out in the Revenue Requirement Workform was updated by OEB staff to reflect the corrections made to the revenue requirement as set out in Settlement Proposal / Draft Payment Amounts Order / Appendix A / Table 6. OEB staff also notes that the revenue deficiency calculation for the 2022-2026 period uses the 2021 OEB-approved payment amount (\$89.70) for all years of the term.

Table 4
Impact of Settlement Proposal on Nuclear-related DVA and Other Amount
Amortization¹⁰

(\$M)	2022	2023	2024	2025	2026	Total
Proposed Nuclear DVA Disposition	\$77.60	\$77.60	\$77.60	\$166.20	\$166.20	\$565.20
Settled Nuclear DVA Disposition	\$58.40	\$58.40	\$58.40	\$166.20	\$166.20	\$507.60
Variance	\$(19.20)	\$(19.20)	\$(19.20)	\$ -	\$ -	\$(57.60)

Table 5
Impact of Settlement Proposal on Hydroelectric-related DVA and Other Amount
Amortization¹¹

(\$M)	2022	2023	2024	2025	2026	Total
Proposed Hydroelectric DVA Disposition	\$43.70	\$43.70	\$43.70	\$22.80	\$22.80	\$176.70
Settled Hydroelectric DVA Disposition	\$34.00	\$34.00	\$34.00	\$22.80	\$22.80	\$147.60
Variance	\$(9.70)	\$(9.70)	\$(9.70)	\$ -	\$ -	\$(29.10)

Table 6
Impact of Settlement Proposal and Updated Rate Smoothing Proposal on
Deferred Revenue Amounts¹²

(\$M)	2022	2023	2024	2025	2026	Total
Proposed Deferred Revenue Amounts	\$241.20	\$299.90	\$167.00	\$103.40	\$(44.80)	\$766.70
Updated Deferred Revenue Amounts	\$82.40	\$125.70	\$ -	\$ -	\$ -	\$208.10
Variance	\$(158.80)	\$(174.20)	\$(167.00)	\$(103.40)	\$44.80	\$(558.60)

¹⁰ Settlement Proposal / pp. 9-13. The other amounts include tax impacts associated with the recovery of the Pension & OPEB Cash Versus Accrual Differential Deferral Account and the refund of the COVID-19 pandemic impact credit (nuclear).

¹¹ Settlement Proposal / pp. 9-13. The other amounts include tax impacts associated with the recovery of the Pension & OPEB Cash Versus Accrual Differential Deferral Account and the recovery of the COVID-19 pandemic impact debit (hydroelectric).

¹² Settlement Proposal / p. 14. The updated rate smoothing proposal was filed on July 16, 2021 under separate cover.

Table 7
Impact of Settlement Proposal and Updated Rate Smoothing Proposal on Bill Impacts¹³

	2022	2023	2024	2025	2026
Proposed Bill Impacts (\$)	\$1.04	\$0.26	\$0.27	\$0.26	\$0.23
Proposed Bill Impacts (%)	0.90%	0.23%	0.23%	0.23%	0.20%
Updated Bill Impacts (\$)	\$1.04	\$0.26	\$0.01	\$(0.04)	\$(0.37)
Updated Bill Impacts (%)	0.90%	0.23%	0.01%	-0.03%	-0.32%
Bill Impact Change (\$)	\$ -	\$ -	\$(0.26)	\$(0.30)	\$(0.60)

For context, OEB staff notes that the total revenue requirement reduction for the 2022-2026 period resulting from the settlement proposal of \$603.6 million (or 3.62%) compares to the OEB-approved reduction to the proposed revenue requirement in OPG's 2017-2021 Payment Amounts proceeding of \$920.7 million (or 5.49%).¹⁴ The 3.62% reduction assumes, for illustrative purposes, that no D2O Project-related disallowances are ordered by the OEB.¹⁵

On a revenue deficiency basis, the total reduction for the 2022-2026 period of \$854.8 million (or 25.90%)¹⁶ resulting from the settlement proposal compares to the OEB-approved reduction to the proposed revenue deficiency in OPG's 2017-2021 Payment Amounts proceeding of \$920.7¹⁷ million (or 16.45%).¹⁸ Again, this does not account for

¹³ Settlement Proposal / Draft Payment Amounts Order / Appendix B / Table 2A; and Exhibit I1 / Tab 1 / Schedule 2 / Table 1.

