



**SOCIETY of
UNITED PROFESSIONALS**
IFPTE 160

20th April, 2023

Michelle Johnston
President
Society of United Professionals, IFPTE 160
2239 Yonge St
Toronto, ON M4S 2B5

VIA email and RESS Filing

Nancy Marconi
Registrar
Ontario Energy Board
P.O. Box 2319
2300 Yonge St.
Toronto, ON
M4P 1E4

**Re: EB-2023-0098 Ontario Power Generation Inc. (OPG)
Application for a Variance Account to capture the nuclear revenue requirement
impacts of the overturning of Bill 124
Society of United Professionals' Interrogatories to OPG**

Dear Ms. Marconi,

Please find attached the Society of United Professionals' interrogatories to OPG in their above noted proceeding, EB-2023-0098.

Sincerely,

Michelle Johnston
President
Society of United Professionals, IFPTE 160
regulatory@thesociety.ca
(416) 979-2709

email copy: interested parties



**SOCIETY *of*
UNITED PROFESSIONALS**
IFPTE 160

**SOCIETY OF UNITED PROFESSIONALS
INTERROGATORY QUESTIONS**

EB-2023-0098 Ontario Power Generation Inc. (OPG)

**Application for a Variance Account to capture the nuclear revenue requirement
impacts of the overturning of Bill 124**

20th April, 2023

EB-2023-0098: The Society of United Professionals' Interrogatory Questions

1.1 [& Appendix A] SUP 1

On pages 6 and 7 of the evidence, OPG notes that there are uncertainties regarding the method that could be used by represented staff to react to the overturning of the *Protecting a Sustainable Public Sector for Future Generations Act, 2019* (Bill 124).

The PWU was impacted by Bill 124 for the contract period April 1, 2021 to March 31 2022. The PWU is currently negotiating for the period commencing April 1, 2022. The previous PWU contract covered by Bill 124 did not include a reopener clause specific to Bill 124.

SUP was covered by Bill 124 for its contract from January 1, 2022 to December 31, 2023. SUP's contract did include a reopener clause.

OPG notes that the past periods impacted by Bill 124 could be settled through negotiation or arbitration, or potentially through an increase in future compensation.

Any past settlement would represent an incremental impact versus the compensation costs used to set rates. In addition, any go forward settlement wage costs attributable to the overturning of Bill 124 would also represent an incremental variance.

With respect to the sample entries included in Appendix A at page 14:

- 1) Please confirm that these entries are meant to deal with all variances arising from the overturning of Bill 124, whether through negotiated or arbitrated payments made under reopener clauses, legal claims or increased future compensation levels.
- 2) Has OPG considered maintaining separate sub accounts for retroactive versus going forward impacts?
- 3) Please clarify the methodology OPG would use to split variances between capital and OM&A. Does it differ for retroactive and go forward impacts?

1.1 SUP 2

Please provide an update on the status of OPG's compensation negotiations with the PWU and the SUP due to the overturning of Bill 124, including any relevant details on disclosable agreements, compensation changes and the periods to which they relate. If there is specific information on retroactive versus go forward settlement amounts, please differentiate between them.

1.1 SUP 3

The following is stated on p6:

*Bill 124 was applicable to OPG based on the Complementary Amendments of Bill 124. Section 41(1) amended the Labour Relations Act, 1995 to apply sections 1 to 16 and 24 to 38 of Bill 124 **to OPG, its subsidiaries, trade unions and employees represented by those trade unions**. Section 42(1) repealed and substituted a revised section 143(1) of the Employment Standards Act, 2000 to apply the provisions of Bill 124 **to OPG, its subsidiaries and their employees**.*

The above indicates that the Bill 124 related amendments apply to all of OPG, including its OEB regulated Hydroelectric business, and not just the OEB regulated Nuclear business.

Please clarify:

- 1) Whether OPG intends to apply to the OEB for a variance account to capture the hydroelectric revenue requirement impacts of the overturning of Bill 124, similar to this EB-2023-0098 application.
- 2) If yes, please explain whether the substance of this application would be similar to this EB-2023-0098 application. If it won't be similar, please explain why and outline substantial differences.
- 3) If no, please explain in detail why OPG does not intend to apply to the OEB for a variance account to capture the hydroelectric revenue requirement impacts of the overturning of Bill 124, similar to this EB-2023-0098 application.

3.2 [& Appendix A] SUP 4

The illustrative capital account shown in Appendix A on page 14 is potentially confusing. Please clarify:

- 1) That the entry assumes only in-service assets should be affected (this can be presumed by the depreciation expense and return on rate base elements in the entry provided).
- 2) How OPG intends to determine which specific capital assets are impacted by the overturning of Bill 124 as this information is presumably needed to apply a depreciation rate and derive a depreciation expense impact.
- 3) How OPG will identify and apply the appropriate depreciation rate. Will it be at a specific facility/component level or at a higher more aggregated level?
- 4) How an asset net book value can be determined when depreciation expense is shown being credited without an offsetting accumulated depreciation debit. Is there something missing in this entry?

- 5) That the entry is intended to be used for both retroactive and go forward impacts? Please comment on whether OPG considered whether some variances, depending on their nature and timing, should impact capital already in-service while others should impact assets under construction (ie CIP)?
- 6) If there is an interest component to any retroactive compensation amounts negotiated, arbitrated or awarded, whether it would qualify under generally accepted accounting principles (GAAP) as capital.
- 7) Whether return on rate base is conceptually a regulatory construct rather than an account under GAAP. Does OPG really have a “return on rate base” account in its general ledger? If not, please provide the relevant GAAP revenue or expense entry.
- 8) Why the OM&A entry is presented net of income tax (per the evidence a 25% rate) while the capital entry is shown gross.

3.3 SUP 5

Please provide illustrative detailed entries for the future clearance of the OM&A and capital variance accounts assuming OEB approval.

3.3 SUP 6

Please comment on OPG’s view of the consequences on increased compensation provided of a future successful Province of Ontario appeal. Is it OPG’s view that such amounts would be clawed back from represented staff? How would the variance account be impacted?

