



Ontario  
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**BY EMAIL**

April 20, 2023

Nancy Marconi  
Registrar  
Ontario Energy Board  
2300 Yonge Street, 27th Floor  
Toronto ON M4P 1E4

Dear Ms. Marconi:

**Re: EB-2023-0098 Application for an Accounting Order Establishing a Variance Account to Capture the Nuclear Revenue Requirement Impact of the Overturning of Bill 124**

In accordance with Procedural Order #1, please find attached the Ontario Energy Board (OEB) staff interrogatories in the above proceeding. The applicant and intervenors have been copied on this filing.

Ontario Power Generation Inc.'s responses to interrogatories are due by May 4, 2023.

Any questions relating to this letter should be directed to Vithooshan Ganesanathan at [Vithooshan.Ganesanathan@oeb.ca](mailto:Vithooshan.Ganesanathan@oeb.ca). The Board's toll-free number is 1-888-632-6273.

Yours truly,

Vithooshan Ganesanathan  
Advisor, Generation & Transmission

Encl.

**OEB Staff Interrogatories  
Ontario Power Generation Inc.  
EB-2023-0098**

Please note, Ontario Power Generation Inc. (OPG) is responsible for ensuring that all documents it files with the OEB, including responses to OEB staff interrogatories and any other supporting documentation, do not include personal information (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's *Rules of Practice and Procedure*.

**OEB Staff-1:**

- a) OEB staff request that OPG fill out Table 1 below to illustrate how OPG proposes to record the nuclear revenue requirement impacts into the proposed Bill 124 variance account. Please revise the table as required.

Table 1: Forecasted Amounts to be Recorded into Proposed Bill 124 Variance Account

Year in which impact pertains to	Year in which OPG plans to record the amount	Amount for Society	Amount for PWU	Total Estimated Amount
2019				
2020				
2021				
2022				
2023				
2024				
2025				
2026				
Total				

- b) Using the response from part a) above, please quantify the estimated bill impact to the typical residential consumer, associated with disposition of these amounts.

**OEB Staff-2:**

Ref: (1) Application for an Accounting Order, p. 12  
(2) Application for an Accounting Order, p. 13

**Preamble:**

OPG has proposed the Impact of Overturning Bill 124 Variance Account to be effective March 1, 2023.

As per Reference 1, OPG has indicated that the calculation of the revenue requirement impacts will be based on the differences between the forecast compensation costs included in EB-2020-0290 and the compensation costs for the nuclear facilities reflecting the overturning of Bill 124.

Additionally, in the same reference, OPG noted that no impacts have arisen to-date because “the processes to establish the compensation provisions of collective agreements that were or would have been covered by a moderation period are currently ongoing.”

OPG further stated in Reference 2 that “To the extent the Ontario government’s appeal of the Bill 124 Decision affects OPG’s ultimate obligations under the collective agreements, such impacts may appropriately be addressed in a future OPG application for the disposition of the account.”

**Question(s):**

- a) Please explain why OPG is proposing March 1, 2023 to be the effective date, given that the Ontario government’s appeal of Bill 124 affects OPG’s ultimate obligations under the collective agreements that are currently on going.
- b) Please explain the significance of the March 31, 2023 effective date and why that date was proposed.
- c) Please confirm that the purpose of the new proposed variance account is to record the revenue requirement impacts for the differences between the forecast compensation costs in the EB-2020-0290 and the compensation costs for the nuclear facilities reflecting the overturning of Bill 124 for the period of March 1, 2023 to December 31, 2026.
- d) Is OPG proposing to record any revenue requirement impacts for the differences arising with compensation paid prior to March 1, 2023 in this account? If so, please explain, with due consideration given to rate retroactivity matters.

**OEB Staff-3:**

- a) Please explain how OPG would manage the nuclear revenue requirement impact of the overturning of Bill 124 if the OEB does not approve the establishment of the Bill 124 variance account on a final basis.
- b) Please explain, in OPG's view, why the risk associated with higher labour costs resulting from the overturning of Bill 124 is different from other risks (e.g., higher-than-expected inflationary impacts, unanticipated supply chain constraints, etc.) for which OPG is not seeking deferral account protection? Why is this risk not subsumed as part of the ordinary business risk OPG faces, and for which (in part) it earns a return on equity?

**OEB Staff-4:**

Please provide OPG's actual 2022 regulatory Return on Equity (ROE), forecast 2023 ROE, and the associated calculations, both on a combined and separated basis for nuclear and hydroelectric.

**OEB Staff-5:**

Ref: (1) Application for an Accounting Order, p. 2  
(2) Application for an Accounting Order, p. 7  
(3) Application for an Accounting Order, p. 8

**Preamble:**

In Reference 1, OPG stated that it was not able to reasonably anticipate the overturning of Bill 124 during the 2022-2026 payment amounts application.

Reference 2 states the following:

Each bargaining unit will address the implications of the Bill 124 Decision on existing collective agreements covered by the moderation period according to the provisions of such agreements. If the collective agreement contained provisions that reopen compensation should the Bill 124 challenge be successful ("Reopener Provision"), the union has the ability to seek increased compensation for such period through two-party bargaining and interest arbitration. If the collective agreement contained no such language, the union may seek increased compensation through the Ontario Superior Court where the constitutionality issue was originally decided. Alternatively, the union could pursue increased wages in the subsequent round of collective bargaining to make up for the wage restraint during the moderation period.

OPG indicated in Reference 2 that the current two-year collective agreement with the Society expiring on December 31, 2023 contains a Reopener Provision. This Reopener

Provision was included through an interest arbitration award issued in December 2021. OPG further noted that the one-year collective agreement with the PWU, which contained the 1% increase, expired on March 31, 2022 and did not contain a Reopener Provision. OPG and the PWU have been in negotiations for a collective agreement renewal since the spring of 2022.

Per Reference 3, OPG noted that its compensation cost forecasts for the 2022-2026 period were premised on the known requirement of Bill 124. OPG further noted that in discussing unionized salaries in EB-2020-0290, OPG stated that it is “legally bound by its collective agreements, which establish salary rates and govern salary increases, any cost of living adjustments, and progressions through established salary ranges.”

**Question(s):**

- a) Please confirm whether OPG was already aware that a Reopener Provision was expected to be included in the collective agreement with the Society, prior to the conclusion of the 2022-2026 Payment Amounts proceeding.
- b) If so, please explain why OPG did not request a variance account for these impacts as part of that proceeding, given the timing of the ratification of the agreement with the Society.

**OEB Staff-6:**

Ref: (1) Application for an Accounting Order, p. 11  
(2) Chapter 2 Filing Requirements for Electricity Distribution Rate Applications – 2022 Edition for 2023 Rate Applications, April 18, 2022, p. 65

**Preamble:**

OPG has indicated in Reference 1 that, “the prudence of any costs recorded would be determined in a separate process, are appropriate to be recorded in a variance account pending the consideration of prudence since these compensation costs reflect costs necessary for the continued operation of OPG’s nuclear facilities”.

**Question(s):**

- a) Please clarify the “separate process” mentioned in the statement of “the prudence of any costs recorded would be determined in a separate process”.