IN THE MATTER OF AN INTEREST ARBITRATION

Between:

OPG

and

The Society of United Professionals

Before: William Kaplan
Sole Arbitrator

Appearances

For OPG: Tom Moutsatsos
Amanda Cohen
Hicks Morley
Barristers & Solicitors

For the Society: Michael Wright
Wright Henry
Barristers & Solicitors

The matters in dispute proceeded on November 19, 2021.

Introduction

This interest arbitration was convened to resolve outstanding issues in dispute between Ontario Power Generation (OPG) and The Society of United Professionals (The Society). OPG's principal business is the generation and sale of electricity. The Society represents approximately 3000 regular and Extended Temporary Employees: front line managers and supervisors, professional engineers, scientists, information systems professionals etc.

Under Article 15, outstanding bargaining disputes are resolved by interest arbitration and this provision also sets out various factors to be taken into account in arriving at an arbitrated award. Prior to this hearing being convened – and it proceeded on November 19, 2021 – the parties were able to reach agreement on various matters including the "Shaping the Future" package as well as the "Agreed to List of Global Proposal items," (the agreed items) both of which are to be incorporated into the collective agreement settled by this award. The new collective agreement shall, therefore, consist of the agreed items, the unexpired

unamended provisions of the prior collective agreement and the terms of this award. Any OPG or Society proposal not directly dealt with in this award is dismissed.

In deciding these outstanding issues, careful attention has been paid to the Article 15 factors and the governing normative criteria, most notably replication. The factual context is also relevant; namely, OPG's current and ongoing challenges, including PECO: Pickering End of Commercial Operations. Obviously central to this award is Bill 124: It goes almost without saying that in deciding the issues in dispute I am bound by the provisions of the *Protecting a Sustainable Public Sector for Future Generations Act*, 2019 (Bill 124). Bill 124 limits compensation increases to 1%. This legislation is governing and notwithstanding the Society's representations on point, the 1% entitlement cannot be staged to provide for a 2.5% increase as this would be directly contrary to the legislative scheme and its mandatory requirements. Simply put, there can be no general wage increase above 1% in any 12-month period of moderation.

I am declining the Society's invitation to indicate what wage increase I would have ordered had Bill 124 not been in effect.

However, as is now customary, I remain seized to reopen compensation issues should outstanding constitutional challenges prove successful or should Bill 124 be otherwise modified or repealed with retroactive effect or for some other legally relevant reason. Please note that remainder amounts were subsumed in the agreed items.

Wages

January 1, 2022: 1%

January 1, 2023: 1%

Conclusion

At the request of the parties, I remain seized with respect to the implementation of my award.

DATED at Toronto this 3rd day of December 2021.

"William Kaplan"

William Kaplan, Sole Arbitrator