



EB-2008-0298

**NOTICE OF APPLICATION AND HEARING
ONTARIO POWER GENERATION INC.
RELIABILITY MUST-RUN CONTRACT FOR THE LENNOX
GENERATING STATION**

Ontario Power Generation ("OPG") filed an application on September 15, 2008 with the Ontario Energy Board (the "Board") seeking approval of a reliability must-run contract ("RMR Contract") entered into with the Independent Electricity System Operator ("IESO") in relation to OPG's Lennox generating station ("Lennox"). The Application was made under section 5 of OPG's generation licence, which requires that any reliability must-run contract be approved by the Board prior to its implementation. The Board has previously approved three earlier RMR Contracts for Lennox. Lennox is a 2,140 MW dual-fuelled (oil- and natural gas-fired) generating station located near Kingston, Ontario. The Board has assigned file number EB-2008-0298 to the Application.

Subject to Board approval, the RMR Contract comes into effect as of October 1, 2008. Key provisions of the RMR Contract include:

- a term of one year without renewal or extension;
- payments to OPG of an estimated \$65.2 million over the contract term, comprised of:
 - OPG's fixed and variable costs for Lennox;
 - a "margin amount" of \$1.52 million; and
 - additional revenues equivalent to 5% of the gross revenues earned by or attributed to Lennox in the IESO-administered markets; and
- an obligation on OPG to offer into the IESO-administered markets the maximum amount of energy and operating reserve from Lennox in a commercially reasonable manner in accordance with contractually stated performance standards.

In accordance with the Market Rules, the total net cost of the RMR Contract would be recovered by the IESO from wholesale market participants as part of the monthly non-hourly uplift.

Procedural Order No. 1

The Board has issued its Procedural Order No.1 for this proceeding, and a copy is attached as Appendix A to this Notice. As indicated in Procedural Order No. 1, the Board will proceed by way of an oral hearing.

How to see the Application

Copies of the Application are available for inspection at the Board's offices in Toronto and on its website, and at OPG's head office at the address noted below and on its website.

How to Participate

You may participate in this proceeding in one of three ways:

You may send the Board a letter of comment. Your letter should include any request to make an oral presentation to the Board, and must be received by the Board **no later than November 17, 2008**.

You may request observer status in order to receive documents issued by the Board in the proceeding. Your request must be made by letter received by the Board **no later than October 27, 2008**.

You may request intervenor status if you wish to actively participate in the proceeding. Your request must be made by letter of intervention received **no later than October 27, 2008**. Your letter of intervention must include a description of how you are, or may be, affected by the proceeding; and if you represent a group, a description of the group and its membership. The Board may order costs in this proceeding and any costs awarded will be recovered from OPG. You must indicate in your letter of intervention whether you expect to seek costs from OPG and the grounds for your eligibility for costs. You must provide a copy of your letter of intervention to OPG.

Need More Information?

Further information on how to participate may be obtained by visiting the Board's Web site at www.oeb.gov.on.ca or by calling our Consumer Relations Centre at 1-877-632-2727.

How to Contact Us

In responding to this Notice please reference Board file number EB-2008-298. It is also important that you provide your name, postal address and telephone number and, if available, an e-mail address and fax number. All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

For your convenience, the Board accepts letters of comment by either post or e-mail. Our e-mail address is Boardsec@oeb.gov.on.ca. Please include the application file reference number in the subject line of your e-mail.

Letters of intervention must be sent to the Board by regular mail to the address below. Please remember that you must send a copy of your request for intervention to OPG at the address listed below.

IMPORTANT

IF YOU DO NOT REQUEST TO PARTICIPATE IN ACCORDANCE WITH THIS NOTICE, THE BOARD MAY PROCEED IN YOUR ABSENCE AND YOU WILL NOT BE ENTITLED TO ANY FURTHER NOTICE OF THIS PROCEEDING.