¹⁴ EB-2016-0152 / Payment Amounts Order / March 29, 2018 / Appendix A / Tables 1-6. Note that the proposed revenue requirement, to which the OEB's reduction was applied, is based on OPG's Second Impact Statement, which reflects certain corrections and the changes resulting from the settlement agreement with respect to nuclear fuel costs and heavy water sales.

¹⁵ In addition, the revenue requirement may be further impacted by the update to the ROE rate for the 2022-2026 period based on the prevailing ROE specified by the OEB in accordance with the OEB's Cost of Capital Parameters letter as of the effective date of the final payment amounts order in this proceeding.

¹⁶ Settlement Proposal / Draft Payment Amounts Order / Appendix G / Revenue Requirement Workform. The proposed revenue deficiency as set out in the Revenue Requirement Workform was updated by staff to reflect the corrections made to the revenue requirement as set out in Settlement Proposal / Draft Payment Amounts Order / Appendix A / Table 6. OEB staff notes that the revenue deficiency calculation for the 2022-2026 period uses the 2021 OEB-approved payment amount (\$89.70) for all years of the term.

¹⁷ OEB staff notes that revenue requirement reduction and revenue deficiency reduction ordered by the OEB are the same as there was no change to the production forecast in OPG's 2017-2021 Payment amount proceeding resulting from the OEB's decision.

¹⁸ EB-2016-0152 / Final Draft Payment Amounts Order / March 23, 2018 / Revenue Requirement Workform. OEB staff notes that the revenue deficiency calculation for the 2017-2021 period uses the

any D2O Project-related adjustments that might be made by the OEB following the oral hearing.

In OEB staff's view, the tables above demonstrate that significant concessions have been made by OPG as against its application. Although the final bill impact cannot be calculated until after the OEB makes its final determination on the unsettled issues, the overall effect of the settlement proposal, if approved, would be nuclear payment amounts (and / or deferred revenue amounts) that are significantly lower over the five-year term than what were proposed. (Base hydroelectric payment amounts are frozen pursuant to O. Reg. 53/05). In addition, a key element of the settlement proposal is the introduction, for the first time for OPG, of an earnings sharing mechanism (ESM) as discussed further below.

OEB staff has reviewed the appendices to the settlement proposal, including the draft payment amounts order, and has no concerns.

Additional Comments on Certain Specific Aspects of the Settlement Proposal

As noted above, OEB staff has examined the settlement proposal as a whole and has therefore focused this submission on providing high-level, contextual observations. There are, however, four specific aspects of the settlement proposal where some additional comments may be of assistance to the OEB.

First, the settlement proposal includes the introduction, for the first time for OPG, of an ESM.¹⁹ This brings OPG in line with other Ontario utilities whose rates are set on a Custom IR basis. The design of OPG's ESM is similar to Toronto Hydro-Electric System Limited's ESM.²⁰ In OEB staff's view, the importance of an ESM for OPG was highlighted by the fact that OPG reported significant overearnings in 2019, which led the OEB to initiate a regulatory review of 2021 payment amounts and to establish the 2021 Overearnings Variance Account.²¹ In the current application, OPG also reported significant overearnings in 2020.²² Notably, the proposed asymmetrical ESM would apply to the combined nuclear and regulated hydroelectric earnings. Therefore, even though base hydroelectric payment amounts are frozen for the next five years, the ESM will operate as a safety valve in the event that the hydroelectric payment amounts drive

2014 / 2015 approved payment amount (\$59.29) for all years of the term.

¹⁹ Settlement Proposal / p. 18.

²⁰ EB-2018-0165 / Decision and Order / December 19, 2019 / pp. 192-193.

²¹ EB-2020-0248 / Notice of Proceeding and Accounting Order / November 9, 2020.

²² Exhibit I1 / Tab 1 / Schedule 1 / p. 2 (Updated April 30, 2021).

OPG's overall earnings (across the regulated business) to a level that is in excess of the ESM threshold.

Second, the settlement proposal reflects an agreement with respect to the impact of the COVID-19 pandemic. OPG will credit ratepayers with \$46.6 million, representing the net difference between OPG's favourable generation margin impact and the incremental OM&A costs net of savings related to OPG's response to the COVID-19 pandemic in 2020 (actual) and 2021 (forecast) (across both the hydroelectric and nuclear business segments).²³

OEB staff notes that the OEB's Report on the Regulatory Treatment of Impacts Arising from the COVID-19 Emergency²⁴ does not contemplate refunds to ratepayers in the circumstance that the overall impact of the COVID-19 pandemic was financially favourable to a utility. In addition, the treatment of COVID-19 pandemic-related impacts applied to electricity distributors does not include differences in load (which is the electricity distributor equivalent of changes to production). However, the OEB previously stated that the guidance set out in the OEB's Report on the Regulatory Treatment of Impacts Arising from the COVID-19 Emergency is not applicable to OPG. Specifically, the OEB stated that the appropriate ratemaking treatment of any pandemic related impacts on OPG should be determined in a payment amounts proceeding.²⁵ The approach to the COVID-19 impacts set out in the settlement proposal is, in OEB staff's view, a reasonable one.

