



Ontario Power Generation Inc.

**Application relating to impacts from the Market Renewal
Program on prescribed generating facilities and the
disposition of balances in its deferral and variance accounts**

**PROCEDURAL ORDER NO. 1
February 22, 2024**

Ontario Power Generation Inc. (OPG) filed an application with the Ontario Energy Board (OEB) on December 13, 2024 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for changes to the calculation of amounts for the Hydroelectric Surplus Baseload Generation Variance Account (SBGVA) and the Hydroelectric Incentive Mechanism (HIM), and the treatment of real-time make whole payments resulting from the implementation of the Independent Electricity System Operator's Market Renewal Program. OPG is also seeking disposition of deferral and variance account balances as of December 31, 2022.

A Notice of Hearing was issued on January 29, 2024. The following participants applied for intervenor status:

- Association of Major Power Consumers in Ontario (AMPCO)
- Coalition of Concerned Manufacturers and Businesses of Canada (CCMBC)
- Consumers Council of Canada (CCC)
- Environmental Defence (ED)
- Independent Electricity System Operator (IESO)
- School Energy Coalition (SEC)
- Society of United Professionals (SUP)

AMPCO, CCC, CCMBC, ED and SEC also applied for cost eligibility. No objection was received from OPG.

All requests for intervenor status are approved. The list of parties in this proceeding is attached as Schedule A to this Procedural Order. AMPCO, CCC, CCMBC, ED and SEC are eligible to apply for an award of costs under the OEB's [Practice Direction on Cost Awards](#).

Cost eligible intervenors should be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party unless a compelling reason is provided when cost claims are filed.

Issues List

The OEB is making provision for the development of an issues list prior to the filing of interrogatories. OPG, OEB staff and the intervenors shall develop and OEB staff shall file a proposed issues list for the OEB's consideration. The OEB intends to use OPG's proposed issues list from the pre-filed evidence, attached as Schedule B to this Procedural Order as a starting point in developing an agreed issues list. The OEB will approve an issues list prior to the Technical Conference.

Interrogatories

At this time, provision is being made for written interrogatories.

Parties should not engage in detailed exploration of items that do not appear to be material. Parties should use the materiality thresholds documented in Chapter 2 of the Filing Requirements as a guide. In making its decision on cost awards, the OEB will consider whether intervenors made reasonable efforts to ensure that their participation in the hearing was focused on material issues.

Parties should consult sections 26 and 27 of the OEB's [Rules of Practice and Procedure](#) regarding required naming and numbering conventions and other matters related to interrogatories.

Technical Conference

A technical conference will be held to provide clarification on interrogatory responses. Parties intending to participate will be required to file the topic areas for questioning and provide an estimate of time for each area of focus in advance of the technical conference.

Settlement Conference

The OEB is making provision for a settlement conference. Following the settlement conference, provision is being made for the filing of letters informing the OEB of the status of the settlement discussions, the presentation of any settlement proposal filed by OPG, whether full or partial, and for the presentation of any unsettled issues to be adjudicated by the OEB. OPG's presentation is intended to summarize and provide any salient information for the OEB's consideration in reviewing the settlement proposal.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

IT IS THEREFORE ORDERED THAT:

1. OEB staff shall file a proposed issues list, or, alternatively, shall advise the OEB in writing that the parties and OEB staff have been unable to reach an agreement on a draft issues list by **February 29, 2024**.
2. OEB staff and intervenors shall request any relevant information and documentation from OPG that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **March 8, 2024**.
3. OPG shall file with the OEB complete written responses to all interrogatories and serve them on OEB staff and all intervenors by **March 22, 2024**.
4. A transcribed virtual technical conference will be held on **April 4, 2024** starting at 9:30 a.m. If necessary, the technical conference will continue on **April 5, 2024**. OEB staff and intervenors shall file with the OEB, and provide to OPG, a description of the specific areas they will focus on at the technical conference, and time estimates by **March 28, 2024**. The meeting link and information on how to connect to the event will be communicated to parties closer to the date.
5. A virtual settlement conference among the parties and OEB staff will be convened on **April 15-16, 2024** starting at 9:30 a.m. If necessary, the settlement conference will continue on **April 17, 2024**. The meeting link and information on how to connect will be provided in advance of the conference.
6. **Within 48 hours** of the conclusion of the settlement conference, OPG shall file a letter informing the OEB of the status of the settlement discussions including whether a tentative agreement had been reached or if the parties propose to continue the settlement discussions.
7. If there is no settlement proposal arising from the settlement conference, OPG shall file a statement to that effect with the OEB by **April 22, 2024**. In that event, parties shall file and serve on the other parties by **April 26, 2024** any submissions on which issues shall be heard in writing, and for which issues the OEB should hold an oral hearing.
8. If there is a settlement, any settlement proposal arising from the settlement conference shall be filed with the OEB on or before **May 3, 2024**. In addition to outlining the terms of any settlement, the settlement proposal should contain a

list of any unsettled issues, indicating with reasons whether the parties believe those issues should be dealt with by way of oral or written hearing.

9. Any submission from OEB staff on a settlement proposal shall be filed with the OEB and served on all parties by **May 10, 2024**.

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-2023-0336** 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 [File documents online 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 for assistance.
- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar 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, Muhammad Yunus at Muhammad.Yunus@oeb.ca and OEB Counsel, Ian Richler at Ian.Richler@oeb.ca

Email: registrar@oeb.ca

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

DATED at Toronto, **February 22, 2024**

ONTARIO ENERGY BOARD

By delegation, before: Nancy Marconi

Nancy Marconi
Registrar

Schedule A

Ontario Power Generation Inc.

EB-2023-0336

Applicant and List of Intervenors

Ontario Power Generation Inc.
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APPLICANT & LIST OF INTERVENORS

February 22, 2024

APPLICANT

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INTERVENORS

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February 22, 2024

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February 22, 2024

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APPLICANT & LIST OF INTERVENORS

February 22, 2024

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APPLICANT & LIST OF INTERVENORS

February 22, 2024

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Schedule B

Ontario Power Generation Inc.

EB-2023-0336

OPG Proposed Issues List

DRAFT ISSUES LIST

The following is the draft issues list proposed by OPG.

1. Is the proposed Hydroelectric Surplus Baseload Generation Variance Account spill calculation methodology appropriate?
2. Is the proposed Hydroelectric Incentive Mechanism (“HIM”) methodology and HIM adjustment for spill appropriate?
3. Is the proposed treatment of make whole payments appropriate?
4. Are the amounts recorded in the applicable deferral and variance accounts appropriate?
5. Are the balances for recovery in each of the deferral and variance accounts appropriate?
6. Are the proposed rate riders and disposition periods for the account balances appropriate?