



**BY EMAIL and RESS**

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June 11, 2024  
Our File: EB20240136

**Attn: Nancy Marconi, Registrar**

Dear Ms. Marconi:

**Re: EB-2024-0136 – Review of the OPG Filing Guidelines– SEC Comments**

We are counsel to the School Energy Coalition (“SEC”). These are SEC’s written comments on the draft revisions of the OEB’s Filing Guidelines for Ontario Power Generation (“OPG”) proposed by OEB Staff. SEC has had the benefit of discussions with OEB Staff, OPG, and other interested parties, at the stakeholder session held on May 14, 2024. In addition, SEC had the opportunity to have discussions in greater detail and share perspectives on some of the concerns we had raised at the stakeholder session regarding certain proposed changes, directly with OPG.

**Proposed Changes to the Filing Guidelines**

SEC generally supports the proposed revisions to the OPG’s Filing Guidelines (proposed to be renamed Filing Requirements). Most of the changes are an attempt to remove sections that require the Filing Guidelines to be updated for each application, as well as to reflect updates to various OEB application policies, practices, and processes.

SEC does have a concern with two proposed changes, which would result in important information not being included in the application.

***Removal of Certain Year-Over-Year Variance Analysis.*** OEB Staff propose to eliminate year-over-year variance analysis for OM&A costs and replace it with a term-over-term analysis.<sup>1</sup> While SEC does not oppose the inclusion of a term-over-term variance analysis, it is not a replacement for a year-over-year variance analysis. The former is important in allowing intervenors (and the OEB) to understand annual changes to OM&A costs, which is important for understanding trends and changes in activities. In contrast, the latter will provide information regarding the major changes in amounts sought for

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<sup>1</sup> OEB Letter Stakeholder Consultation on the Review of the OEB’s Filing Guidelines for Ontario Power Generation (April 23, 2024), Appendix A (“Clean Copy of Proposed Changes to Filing Requirements for Ontario Power Generation Inc.”), p.15

recovery, but with OPG's rate terms being five years, it will be hard to separate natural inflationary increases from changes in activities.

SEC understands that the rationale for the proposed change is OEB Staff's view that the information has not been helpful to its review of the application in the past. This has not been SEC's own experience. We have found the year-over-year OM&A analysis very useful.

At the stakeholder meeting, OPG commented that preparing the analysis is extremely resource intensive. A review of its most recent application demonstrates that OPG has historically provided a very granular explanation of the year-over-year changes for each OM&A program/category, in much more detail than what the existing Filing Guidelines require. All that is required is a written explanation for any variance greater than or equal to 10% of the category expense.<sup>2</sup>

***Changes in OPG's Capital Project-Level and OM&A Expense Materiality Threshold.*** OEB Staff asked for comments on OPG's capital project and OM&A expense materiality thresholds that were originally established in 2011.<sup>3</sup> SEC does not support any changes to these thresholds.

The Filing Guidelines set out specific information required for capital projects of certain sizes (less than \$5M, \$5M-\$20M, and greater than \$20M).<sup>4</sup> For the \$5M-\$20M project category, all that is required is the project name, the briefest description (usually one sentence), and basic information regarding the project costs and timing, which are usually provided in a helpful table format. For projects greater than \$20M, the only additional information is the filing of a Business Case, which for OPG, is an existing internal document (Business Case Summary) that is not created for the purposes of the application. It does not take much effort for the company to provide the information or the document. The existing categories provide an appropriate level of information for each tier of project spending, remain reasonable, and ensure continued comparability.