Third, the settlement proposal includes the application of OPG's long-term debt rate (instead of the ROE rate) for the equity portion of \$358 million of in-service capital additions.²⁶ In OPG's 2017-2021 Payment Amounts proceeding, the OEB reduced OPG's forecast in-service capital additions by 10% (excluding DRP-related in-service capital additions).²⁷ In the current application, OPG's proposed in-service capital additions for the 2017-2021 period are higher than the amounts approved in the above

²³ Settlement Proposal / pp. 19-20.

²⁴ EB-2020-0133 / Report of the Ontario Energy Board – Regulatory Treatment of Impacts Arising from the COVID-19 Emergency / June 17, 2021.

²⁵ EB-2020-0133 / OEB Letter re: Consultation on the Deferral Account – Impacts Arising from the COVID-19 Emergency / pp. 1-2.

²⁶ Settlement Proposal / pp. 23-24. The \$358 million in-service capital addition amount to which this treatment applies represents: (a) 100% of the difference between OPG's actual / planned in-service capital additions for 2017-2021 as proposed in the current application and such forecasted amounts in OPG's 2017-2021 Payment Amounts Application; and (b) 50% of the difference between OPG's 2017-2021 forecasted in-service capital additions and the in-service capital additions approved by the OEB in OPG's 2017-2021 Payment Amounts application. The in-service capital additions to which this treatment applies excludes DRP-related in-service capital additions. This treatment applies to the noted in-service capital addition amount for the period from January 1, 2022 to December 31, 2036.

²⁷ EB-2016-0152 / Decision and Order / December 28, 2019 / p. 18.

noted proceeding (and are also higher than the amounts that OPG had forecast in that proceeding).²⁸ It is OEB staff's view that the agreement to apply the debt rate instead of the ROE rate to the \$358 million in-service capital addition amount is a reasonable and creative approach to addressing in-service capital additions that are in excess of the forecast and OEB-approved amounts set out in OPG's 2017-2021 Payment Amounts proceeding.

Finally, the settlement proposal reflects an agreement to resume OPG's Pension and Other Post-Employment Benefit (OPEB) Cost Variance Account to true-up the pension and OPEB costs reflected in revenue requirement to the actual pension and OPEB costs incurred.²⁹ Although pension and OPEB costs that electricity distributors recover in rates are typically not trued-up to actuals, OEB staff submits that the proposal to true-up OPG's pension and OPEB costs is appropriate. OPG's pension and OPEB costs are subject to significant volatility as shown by prior forecast to actual differences³⁰ and are sensitive to small changes in assumptions that factor into pension and OPEB costs.³¹ OEB staff submits that the Pension and OPEB Cost Variance Account will help ensure that neither ratepayers or OPG will be harmed from forecasting variances. In addition, OEB staff notes that OPG's pension and OPEB costs have been trued up to actuals since 2011³² through the disposition of various pension and OPEB deferral and variance accounts.³³ The settlement proposal therefore represents an extension of the status quo.

Conclusion

For the reasons above, OEB staff submits that the settlement proposal represents a good outcome for ratepayers. The settlement proposal is also consistent with the OEB's statutory objectives under section 1 of the Act, in particular, the protection of consumers with respect to prices and the adequacy, reliability and quality of electricity service, and the promotion of cost effectiveness in the generation of electricity, while facilitating the maintenance of a financially viable electricity sector.

²⁸ Settlement Proposal / p. 24.

²⁹ Settlement Proposal / pp. 28-29.

³⁰ Exhibit L / Staff-303.

³¹ Exhibit L / Staff-305.

³² EB-2011-0090 / Decision and Order on Motion / June 23, 2011.

³³ Pension and OPEB Cost Variance Account, Pension and OPEB Cash Variance Account, and Pension and OPEB Cash Versus Accrual Differential Deferral Account.

In closing, OEB staff commends the Parties for their diligence in developing a settlement proposal that OEB staff strongly believes is in the public interest. OEB staff submits that the OEB should approve the settlement proposal as filed.

~All of which is respectfully submitted~