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August 31, 2021

Christine E. Long
Registrar
Ontario Energy Board
2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Long,

RE: EB-2020-0290 - Submissions of London Property Management Association for Ontario Power Generation 2022-2026 Payments

Please find attached the submissions of the London Property Management Association ("LPMA") in the above noted application.

Sincerely,

Randy Aiken
Aiken & Associates

cc: OPG Regulatory Affairs opgregaffairs@opg.com

Ontario Power Generation Inc.

**Application for payment amounts for the period from
January 1, 2022 to December 31, 2026**

**SUBMISSIONS
OF
LONDON PROPERTY MANAGEMENT ASSOCIATION**

I. INTRODUCTION

Ontario Power Generation (“OPG”) filed an application with the Ontario Energy Board (“OEB”) dated December 31, 2020 under section 78.1 of the *Ontario Energy Board Act, 1998*. The application is for approval for changes in payment amounts for the output of the nuclear generating facilities in each of the years 2022 through 2026.

A significant number of interrogatories were filed by intervenors, including the London Property Management Association (“LPMA”), and Board staff. OPG filed responses to these interrogatories in April and a technical conference was held in early May.

A settlement conference was convened and ran from June 7th to June 14th, 2021. OPG filed a settlement proposal on July 16, 2021. The settlement proposal was comprehensive and settled nearly all of the issues that had been set out in the issues list. The OEB approved the settlement proposal orally at the hearing on August 6th, 2021.

The number of partially settled and unsettled issues are related to small modular reactors (“SMRs”) (issues 1.2, 13.1 & 14.1), the heavy water storage and drum handling facility (“D20 Storage Project”) (issues 7.6 & 13.2), and rate smoothing (Issue 15.1).

The parties to the settlement proposal agreed to defer the consideration of rate smoothing (issue 15.1) to the process of establishing the final payment amounts order until all other issues have been decided by the OEB. The OEB accepted this proposal as part of Procedural Order No. 4 dated July 19, 2021.

OPG filed its Argument-in-Chief (“AIC”) on August 17, 2021.

The following are the submissions of the LPMA on the unsettled issues. LPMA has grouped the unsettled issues by major topic of SMRs and the D20 Project.

II. SUBMISSIONS ON THE UNSETTLED ISSUES

A. SMALL MODULAR REACTORS

For each of the issues that follow in this section, LPMA notes that the submissions relate only to the potential development of an SMR nuclear generating facility at the Darlington site. The issues relate to a potential SMR at the Darlington site – and specifically OPG’s ongoing recording of costs to the Nuclear Development Variance Account (“NDVA”) established pursuant to Ontario Regulation 53/05 (“O. Reg. 53/05”).

Issue 13.1 – Is the nature of type of costs recorded and the methodologies used to record costs in the deferral and variance accounts related to OPG’s nuclear and regulated hydroelectric assets appropriate?

In its Decision on Issues List dated May 20, 2021, the OEB stated that *“There are financial risks to OPG’s shareholder and ratepayers associated with ambiguity regarding an existing DVA. The 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.”*

OPG has submitted that the SMR-related costs are consistent with the purpose of the NDVA and are therefore, appropriately recorded in the account. The SMR-related costs that are eligible are limited to non-capital costs incurred and firm financial commitments related to only a Darlington SMR.

OPG is not requesting that the OEB clear any SMR-related balances in the account as part of this proceeding. On behalf of OPG, Ms. MacDonald agreed that actual costs that are put into the account will be subject at a clearance proceeding to testing by the OEB to determine if they qualify and if the costs are prudent (Tr. Vol. 1, page 85).

OPG bases its position that the costs are eligible for inclusion in the NDVA based on section 5.4(1) of O. Reg. 53/05, where OPG is required to establish a variance account in connection with actual non-capital costs incurred and firm financial commitments made for planning and preparation for the development of proposed new nuclear generation facilities. This new nuclear generating facility would employ SMR technology and be located at the Darlington site.