ADDRESSES

The Board:

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attention: Kirsten Walli
Board Secretary

Tel: 1-888-632-6273 (toll free)
Fax: 416-440-7656
E-mail: Boardsec@oeb.gov.on.ca

The Applicant:

Ontario Power Generation Inc.
700 University Avenue
H18-g1
Toronto ON M5G 1X6
Attention: Mr. Andrew Barrett
Vice President
Regulatory Affairs &
Corporate Strategic Planning

Tel: 416-592-4463
Fax: 416-592-8519
E-mail: andrew.barrett@opg.com

DATED at Toronto, October 17, 2008

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Attachment: Appendix A – Procedural Order No. 1

Appendix A
to
Notice of Application and Hearing
Dated October 17, 2008
EB-2008-0298

Procedural Order No. 1
Issued October 17, 2008

[document attached]



EB-2008-0298

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c.15, Schedule B;

AND IN THE MATTER OF an application by Ontario Power Generation Inc. for approval, pursuant to Part 1, Paragraph 5.2 of Ontario Power Generation Inc.'s Generation Licence EG-2003-0104, of a Reliability Must-Run Agreement for the Lennox Generating Station facilities between Ontario Power Generation Inc. and the Independent Electricity System Operator.

PROCEDURAL ORDER NO. 1

Ontario Power Generation ("OPG") filed an application on September 15, 2008 with the Ontario Energy Board (the "Board") seeking approval of a reliability must-run ("RMR") contract (the "2009 RMR Contract") entered into with the Independent Electricity System Operator ("IESO") in relation to OPG's Lennox generating station ("Lennox"). The Application was made under section 5 of OPG's generation licence, which requires that any reliability must-run contract be approved by the Board prior to its implementation. The Board has previously approved three earlier RMR contracts for Lennox. Lennox is a 2,140 MW dual-fuelled (oil- and natural gas-fired) generating station located near Kingston, Ontario. The Board has assigned file number EB-2008-0298 to the application.

In its application, OPG indicated that a hearing should not be required in relation to the approval of the 2009 RMR Contract given that the 2009 RMR Contract has the same structure as the existing RMR contract that was recently approved by the Board. The Board does not believe that it is appropriate to determine OPG's application for approval of the 2009 RMR Contract without a hearing, and intends to proceed by way of an oral hearing.

A Notice of Application and Hearing was therefore issued on October 10, 2008 and served by the Board on all of the parties of record to the proceeding in which the Board will determine payment amounts for certain of OPG's generation facilities under section 78.1 of the *Ontario Energy Board Act, 1998* (proceeding EB-2007-0905). The Board will address requests for intervention and cost awards in this proceeding in the normal course once the deadline for filing those requests has passed.

The Board has previously approved three earlier RMR contracts for Lennox. When it considered the third RMR contract for Lennox in proceeding EB-2007-0715 (the "2008 RMR Contract"), the Board focussed on the reasonableness of the financial provisions of the 2008 RMR Contract, including a consideration of whether the financial provisions could be improved (from the perspective of electricity consumers who ultimately bear the cost of RMR contracts) if the term of the RMR contract were to be longer than one year. In its December 21, 2007 Decision and Order approving the 2008 RMR Contract, the Board stated as follows in relation to multi-year RMR contracts:

The Board sees promise in a multi-year RMR arrangement in terms of cost-effectiveness. There is clearly potential for administrative cost savings in terms of contract negotiation and approval costs. However, the magnitude and significance of those savings is not currently known, nor can the Board at this time say with certainty that there would be no off-setting costs. Similarly, while it is reasonable to expect that a longer RMR arrangement would allow OPG additional options – particularly with respect to trading off operations and maintenance against capital – for the more economical operation of Lennox over a longer period, the magnitude and significance of any such savings are again not known at this time. It may also be that, in the intervening period, expectations will change as to the length of time for which Lennox may be required to operate under must-run conditions.

