Board Staff Interrogatory #2

Interrogatory

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.

Response

a) OPG's request to establish the proposed variance account makes no judgement or assumptions on the outcome of the Ontario government's ongoing appeal of the court decision that overturned Bill 124. Similarly, OPG does not believe it is necessary for an OEB decision establishing the account to make any such judgement or assumption. Any potential impacts of the appeal may be appropriately addressed in a future OPG application for the disposition of the variance account. OPG does not anticipate making a request for such disposition before its next payment amounts application.

b) OPG assumes that the reference to the March 31, 2023 effective date in the question is intended to be a reference to March 1, 2023.

March 1, 2023 was the date of OPG's Application, which precedes the outcome of the process to establish the first collective agreement with the PWU since Bill 124 was overturned and the outcome of the process to determine the impact of the Reopener Provision of the governing collective agreement with the Society. In this regard, OPG's Application states at page 12:

> No such impacts have arisen to-date, since the processes to establish the compensation provisions of collective agreements that were or would have been covered by a moderation period are currently ongoing. Accordingly, **OPG requests that the OEB establish the proposed variance account effective March 1, 2023 on an interim basis, pending the outcome of this Application, to enable the recording of the impacts that arise once these processes are concluded.** [emphasis added]

c) and d)

OPG proposes that the Impact of Overturning Bill 124 Variance Account would record the revenue requirement impacts of the difference between the forecast compensation costs included in the EB-2020-0290 proposed nuclear revenue requirements and such compensation costs for the nuclear facilities reflecting the overturning of Bill 124 incurred between the account's effective date of March 1,

2023 and the effective date of new payment amounts established for the nuclear facilities that reflect such impacts of overturning of Bill 124.

The proposed effective date of the variance account does not result in any rate retroactivity, as OPG did not incur, or pay, any such incremental compensation costs for the nuclear facilities due to the overturning of Bill 124 prior to that date, nor could the quantum of those costs be determined. Although some of these incremental costs will be calculated with reference to information related to the period prior to March 1, 2023, there is no legal obligation for the company until the corresponding collective agreement provisions (whether negotiated or arbitrated) are in place, which is after March 1, 2023.