For OM&A, the Filing Guidelines require a "breakdown on a work basis for each major item that meets a threshold of the lesser of 1% of the total expenses or \$20M."<sup>5</sup> Upon review of the wording, it is not clear what exactly is meant by a breakdown "on a work basis". SEC notes that OPG has historically provided a breakdown of costs in various OM&A tables below \$20M, where appropriate.<sup>6</sup> If the intent of the language is to refer to projects (as opposed to programs) over \$20M, then, like SEC's comments regarding capital projects, this requires little additional work for OPG. Besides providing a brief description, OPG provides information through the filing of its existing Business Case Summaries.<sup>7</sup>

The Filing Guidelines also require certain information regarding purchased services over \$20M. OPG provides the required information by way of a simple table. OPG does not provide the information on a project basis, but by vendor, and so it's not clear what impact a change in the threshold would have.<sup>8</sup> Considering the limited information OPG has historically provided, we do not see a good reason to change the threshold for purchased service information.

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<sup>2</sup> Clean Copy of Proposed Changes to Filing Requirements for Ontario Power Generation Inc., p.19

<sup>3</sup> Clean Copy of Proposed Changes to Filing Requirements for Ontario Power Generation Inc., p.15

<sup>4</sup> Clean Copy of Proposed Changes to Filing Requirements for Ontario Power Generation Inc., p.15

<sup>5</sup> Clean Copy of Proposed Changes to Filing Requirements for Ontario Power Generation Inc. p.18

<sup>6</sup> For example, see EB-2020-0290, F2-2-1, Table 1

<sup>7</sup> For example, see EB-2020-0290, F2-3-3, Attachment 1

<sup>8</sup> For example, see EB-2020-0290, F2-6-1, p.2

SEC believes the \$20M threshold remains appropriate for both enhanced capital and OM&A information. If anything, there is an argument that it should be lower. \$20M is a significant amount of money, even for an organization the size of OPG, and such spending requires scrutiny which cannot occur without appropriate information. The amount reflects double the existing materiality threshold for seeking an accounting order to record costs for unforeseen events.<sup>9</sup> If OPG currently believes that \$10M is the reasonable threshold for it to bring an application for relief during its rate plan, then it cannot argue that providing information for \$20M expenses is unreasonable. Similarly, \$20M is double the \$10M threshold the company has historically used to update its application during a payment amount proceeding.<sup>10</sup>

### **Historical Hydroelectric Cost Information**

During the Stakeholder Meeting, there was some discussion regarding the information that OPG will be required to file for historical years for its regulated hydroelectric facilities, which have not rebased since EB-2013-0321 (2014-2015).

SEC has had the opportunity to discuss the issue with OPG and have been made aware that due to the passage of time, OPG will be unable to provide certain information on a comparable basis before 2016 as it is able to provide afterwards. As we understand, OPG will be able to provide information by various cost categories back to 2016, but will not be able to, without in its view an unreasonable level of effort, break down the information by comparable geographic designation, which it had historically done, before 2016 because of various internal organizations. We understand that OPG will be able to provide all information organized by comparable geographical designation, for 2020 onwards.<sup>11</sup>

SEC accepts that there may be valid limitations on the granularity of the data that can be provided without an unreasonable level of effort because of the passage of time. At the same time, the SEC does reserve the right to request that OPG provide a breakdown of the information by geographic designation going back to its last rebase, if it becomes critically important as part of the review of its next application. We also note our expectation that OPG will file information not just back to 2016 but to 2014, to enable parties to assess actual costs compared to the last two OEB-approved hydroelectric test years. Providing actual information for years where there are Board-approved amounts is normal practice and required by the existing Filing Requirements. We understand that OPG may have difficulty doing so, but it must be required to provide the information back to 2014 at some level (for example, by category or even the overall capital and OM&A level).

Yours very truly,  
**Shepherd Rubenstein P.C.**

Mark Rubenstein

cc: Brian McKay, SEC (by email)  
OPG and interested parties (by email)

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<sup>9</sup> EB-2020-0290, A1-3-2, p.13; [Decision and Order \(EB-2023-0098\), June 27, 2013](#), p.3,7

<sup>10</sup> In past applications, OPG has filed what it calls an "Impact Statement" when there are changes in costs over at least \$10M.

<sup>11</sup> OPG has also informed us it is proposing to provide, going back to 2013, rate base continuities and associated capital projects information without a breakdown by geographical designation for years prior to 2020.