

November 25, 2008

VIA COURIER AND RESS

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

Dear Ms. Walli:

**EB-2007-0905 – Ontario Power Generation Inc. Reply to Intervenor
Comments on the Draft Rate Order**

Please find attached OPG's reply to Intervenors' comments on the Draft Rate Order.

Yours truly,

[Original signed by]

Andrew Barrett

Attach.

cc: Michael Penny (Torys) via e-mail
EB-2007-0905 Intervenors via e-mail

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. pursuant to section 78.1 of the *Ontario Energy Board Act, 1998* for an Order or Orders determining payment amounts for the output of certain of its generating facilities.

ONTARIO POWER GENERATION INC.

RESPONSE TO INTERVENOR COMMENTS ON THE DRAFT RATE ORDER

1. Introduction

In this submission, Ontario Power Generation Inc. (“OPG”) responds to intervenor comments on the draft Rate Order that it filed on November 13, 2008.

2. Implementation – Submissions of the IESO and Board Staff

The IESO and Board staff commented on implementation of the Rate Order. The IESO has proposed an alternative means of recovering revenues for the period from April 1, 2008 through November 30, 2008 (the “retrospective period”) which simplifies recovery from wholesale customers. OPG has no objection to this approach. The IESO proposal is consistent with OPG’s proposal to use actual consumption during the retrospective period as the basis for collecting the retrospective revenue requirement from wholesale customers and appears easier for the IESO to implement on a timely basis. Further, OPG notes that AMPCO, in their Argument at paragraph 187, supported the use of actual consumption during the retrospective period as proposed by OPG and the IESO.

Contrary to Board staff's submission, the IESO's proposal is consistent with the Board's direction to use the production forecasts for the retrospective period contained in OPG's application to determine the amount of revenue to be collected during the retrospective period. Board staff's submission states on page 1 that: "To determine what the shortfall is during the interim period (April 1, 2008 to November 30, 2008) the difference between the new payment amounts and interim payment amounts should be multiplied by the actual production." Board staff's proposal conflicts with the OEB's Decision (bottom of page 177), which states: "With regard to the calculation of production for April 1, 2008 to November 30, 2008, OPG should use the monthly forecasts for both hydroelectric and nuclear production which underpinned its application."

While the IESO submission indicates that it is feasible to invoice wholesale customers based on their pro rata consumption over the retrospective period, Board staff notes the complexity that this approach presents for LDCs. OPG acknowledges the complexity that would be introduced by using retail customers' pro rata consumption. OPG submits that revenue responsibility should be assigned to wholesale customers on a retrospective basis based on their pro rata consumption but that LDCs need not collect these wholesale charges from their customers on the same basis. In any event, because of the cycles on which the LDCs bill and the fact that not all LDC customers have interval meters, it is not possible to bill all LDC customers based on their consumption during the April 1 to November 30, 2008 period. Any approach that would require changes to LDC bills will be costly and time consuming to implement. In OPG's view, the most reasonable approach for LDCs is to have their retrospective period revenue requirement amount included in the calculation of global adjustment and collected from non-RPP customers on that basis. As noted by Board staff, the collection from RPP customers will be included in the calculation of the next RPP price in May 2009.

Board staff requested that OPG include actual production numbers for the period April 1, 2008 to October 31, 2008 with its reply submissions. These production values for the nuclear and regulated hydroelectric facilities, along with the forecast production for November 2008 that underpinned the application, are provided in Appendix A.

OPG has identified a minor error in its original draft Rate Order, which also appears in the draft Rate Order proposed by the IESO. In OPG's draft Rate Order, paragraph 3 b)

should begin: “For the period after ~~December 1, 2008~~ November 30, 2008...” Similarly in the IESO’s draft order, paragraphs 4 and 5 should read: “For production after ~~December 1, 2008~~ November 30, 2008...” The wording in the original drafts unintentionally excludes the calendar day December 1, 2008.

3. Wording Changes - Submissions of CME, AMPCO, SEC and VECC

CME filed a submission on November 20, 2008 which included a number of proposed changes to the draft Rate Order. These submissions were supported by AMPCO, SEC and VECC. Below, OPG provides its response to CME’s proposals.

Bruce Net Revenues and Income Tax Provision Directives

CME has proposed that a paragraph be inserted into the operative provisions of the draft Rate Order. The specific wording proposed by CME is found at new paragraph 1A on page 2 of “CME’s Proposed Amendments to Draft Rate Order” (“CME draft Order”), attached to CME’s letter of November 20, 2008.

As indicated in a conference call on November 18, 2008, OPG has no objection to this proposed paragraph being inserted into the operative section of the draft Rate Order.

CME also proposed that a provision be added to the draft Rate Order to make it clear that the calculation of the tax provision is without prejudice to the rights of others to question that calculation. The specific wording that CME proposed can be found as new paragraph 11A on page 5 of the CME draft Order. It has always been OPG’s understanding that parties could review its benchmark income tax provision in the next application. OPG therefore has no objection to this proposal.

