

July 26, 2021

Ms. Christine E. Long
Registrar and Board Secretary
Ontario Energy Board
PO Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Long:

Re: EB-2020-0290 Ontario Power Generation Payment Amounts Application

We are legal counsel to Ontario Power Generation Inc. ("OPG") in this matter.

With respect to the recording of planning and pre-development costs associated with a small modular reactor ("SMR") at the Darlington site, the Ontario Energy Board ("OEB") stated in its Decision on the Issues List dated May 20, 2021 that the issue before the OEB in this proceeding is "... 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."

Based on O.Reg 53/05, the purpose of the NDVA consists of (i) the recording of non-capital cost incurred and firm financial commitments made for the planning and preparation for development of proposed new nuclear facilities under section 5.4(1) of O.Reg 53/05, and (ii) the OEB's obligation to ensure recovery of those costs, if prudent, under section 6(2)4.1 of O.Reg 53/05. The latter legal obligation was found by the OEB to exist regardless of whether the proposed new nuclear facilities are ultimately prescribed under O.Reg 53/05, section 2.¹

On June 22, 2021, Energy Probe provided to OPG the report entitled *Small Nuclear Power Reactors* from the World Nuclear Association² and indicated that Energy Probe intended to cross-examine on its contents. This report appears, on its face, unrelated to OPG's predevelopment SMR-related costs and irrelevant to the narrow issue the OEB set out in the Issues List Decision. Furthermore, while the report is 51 pages in length, Energy Probe provided no specifics as to the areas on which it intended to cross-examine or any insights as to its relevance. As a result, OPG's witnesses are unable to fully prepare for the oral hearing and to

¹ The OEB in EB-2009-0905 at p. 11 found in reference to Section 6(2) paragraph 4.1 that:

Two of the categories listed above (new nuclear development, and the revenues and costs of the Bruce nuclear stations) are for costs that are not related to the prescribed facilities. Thus, O. Reg. 53/05 requires the Board to take into account costs and revenues of unregulated activities when setting payment amounts for regulated activities.

² <https://www.world-nuclear.org/information-library/nuclear-fuel-cycle/nuclear-power-reactors/small-nuclear-power-reactors.aspx>

be in the best position to address relevant inquiries that would assist the OEB.

Therefore, OPG requests that the OEB require Energy Probe and other intervenors that rely on reports not already on the record for purposes of cross-examination, to highlight those areas in the report that are to be referenced in cross-examination and to provide any such documents well in advance of the proceeding. OPG reserves its right to challenge the relevance of any question posed in reference to such reports.

The foregoing will provide a fair opportunity for OPG's witnesses to respond and will make for a more efficient hearing.

Yours truly,

A handwritten signature in black ink, appearing to read 'C. Keizer', written over the printed name.

Charles Keizer

cc: Aimee Collier, OPG
Crawford Smith, Lax O'Sullivan Lissus Gottlieb LLP
Michael Millar, OEB
All parties