LPMA notes that the OEB has a statutory obligation under section 6(2)(4.1) of O. Reg 53/05 to ensure that OPG “*recovers the costs incurred and firm financial commitments made in the course of planning and preparation for the development of proposed new nuclear generation facilities, to the extent that the Board is satisfied that i. the costs were prudently incurred, and ii. the financial commitments were prudently made.*”

LPMA submits that, at this time, the OEB should not determine if the SMR-related costs are consistent with the purpose of the NDVA. This is because there are no proposed new nuclear generation facilities at this time. In other words, the statutory obligation under section 6(2)(4.1) of O. Reg 53/05 is not applicable, as the requirement for the development of a proposed new nuclear generation facility has not been met.

The evidence is clear that at this time, OPG has no proposed new nuclear generation facility. Nothing has been proposed to OPGs’ board of directors for approval or to the shareholder for approval (Tr. Vol. 1, page 90). LPMA submits that the OEB should not approve the inclusion of SMR-related costs in the NDVA when these costs do not meet the requirements of section 6(2)(4.1). There may not be a proposed new nuclear generating facility at all, or it might be determined that the Darlington site is not the appropriate location for such a facility. Any new facility may or may not be a prescribed asset.

LPMA submits that at this time, there are too many unknowns with respect to the SMR-related costs for a facility that may or may not be proposed and may or may not be rate regulated. LPMA agrees with the statement of Ms. MacDonald (Tr. Vol. 1, page 85) and submits that the OEB should defer any decision related to the SMR-related non-capital costs incurred and firm financial commitments to a proceeding when clearance of the account is requested. At that time the OEB and other parties could test whether such costs qualify for inclusion in the account and if the costs are prudent. At the time of a clearance request, it should be clear if there was a proposed facility at the Darlington site.

Issue 1.2 – How could OPG further improve its customer engagement process?

This issue was settled as part of the settlement proposal with the exception of the consideration of the SMRs as a part of the customer engagement process that OPG undertook to understand customer preferences related to aspects of OPG’s payment amounts application.

OPG has submitted that engaging with customers on SMRs as part of the company’s business planning underpinning a payment amounts application is neither appropriate nor practicable (AIC, pages 5-6). LPMA disagrees.

OPG is planning to spend significant amounts of money that may be recoverable from ratepayers in the future. Customers should be engaged on several aspects of the SMR approach, including, but not limited to the potential cost of power produced at such a facility, whether Darlington is the optimal location of such a facility, what alternatives to an SMR are available and whether such a facility should be rate regulated given that other companies and organizations are also investigating the use of SMRs. LPMA also notes that no SMR has actually been proposed for the Darlington site at this time. Failing to engage customers on these important questions would be an opportunity lost.

Issue 14.1 – Are the proposed reporting and record keeping requirements, including performance scorecards proposed by OPG, appropriate?

This issue is settled with the exception of the SMR-related reporting and record keeping requirements.

If the OEB allows the recording of SMR-related costs in the NDVA (issue 13.1), then LPMA generally supports the submissions of OPG in its AIC at pages 6-7. However, LPMA submits that the OEB should order OPG to separately track and report on SMR-related balances regardless of whatever deferral or variance accounts the costs are recorded in. This will allow interested parties to track the SMR-specific related costs in order to identify any concerns that may arise over the next number of years.

B. D20 STORAGE PROJECT

Issue 7.6 – Are the proposed test period in-service additions for the D20 Project reasonable?

LPMA has had the opportunity to review the combined draft submissions of the Association of Major Power Consumers in Ontario (“AMPCO”) and the Consumers Council of Canada (“CCC”) with respect to OPG’s request to include a total of \$509.3 million of capital spending associated with the D2O storage facility into rate base. LPMA has also had the opportunity to review the draft submissions of the School Energy Coalition (“SEC”) with respect to the Bates White evidence.

LPMA supports and adopts the comprehensive and detailed submissions of AMPCO/CCC with respect to the D2O Storage Project costs that should be approved for inclusion rate base. Similarly, LPMA supports and adopts the submissions of SEC related to the Bates White evidence.

At a high level, LPMA agrees with AMPCO/CCC there should be a permanent disallowance of \$200 million of the requested \$509.3 million in capital spending, resulting in \$309.3 million being closed to rate base.

