



**Ontario Power Generation Inc.**

**Motion to Review and Vary the June 27, 2023 Decision and Order in EB-2023-0098**

**NOTICE OF HEARING AND PROCEDURAL ORDER NO. 1**

**July 25, 2023**

On June 27, 2023, after a written hearing, the Ontario Energy Board (OEB) denied an application by Ontario Power Generation (OPG) for a variance account to record the nuclear revenue requirement impacts resulting from the November 29, 2022 decision by the Superior Court of Justice to strike down provincial legislation limiting wage increases for the broader public sector on constitutional grounds.<sup>1</sup>

On July 17, 2023, OPG filed a notice of motion to review and vary the OEB's decision. OPG asks for approval to establish the variance account effective March 1, 2023 until the effective date of the OEB's next nuclear payment amounts order. OPG also asks that the interim variance account, which was approved on March 22, 2023 but rescinded by the June 27, 2023 decision, be reinstated.

OPG expressed a preference for the motion to be heard in writing.

**Decision on Threshold Question**

Under Rule 43 of the OEB's *Rules of Practice and Procedure*, the OEB may determine, with or without a hearing, a threshold question of whether the matter should be reviewed before conducting any review on the merits.

The OEB has considered the threshold question in accordance with Rule 43 and has come to the view that the motion raises relevant issues material enough to warrant a review of the decision on the merits.

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<sup>1</sup> Decision and Order, June 27, 2023 (EB-2023-0098).

## Hearing on the Merits

The OEB will hold a written hearing on the merits of OPG's motion.

To access OPG's Notice of Motion, please select the file number EB-2023-0209 from the list on the OEB website: [www.oeb.ca/notice](http://www.oeb.ca/notice). You can also phone our Consumer Relations Centre at 1-877-632-2727 with any questions.

This Notice is being served on all parties to the EB-2023-0098 proceeding. Intervenor in that proceeding are approved as intervenors in this motion. Intervenor that were determined to be eligible for costs in EB-2023-0098 are also eligible for costs in this proceeding.

Being eligible to apply for recovery of costs is not a guarantee of recovery of any costs claimed. OPG will be liable for any approved intervenor costs.

Further procedural orders may be issued by the OEB.

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. To the extent that OPG wishes to make an argument-in-chief in addition to the arguments provided in its Notice of Motion, it shall file a written submission with the OEB and serve it on all other parties by **August 11, 2023**.
2. Any written submission by intervenors and OEB staff shall be filed with the OEB and served on OPG and all other parties by **August 28, 2023**.
3. Any reply submission by OPG shall be filed with the OEB and served on all other parties by **September 8, 2023**.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **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*.

Please quote file number **EB-2023-0209** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [Filing Systems page](#) on the OEB's website
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact [registrar@oeb.ca](mailto:registrar@oeb.ca) for assistance

All communications should be directed to the attention of the Registrar at the address below and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Vithooshan Ganesanathan at [Vithooshan.Ganesanathan@oeb.ca](mailto:Vithooshan.Ganesanathan@oeb.ca) and OEB Counsel, Ian Richler at [Ian.Richler@oeb.ca](mailto:Ian.Richler@oeb.ca).

Email: [registrar@oeb.ca](mailto:registrar@oeb.ca)

Tel: 1-877-632-2727 (Toll free)

**DATED** at Toronto, **July 25, 2023**

**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar