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DECISION AND ORDER ON MOTIONS AND INTERVENOR EVIDENCE

EB-2025-0297

ONTARIO POWER GENERATION INC. AND DNNP LP

Application for payment amounts for the period from
January 1, 2027 to December 31, 2031

BEFORE: Allison Duff
Presiding Commissioner

Damien A. Côté
Commissioner

Vinay Sharma
Commissioner

May 15, 2026

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1 CONTEXT AND PROCESS

Ontario Power Generation Inc. (OPG) filed an application on December 17, 2025 with the Ontario Energy Board (OEB) under section 78.1 of the *Ontario Energy Board Act, 1998*, seeking approval to set payment amounts for the output of its regulated hydroelectric generating facilities and, with its co-applicant DNNP LP (collectively referred to as the Applicants), to set payment amounts for the output of their respective regulated nuclear generating facilities. The application covers the five-year term beginning January 1, 2027, through December 31, 2031.

Background

Pursuant to Procedural Order No. 2, the Applicants provided responses to interrogatories filed by intervenors and OEB staff on April 22, 2026 and April 24, 2026. The Applicants also provided a list of interrogatories they refused to respond to, and the reasons for these refusals. On April 27, 2026, intervenor Mr. Keith Pinto filed a letter with the OEB indicating his intention to pursue responses, via motions, to a subset of the refused interrogatories.

On April 28, 2026, the Applicants, intervenors, and OEB staff took part in an “interrogatory resolution day” to attempt to resolve any motion-related issues without the panel of Commissioners in attendance.

On May 1, 2026, Mr. Pinto requested permission to file evidence tied to Issues 26, 37, and 38 in this proceeding. On May 3, 2026, Mr. Pinto filed another letter in which he offered to withdraw two of his five motions if the other motions were resolved with the Applicants to his satisfaction. Mr. Pinto requested that the OEB adjourn the Motions Hearing initially scheduled for May 5, 2026, to allow for additional time to resolve his motions.

On May 4, 2026, the Applicants filed a letter describing certain additional information they were willing to provide, on May 20, 2026, in response to Mr. Pinto’s requests.

In Procedural Order No. 6, the OEB cancelled the Motions Hearing and directed Mr. Pinto to file a letter by May 11, 2026, replying to the Applicants’ May 4 letter and providing additional details on his proposed evidence. Procedural Order No. 6 also required the Applicants to respond to Mr. Pinto’s request to file evidence by May 13, 2026.

Mr. Pinto’s May 11, 2026 letter discussed three events, which he stated are related to both the interrogatory motions as well as his proposed evidence. Following a May 12,

2026 request for clarification from the Applicants, Mr. Pinto described the three events as follows:

- Event 1: The Whitby Warehouse fire-protection system deficiency (sprinkler system issue) and its handling. Mr. Pinto indicated he was interested in exploring specific control(s) in place at the time of the event, and how those control(s) were applied or monitored in practice.
- Event 2: A governance/oversight incident involving OPG's affiliate Laurentis Energy Partners, specifically a scenario involving overlapping roles and the operation of governance and oversight controls in decision-making on affiliate-related work (with implications for cost allocation and oversight controls). Mr. Pinto indicated he was interested in exploring how applicable oversight control(s) operated in this instance, and how the event aligns with those controls or policies (e.g. conflict of interest processes).
- Event 3: Contractor management and control allocation, where a contractor(s) engaged through Laurentis performed work related to OPG's regulated operations, raising questions regarding how responsibilities and costs were assigned and controlled. Mr. Pinto indicated he was interested in exploring how the event reconciles with OPG's control allocation framework, and how effectiveness of controls was assessed given cross-entity contractor involvement.

With respect to his proposed evidence, Mr. Pinto's May 11 letter stated that it "may take the form of affidavits, internal reports, or records that directly address the gaps described above" and would provide "concrete details on the control effectiveness and outcomes of the three events". Mr. Pinto's letter concluded by requesting that in the event the OEB denies his motions, that his request to file evidence be approved.

On May 13, 2026 the Applicants filed a letter stating that the additional information they proposed to file in their May 4 letter is sufficient for the purpose of interrogatories, noting that Mr. Pinto will have the opportunity to ask any follow-up questions at the Technical Conference.

Regarding Mr. Pinto's proposed evidence, the Applicants argued that Mr. Pinto has not established a practical need for the evidence, nor established that the evidence would be relevant and material to the issues in the proceeding.

Regarding Event 1, the Applicants noted that in their May 4 letter they offered to provide a summary of the issue and how it was addressed "including work orders, confirmation from the Ontario Ministry of Labour, and minutes from the municipal Fire Department

inspection.” The Applicants also noted that they are not requesting to recover any amounts related to the Whitby warehouse as part of this application.

Regarding Events 2 and 3, the Applicants noted that they are unclear which specific events Mr. Pinto is referring to, but that they assume they occurred more than two years ago. The Applicants also stated that the annual forecasted value of contractor services from Laurentis is under \$1 million.

2 DECISION

Findings

The motions

The OEB acknowledges the good faith efforts made by the Applicants and Mr. Pinto to resolve his refusals motions. The gap between them has been substantially narrowed.

The Applicants have proposed to file additional information in response to Mr. Pinto's interrogatories. Mr. Pinto has argued that the proposed information is too broad and has requested that, if the OEB does not approve his motions, that his request to file evidence on the same topics be approved. The OEB denies Mr. Pinto's motions, but will require the Applicants to file the additional information proposed in their May 4, 2026 letter.

The OEB is of the view that while the additional information proposed by the Applicants may be relevant to the disposition of the issues on the approved Issues List, it is not evident that more is required. As the Applicants noted in their May 4, 2026 letter, Mr. Pinto will have the opportunity to ask follow-up questions on this additional information at the Technical Conference. If the Applicants refuse to answer any of them, Mr. Pinto would then have the opportunity to challenge those refusals at the second Motions Day which has been reserved for after the Technical Conference.

Request to file evidence

The OEB finds that Mr. Pinto has not sufficiently demonstrated that the proposed evidence meets the requirements of Rule 13.03 of the Rules of Practice and Procedure. In particular, the OEB is not persuaded that the proposed evidence would be relevant and material. The OEB therefore denies Mr. Pinto's request to file the proposed evidence.

Based on the approved Issues List, the OEB finds that only issue #26 regarding cost allocation may be relevant to Mr. Pinto's proposed evidence involving three incidents in the prior rate term. The OEB is not convinced that the proposed evidence is relevant to issues #37 (nuclear liabilities) or #38 (deferral and variance accounts). OPG's management and oversight of unregulated affiliates is not within scope of this proceeding and could only be considered in the proportionate allocation of costs to OPG's regulated businesses.

The Applicants have stated that the matters related to Event 1 do not relate to any revenue requirement sought for 2027 to 2031. Further, the Applicants stated that the forecasted value of contracted services from the affiliate related to Events 2 and 3 is

less than \$1 million of the proposed 2027 to 2031 revenue requirement. This is well below the materiality threshold.¹

With respect to Event 1 (Whitby Warehouse fire-protection system deficiency), the Applicants have not requested any amounts for recovery related to the Whitby warehouse in this application. On this basis, the OEB agrees with the Applicants that the proposed evidence is not relevant to the issues in this proceeding.

With respect to Event 2 (Governance/oversight incident involving OPG's affiliate Laurentis Energy Partners) and Event 3 (Contractor management and control allocation), the Applicants stated that the average annual forecasted value of contracted services from Laurentis in 2027-2031 is less than \$1 million. While contracted services from OPG's affiliates may be relevant under issue 26 of this proceeding, the proposed evidence would not have a material effect on the OEB's determination of the appropriateness of the amounts proposed for recovery by the Applicants.

The OEB notes the Applicants' proposal to file the General Services Agreement and an explanation of OPG's cost allocation methodology, and agrees that this may be relevant to the proceeding. The Applicants shall file the additional information as described in their May 4 letter by May 20, 2026.

¹ For example, the materiality threshold for an OPG accounting order is \$10 million.

3 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The Applicants shall file with the OEB and serve on all parties the additional information described in their May 4, 2026 letter by **May 20, 2026**.
2. Mr. Pinto's motion to compel further answers to interrogatories is denied.
3. Mr. Pinto's request for leave to file evidence is denied.

DATED at Toronto **May 15, 2026**

ONTARIO ENERGY BOARD

Ritchie Murray
Registrar