Combined Payment Amounts and Consumer Impacts Effective December 1, 2008

Beginning on page 2 of its submission, CME suggests that a number of provisions to the draft Rate Order be modified to (1) sum up the base payment amounts and payment amount riders, (2) more clearly distinguish the deferral/variance account riders from the implementation riders, and (3) calculate the customer impact effective December 1, 2008.

OPG will provide a general comment and then address these proposals in order.

As a general comment, OPG believes that the draft Rate Order it filed was a clear and transparent presentation of the final revenue requirement and payment amounts for the prescribed facilities. OPG reviewed final Rate Orders for other utilities regulated by the Ontario Energy Board (OEB) and modeled its draft Rate Order on those it reviewed¹. It is the practice in those orders to reference only the rates and associated adjustments as well as variance and deferral accounts in the operative section of the order with all of the detailed information provided in Appendices. OPG followed this model and complied with the direction in the Decision to “include supporting schedules and a clear explanation of all calculations and assumption used in deriving the amounts used.” Transparency will not be enhanced by CME’s proposals at all. OPG did not “bury” information in the Appendices, as submitted by CME; rather it focused the order on the specifics of the revenue requirement, payment amounts, including the payment riders, and variance and deferral accounts. OPG does not believe the OEB should depart from its usual practice and include paragraphs related to ancillary calculations resulting from the Decision in the Rate Order because to do so will establish a precedent of making the rate orders for the prescribed facilities overly long and complicated.

CME has proposed that the combined effects of the base payment amounts and the payment amount riders be presented in the operative sections of the payment order. Its specific language for implementing this proposal can be found in modified paragraphs 2 and 4 of page 3 of the CME draft Order. As noted above, CME’s proposed approach is inconsistent with other Rate Orders approved by the OEB that include riders. OPG does not support this proposal.

The implementation riders result from the under recovery of the approved test period revenue requirement during the period of interim rates. To provide the complete story of bill impacts, the presentation would logically show under recovery from customers in the April 1 - November 31, 2008 period followed by the impact of the implementation riders effective December 1, 2008. For RPP customers, the presentation proposed by CME would result in the potential for confusion as the actual bill impacts are realized through OEB-approved RPP adjustments - the November 1, 2008 adjustment reflected a portion

¹ The final rate orders reviewed by OPG include: Toronto Hydro’s Rate Order dated July 31, 2008, Enbridge Gas Distribution Inc.’s Final Rate Order (2007 Test Year) dated September 24, 2007; Decision and Rate Order, Ontario Uniform Transmission Rates dated August 28, 2008 and Union Gas Limited’s Interim Rate Order dated March 4, 2008 for rates implemented January 1, 2008.

of the payment amount increase and the May 1, 2009 adjustment will true-up to the final decision.

Again, when 2010-2011 payment amounts are approved, the appropriate comparison is against the test period payment amounts plus the deferral and variance account rider and not inclusive of the implementation riders.

For these reasons, OPG submits that the most accurate and clear presentation of the payment amounts is as presented in its draft Rate Order.

CME has also proposed the payment riders that provide for the recovery of amounts owing from April 1, 2008 to November 30, 2008 be labeled as "implementation" payment riders and that the payment rider to provide for the recovery of the nuclear deferral and variance account amounts be labeled as "nuclear deferral/variance account" payment rider. OPG has no objection to the renaming of the payment amount rides as proposed by CME.

With respect to the issue of the presentation of customer impacts, CME has suggested that a provision be added to the Rate Order to refer to the customer impacts and that a further table be added to the Rate Order, similar to OPG's proposed table 6, to show the impact on a typical residential customer effective December 1, 2008.

OPG's proposed draft Rate Order contains a table which presents the customer impact in the same manner as the customer impact was presented in OPG's original evidence. The presentation of customer impacts in the Appendices to the draft Rate Order as proposed by OPG is entirely consistent with the manner in which customer impacts are presented in other Board-approved Rate Orders.

OPG rejects CME's suggestion that the presentation in the draft Rate Order of customer impacts is in any way misleading. If it is misleading then one would have to also conclude that many other Board-approved Rate Orders are also misleading. OPG does not accept that conclusion. The customer impact calculation shows the impact of the new payment amounts over the test period. That is the manner in which these calculations are typically done and OPG submits is the correct way for them to be done.

OPG encourages the Board to reject CME's proposal that the operative section of the Rate Order include a reference to "typical" customer impacts (see proposed new

paragraph 7A of the CME draft Order). As far as OPG can determine, the operative sections of Rate Orders never include this kind of paragraph. To include it would be inappropriate because the Board approves payment amounts, not “typical” customer impacts.

