Ontario Energy Board | Commission de l'énergie de l'Ontario

DECISION AND ORDER UNDER SECTION 8 OF ONTARIO REGULATION 53/05

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

June 22, 2026

OVERVIEW

Ontario Power Generation Inc. (OPG) and DNNP LP (the Applicants) filed an application on December 17, 2025 with the Ontario Energy Board (OEB) under section 78.1 of the *Ontario Energy Board Act*, *1998*. Among the approvals sought through this proceeding, DNNP LP seeks an order declaring, for the purposes of section 78.1 of the Act, that DNNP LP has satisfied the conditions set out under section 8 of O. Reg. 53/05 (Payments under Section 78.1 of the Act). Section 8 provides that Part III of the Regulation, which relates to the Darlington New Nuclear Project, starts to apply on the effective date of the OEB's order.

The OEB received submissions filed by the Power Workers Union (PWU) and OEB staff, and a reply submission filed by the Applicants.

The OEB is satisfied that the four conditions set out in section 8 of the Regulation were met as of December 31, 2025. An order to that effect will therefore be issued, with an effective date of January 1, 2026. As a result of this order, Part III of the Regulation will apply as of that effective date.

CONTEXT AND PROCESS

Section 8 of O. Reg. 53/05 reads as follows:

> **8.** This Part applies on and after the effective date of an order made by the Board for the purposes of section 78.1 of the Act in which it specifies that it is satisfied that the following conditions are met:
>
> 1. At least one unit of DNNP LP is held by a limited partner other than DNNP GP Inc.
>
> 2. The DNNP generator has entered into a lease with Ontario Power Generation Inc. with respect to the Darlington New Nuclear Project that provides for a lease term duration that is not less than the expected useful life of the DNNP Nuclear Generating Station.
>
> 3. The effective date of the lease referred to in paragraph 2 has been published on a publicly-accessible website.
>
> 4. The DNNP generator has incurred capital costs in respect of the Darlington New Nuclear Project.

On February 27, 2026, the Applicants filed a letter explaining that the conditions of section 8 of O. Reg. 53/05 have been met. On April 17, 2026, in response to an interrogatory from OEB staff about the timing of the requested order, the Applicants asked that it be issued as soon as possible.

On April 27, 2026, Procedural Order No. 4 invited submissions on this request, noting that submissions should reflect the following:

- Whether anyone disputes that the four conditions set out in section 8 of O. Reg. 53/05 have been met
- The appropriate effective date for any order issued under section 8 of O. Reg. 53/05
- Any other argument relevant for the purposes of issuing the section 8 order

PWU and OEB staff filed submissions on May 13, 2026. The Applicants filed a reply submission on May 22, 2026.

DECISION ON THE ISSUES

Both PWU and OEB staff agreed with the Applicants that the conditions set out in section 8 have been met. Regarding the appropriate effective date for the order, the submissions identified a few considerations.

PWU deferred to the Applicants on the effective date but suggested it should be December 29, 2025.

OEB staff submitted that it was not necessary to “back-date” the order, since the Regulation allows DNNP LP, in respect of both the DNNP nuclear development variance account (section 11) and the DNNP capital cost variance (section 12), to record amounts “that arose on or after the effective date of the lease … and before the DNNP transition date” (in other words, amounts that arose between December 29, 2025 and the effective date of the OEB’s section 8 order). However, OEB staff noted that it did not have the benefit of reviewing any submission from the Applicants on the effective date, and in principle, it would not be opposed to an effective date as early as January 1, 2026, which is when section 8 came into force, and the day after the day the Applicants say the four conditions were met.

In their reply submission, the Applicants acknowledged that, regardless of the effective date of the order, the Regulation allows DNNP LP to record amounts in the variance accounts once the order is issued as of January 1, 2026. However, the Applicants argued that the order should still specify an effective date of January 1, 2026: “This date aligns with the effective date of the amendments to O. Reg. 53/05 and the dates upon which the four conditions of section 8 were met (notably, the effective date of the lease on December 29, 2025 and the DNNP generator incurring capital costs in respect of the project on December 31, 2025). It follows that the effective date of DNNP LP being a prescribed generator for purposes of section 78.1 of the *Ontario Energy Board Act, 1998*, should be January 1, 2026, and there is no compelling reason to the contrary.”

FINDINGS

The OEB finds that the Applicants have fully complied with the four conditions set out in section 8 of the Regulation, as of December 31, 2025 when OPG and DNNP LP entered into a contribution agreement.

The effective date of the order shall be January 1, 2026. The OEB notes that January 1, 2026 also coincides with the start of the current payment amounts period and fiscal year.

The OEB finds that Condition 1 is met. The OEB relies on the uncontroverted evidence on the record demonstrating that the DNNP LP was established as a limited partnership on October 16, 2025 with DNNP GP Inc. as its managing general partner, and OPG as a general partner. The Applicants provided the Unitholders’ Register for DNNP LP which shows that at least one unit of DNNP LP is held by a limited partner other than DNNP GP Inc.

The OEB finds that Condition 2 is met, as of December 29, 2025. Condition 2 required OPG to have entered into a lease agreement with DNNP GP for a period not less than the expected useful life of the DNNP Nuclear Generating Station. The evidence on this record confirms both the existence of the lease and that its term duration is not less than the expected useful life of the DNNP Nuclear Generating Station, as required by the condition.

The OEB finds that Condition 3 is met. In their submission, the Applicants provided evidence of the publication, on a publicly accessible website, of the lease effective date.

The OEB finds that Condition 4 is met. The evidence on this record shows that, “[o]n December 31, 2025, OPG and DNNP LP entered into a contribution agreement pursuant to which OPG has been reimbursed for construction-in-progress costs in connection with the DNNP through the issuance of ownership units".[1] As the evidence reveals that a transaction has occurred pursuant to this contribution agreement, the requirement of the condition is met.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The OEB is satisfied that the conditions set out in section 8 of O. Reg. 53/05 are met.

2. The effective date of this Order is January 1, 2026.

DATED at Toronto June 22, 2026

ONTARIO ENERGY BOARD

Ritchie Murray

Digitally signed by Ritchie Murray
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Ritchie Murray
Registrar

[1] OPG Letter, February 27, 2026 at page 2.