



BORDEN  
LADNER  
GERVAIS

Borden Ladner Gervais LLP  
Lawyers • Patent & Trade-mark Agents  
Scotia Plaza, 40 King Street West  
Toronto, Ontario, Canada M5H 3Y4  
tel.: (416) 367-6000 fax: (416) 367-6749  
www.blgcanada.com

J. MARK RODGER  
direct tel.: 416-367-6190  
direct fax: 416-361-7088  
e-mail: mrodger@blgcanada.com

November 20, 2008

**Delivered by Email**

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

Dear Ms. Walli:

**Re: EB-2007-0905**  
**Ontario Power Generation Draft Order for Payment Amounts for the**  
**Period April 1, 2008 - December 31, 2009**  
**Our Client: Association of Major Power Consumers in Ontario**

This letter contains AMPCO's comments on the draft Rate Order prepared by OPG dated November 13, 2008. AMPCO has concerns with both the supporting documentation and with the presentation of the rate impact information.

**Additional Supporting Information Required**

AMPCO has identified two related areas where insufficient information has been provided to independently verify the financial calculations OPG has made in support of its revenue requirement. Both areas relate to nuclear waste liability calculations.

In its decision, the Board allowed OPG to earn a return on unfunded nuclear liabilities associated with Pickering and Darlington and required that the return be calculated on the basis of the average accretion rate associated with those liabilities. Unfunded Bruce liabilities were to be removed from this calculation. Since the evidence tendered in this case only included the aggregated amounts of unfunded nuclear liabilities for the whole company (including Bruce), the requirements of the decision necessitate the removal of the Bruce liabilities. This separation of unfunded liabilities associated with Bruce is presented in Appendix A Tables 4b and 5b of the draft Rate Order.

In Table 4b, which relates to 2008, OPG removed a claimed Bruce amount of \$160.7 million from its total unfunded liabilities to arrive at the figure of \$1060.3 million for

Pickering and Darlington. AMPCO notes that the amount removed for Bruce is significantly less than a simple pro-rata share of the overall liabilities.

In Table 5b, which relates to 2009, OPG added \$134.8 million to the overall unfunded liabilities, apparently reflecting an over-funding associated with the Bruce liabilities.

In neither case did OPG provide any supporting documentation. OPG reports that this absence is due to the fact that this information was not adduced into evidence.

AMPCO recommends that the Board require OPG to produce additional information on the unfunded Bruce amounts in support of a final rate order, even if the information has not been tested. AMPCO intends to review this matter further in OPG's next rates case.

### **Presentation of Rate Impacts**

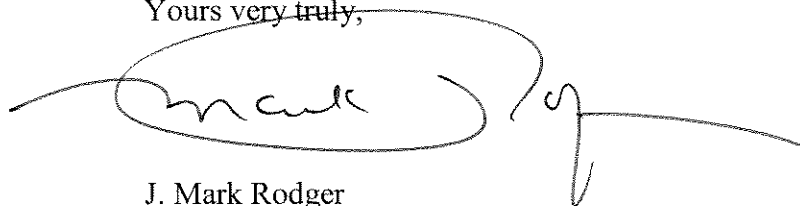
AMPCO supports the submissions of CME with respect to a presentation in the Rate Order of rate impacts both with and without the rate riders. If the presentation in the body of the final Rate Order includes the impacts of the riders, including the rate implementation rider, the transparency of the Board's decision would be enhanced.

### **Costs**

Finally, we support CME's submissions on Costs as contained in its November 20 correspondence and request that AMPCO be awarded its reasonably incurred costs in connection with our analysis of the Decision and the time and effort involved in reviewing OPG's draft Rate Order.

Please contact me if you require any further information.

Yours very truly,

A handwritten signature in black ink, appearing to read "J. Mark Rodger", with a large, loopy flourish extending to the right.

J. Mark Rodger

copy to:

Adam White, AMPCO President  
Andrew Barrett, Ontario Power Generation  
Barbara Reuber, Ontario Power Generation  
Michael Penny, Torys  
Tom Adams  
Dr. Lawrence Murphy  
Intervenors of Record