Unfunded Liabilities Related to Pickering and Darlington

CME had proposed that OPG provide additional information with respect to Footnote 6, item 2 of Table 4b and Footnote 5, item 2 of Table 5b with respect to the forecast unfunded liabilities related to Pickering and Darlington.

The calculation of the size of the unfunded liability for Pickering and Darlington was not included in OPG’s pre-filed evidence since it did not feature in any of OPG’s proposals. It was not asked for in any interrogatory or undertaking. The need for this calculation only arose as a result of the OEB Decision. Therefore, there was no opportunity to have a witness present these numbers and have them tested in the hearing.

As indicated in the conference call on November 18, 2008, OPG did not see value in presenting additional detail on this calculation as part of this draft Rate Order since it would simply introduce a set of numbers that were not part of the record.

OPG explained to CME and AMPCO that it would present a detailed calculation of the unfunded liabilities for Pickering and Darlington in its next application. The calculation methodology and resulting numbers could then be tested in the normal course.

While OPG does not see much utility in the CME/AMPCO proposal, it also does not want any delay in the December 1, 2008 implementation of the new payment amounts. On this basis, OPG has provided in Appendix B additional information on the calculation of the forecast unfunded liability for the prescribed facilities. The proportioning of the nuclear funds between Bruce and Pickering/Darlington as presented in Appendix B is as prescribed by the Ontario Nuclear Funds Agreement.

Appendix A

April to November 2008 Monthly Energy Production - Regulated Hydroelectric and Nuclear (MWh) ¹

Line No.	Production	2008								Total Apr 1 - Nov 30 2008
		Actual ²							Forecast Nov ³	
		Apr	May	Jun	Jul	Aug	Sep	Oct		
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)		
1	Regulated Hydroelectric	1,586,313.726	1,584,908.335	1,444,095.172	1,543,175.465	1,492,480.402	1,392,342.196	1,409,865.217	1,486,106.000	11,939,286.513
2	Nuclear	3,388,149.728	3,231,621.756	3,720,556.623	4,129,088.295	4,172,656.803	4,155,496.406	4,341,134.067	3,977,454.400	31,116,158.078

Notes:

- 1 The production values in the table include all significant digits to enable the OEB to use these figures for calculations, if required.
- 2 Actual production values were provided by the IESO.
- 3 Regulated Hydroelectric values are from Draft Rate Order Appendix E Table 2; Nuclear values are from EB-2007-0905 Ex. E2-S1-T2, Table 1 line 7, column (k).

Numbers may not add due to rounding.

Appendix B
Average Forecast Unfunded Nuclear Liabilities
April 1, 2008 to December 31, 2009

Line No.	Description	Note	April 1 to December 31, 2008 ¹			January 1 to December 31, 2009 ¹		
			Prescribed Assets	Bruce Assets	Total Nuclear	Prescribed Assets	Bruce Assets	Total Nuclear
			(a)	(b)	(c)	(d)	(e)	(f)
	ASSET RETIREMENT OBLIGATION							
1	Opening Balance	2, 3	5,921	4,860	10,781	6,182	5,025	11,207
2	Forecast Closing Balance	3	6,182	5,025	11,207	6,466	5,213	11,679
	NUCLEAR FUND BALANCE							
3	Opening Balance	2, 4	4,853	4,410	9,263	5,126	5,028	10,154
4	Forecast Closing Balance		5,126	5,028	10,154	5,496	5,480	10,976
	UNFUNDED BALANCE							
5	Opening Balance (line 1 - line 3)	2, 5	1,068	450	1,518	1,056	(3)	1,053
6	Adjustment: Remove January to March, 2008	6	(4)	(126)	(130)	0	0	0
7	Opening Balance at April 1, 2008 (line 5 + line 6)		1,064	324	1,388	1,056	(3)	1,053
8	Forecast Closing Balance (line 2 - line 4)		1,056	(3)	1,053	970	(267)	703
9	Average Unfunded Balance (line 7 + line 8) / 2	7	1,060	161	1,221	1,013	(135)	878

Notes:

- 1 Lines 1 through 5 are annual values. The adjustment for January 2008 to March 2008 is provided on line 6.
- 2 Balances in columns (a), (b) and (c) are actual values at December 31, 2007. Balances in columns (d), (e) and (f) are forecast values.
- 3 Year end balance from EB-2007-0905, Ex. J1.5.
- 4 The amount of nuclear segregated funds at December 31, 2007 was \$9,263M per Ex. J15.1, Addendum, Pg. 1, line 44.
- 5 The total unfunded nuclear liability balance at December 31, 2007 was \$1,518M per Ex. J15.1, Addendum, Pg. 2, line 5.
- 6 Net impact of increase in ARO and nuclear fund balance between January 1, 2008 and March 31, 2008.
- 7 2008 amounts used in Draft Rate Order Appendix A, Table 4b, Notes 3 and 6. 2009 amounts used in Draft Rate Order Appendix A, Table 5b, Notes 2 and 5.