LPMA submits that the OEB should be guided by the framework utilized by the OEB panel in disallowing a portion of the capital spending related to the Auxiliary Heating System and Operations Support Building in its December 28, 2017 Decision and Order in EB-2016-0152. In that decision, the OEB determined that it was appropriate to take into account legitimate scope increases and imprudent management of those projects by OPG by disallowing 50% of the difference between the Full Execution Release Business Case Summary for each project and the final cost of the project.

With respect to the D2O Storage Project in the current proceeding there were legitimate scope increases that the OEB should recognize. At the same time, LPMA submits that there is clear evidence of imprudent management of the project. The AMPCO/CCC submissions illustrate a number of management missteps. In addition to the legitimate scope increases and the imprudent management, LPMA notes and agrees with the submissions of AMPCO/CCC with respect to the over-building of the facility.

In the current proceeding for the D2O Storage Project, the Full Execution Release Business Case Summary in 2013 was based on a total budget of \$110 million and the final cost of the project as reported by OPG is \$509.3 million. The \$200 million disallowance proposed is 50% of the difference between these figures. LPMA submits that this 50% reduction is appropriate given imprudent management and over-building of the facility, while recognizing that there were some legitimate scope increases in the project.

As noted earlier, LPMA supports and adopts the comprehensive and detailed submissions of AMPCO/CCC with respect to the various components of the D2O Storage Project and in the interest of efficiency, will not repeat or paraphrase them here. Also as noted earlier, LPMA supports the submissions of SEC with respect to the Bates White evidence and will not repeat or paraphrase them here.

LPMA also agrees with and supports the AMPCO/CCC submissions related to rejecting the OPG proposal to treat any of the spending as having been in rate base since 2016 and 2019 and rather approve the allowed costs as having been added to rate base in 2020 (see Issue 13.2 below).

LPMA also agrees with and supports the AMPCO/CCC submissions with respect to the recoverability in rates of the revenue requirement associated with the portion of the allowed rate base additions for the D2O Storage Project to ensure the proper allocation to

storage that was built in order to meet the needs of the DRP in order to ensure that, following the completion of the DRP, if the storage becomes used for the decommissioning of Pickering, then the costs of that storage should be recovered through the associated Decommissioning Fund.

Issue 13.2 – Are the balances for recovery and the proposed disposition amounts in each of the defer and variance accounts related to OPG’s nuclear and regulated hydroelectric assets appropriate?

This issue is settled with the exception of the Capacity Refurbishment Variance Account (“CRVA”) balances associated with the D20 project. LPMA notes that the CRVA balances associated with the D20 Storage Project that are recoverable as part of this application flow directly from the approved capital amounts and are shown in Table 1 of Exhibit J3.2, Attachment 1. As shown in this table, the amount proposed for recovery over the 2022 through 2026 period is just under \$200 million. This issue, along with the amount to be recovered from customers, will be resolved through the resolution of issue 7.6 above.

In addition to the issue related to the appropriate amount of in-service additions to be approved for recovery from ratepayers, LPMA notes that the amount to be recovered over the 2022 through 2026 period will depend on when the OEB approved capital cost of the D2O Storage Project is deemed to have been closed to rate base.

OPG has proposed to place \$160 million and \$320.9 million in rate base in 2016 and 2019, respectively (Exhibit L, D2-02-AMPCO-080 & Exhibit D2, Tab 2, Schedule 9, Tables 2 & 5). However, the facility was not declared capable of accepting heavy water until March of 2020 (Exhibit D2, Tab 2, Schedule 10, Att. 4, page 8). In other words, it was not used before 2020 and it was not useful before March of 2020 when it was declared capable of accepting heavy water.

LPMA agrees with the submissions of AMPCO/CCC that the appropriate year to include in-service capital amounts in rate base is 2020, as this is when the D2O facility was declared capable of accepting heavy water. The revenue requirement included in the CRVA related to the D2O Storage Project should be calculated based on the in-service capital amounts being included in rate base in 2020, when they became used or useful, and not in 2016 and 2019.

III. COSTS

LPMA requests that it be awarded 100% of its reasonably incurred costs. LPMA cooperated with other stakeholders in the proceeding and eliminated any unnecessary duplication while continuing to ensure that its concerns were covered in the interrogatory process, technical conference, settlement conference and oral hearing.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

August 31, 2021

**Randy Aiken, Aiken & Associates
Consultant to London Property Management Association**