OPG will need to demonstrate to the satisfaction of the Board that any future RMR agreement for Lennox should be approved. The Board is prepared to impose a condition that any future RMR agreement have a term of more than one year if that has been demonstrated to be more cost-effective. Within that context, for any future RMR agreement for Lennox that may be filed by OPG, the Board expects OPG to come forward with the contract term that OPG believes will provide the most cost-effective outcome, having regard to the then-current expectations as to the continued need for Lennox as an RMR resource. The Board also expects OPG to provide cogent evidence in support of its assertion regarding the comparative cost-effectiveness of the RMR agreement as proposed.

The Board also expects that OPG will, if it files a multi-year RMR agreement for Board approval based on the existing contract model, demonstrate to the Board's satisfaction that such model is appropriate for an agreement having a term of more than one year.

The 2009 RMR Contract for which OPG seeks approval is for a term of one year. In this regard, OPG's application contains the following statement:

While OPG was interested in extending the term of the RMR agreement beyond 12 months, the IESO's technical assessment indicated that under the expected resource availability and demand forecast assumptions, there is insufficient justification to extend the Lennox RMR Agreement beyond September 30, 2009. If there is a material change in these assumptions the IESO will review this decision but at the present time the IESO is of the view that there is no continued need for Lennox as a RMR resource beyond September 30, 2009.

The Board notes, however, that there is evidence in regard to the ongoing requirement of Lennox that may extend for a number of years in the future. That evidence is included in the pre-filed submission by the Ontario Power Authority (the "OPA") for the proceeding to review OPA's Integrated Supply Plan¹. The Board wishes to further examine the issue of the continued need for Lennox as a reliability must-run resource

¹ Exhibit D, Tab 8, Schedule 1, Attachment 1, pages 2, 4, and 8

beyond September 30, 2009, and will proceed to consider the reasonableness of the financial provisions of the 2009 RMR Contract having regard to the outcome of that examination. The Board is particularly interested in the views of the Ontario Power Authority and the IESO on this issue.

The Board also notes that the 2009 RMR Contract will take effect October 1, 2008 but that the coming into effect of the 2009 RMR Contract is subject to Board approval. The Board wishes to understand what, if any, financial payments are intended to be made to OPG by the IESO in relation to Lennox as of the date of expiry of the 2008 RMR Contract (September 30, 2008).

THE BOARD ORDERS THAT:

1. Any person that has been granted intervenor status in this proceeding and Board staff who wish information and material from Ontario Power Generation Inc. or any other party that is in addition to the evidence filed with the Board, and that is relevant to the proceeding, shall request it by written interrogatories filed with the Board and delivered to Ontario Power Generation Inc. or the other party, as applicable, on or before **Friday, November 14, 2008**.
2. Ontario Power Generation Inc. and any other party to whom an interrogatory has been directed shall file complete responses to the interrogatories with the Board and deliver the responses to all other parties on or before **Friday, November 28, 2008**.
3. The hearing to consider the application will commence at 9:00 a.m. on **Monday, December 15, 2008** in the Board's West hearing room on the 25th Floor at 2300 Yonge Street, Toronto, and if needed, will continue on **Tuesday, December 16, 2008**.

All filings to the Board must quote file number EB-2008-0298, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format filed through the Board's web portal at www.errr.oeb.gov.on.ca. Filings must clearly state the sender's name, postal address and telephone number and, if available, a fax number and e-mail address. Please use the document naming conventions and document submission

standards outlined in the RESS Document Guideline found on the “e-Filing Services” webpage of the Board’s website at www.oeb.gov.on.ca. If the web portal is not available, you may e-mail your document to Boardsec@oeb.gov.on.ca. Those who do not have internet access are required to submit all filings on a CD or diskette in PDF format, along with two paper copies. Those who cannot provide an electronic version of their filing are required to file 7 paper copies.

All filings should be directed to the attention of the Board Secretary, and be received no later than **4:45 p.m.** on the required date.

DATED at Toronto, October 17, 2008

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary