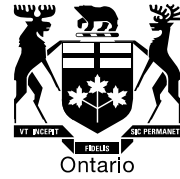


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BY E-MAIL

September 8, 2011

To: Parties to EB-2010-0008

**Re: Ontario Power Generation Inc. – Consultation on 2013-2014 Payment Amounts Application
Board File No. EB-2011-0286**

The Ontario Energy Board (the “Board”) is initiating a consultative process on the filing guidelines for Ontario Power Generation Inc.’s (“OPG”) next payment amounts application and the most effective means by which issues and evidence might be reviewed and tested in the course of that proceeding.

Section 78.1 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B, authorizes the Board to set payments with respect to the output of OPG’s prescribed generation facilities. O. Reg. 53/05 empowers the Board to establish the form, methodology, assumptions and calculations to be used in making an order that determines payment amounts for the purpose of section 78.1 of the Act.

On March 10, 2011, the Board issued the 2011-2012 payment amounts decision (the “Decision”) and on April 11, 2011, the payment amounts order was issued. The file number for that proceeding was EB-2010-0008.

The Board is of the view that updated filing guidelines and prioritization of the issues will likely lead to a more efficient hearing process. To initiate discussion by the parties, options for prioritization of issues and a proposed update to the filing guidelines have been drafted and accompany this document.

Options for Prioritization of Issues

On page 6 and 7 of the Decision, it states:

This Decision addresses a large number of issues. Most of these issues were material in nature; a number were not. Quite a number of very material issues were explored somewhat late in the process; in some cases the arguments themselves contained what could be characterized as evidence. The regulation of OPG is complex. It is imperative that the high priority issues be identified early and explored thoroughly and effectively during the proceeding.

The Board understands that many of the issues pursued by the parties were sizeable in the absolute sense, often involving millions of dollars. However, issues must be prioritized to ensure that the most significant issues, in terms of dollars and/or in terms of principle, are adequately investigated to ensure an appropriate outcome. The Board and the process are best served by the thorough investigation of the highest priority issues.

It is the Board's conclusion that a number of issues which parties pursued vigorously in cross-examination and argument were not of sufficiently high priority in terms of the dollars or the principle involved. The Board's concern is that an inordinate focus on lower priority issues diminishes the time and resources available to pursue the more substantive, higher priority issues. This is not intended as a criticism of any of the parties; nor is it an indication that there was insufficient evidence for the Board to render its decision. Rather, these comments are intended to guide the parties as to the Board's expectations for the next proceeding based on our observations of this proceeding.

On page 7 of the Decision, it states:

The Board will explore with OPG and stakeholders how best to identify issues in the next proceeding to ensure that the highest priority issues are identified early.

The Board is seeking comments and suggestions from OPG and stakeholders on the prioritization of issues and efficient hearing processes. To prompt feedback from parties, an option for prioritization of issues ("Pre-Hearing Prioritization") is summarized below.

- The filing guidelines would be similar in scope to those previously issued.

- Following the filing of the application, there would be provision for the development of an issues list, interrogatories, technical conference and settlement conference.
- As is the normal course, unsettled issues would proceed to hearing. In the event that all or a significant number of issues are not settled, the Board would make provision for an issues prioritization process. The outcome of that process would be the identification of primary and secondary issues. Potential examples of secondary issues are corporate cost allocation and asset service fees.
- Parties could, as part of the settlement process, reach an agreement on the categorization of some or all of the issues as primary or secondary, and present this proposal to the Board for approval. Submissions would be made to the Board on any issues for which the categorization remained contested for a Decision on a final Issues List.
- Issues that were categorized as primary would be part of the oral hearing to be heard by the Board first.
- The Board may determine that some or all of the secondary issues would be heard by way of written hearing, or the Board may determine that some or all of the secondary issues would be heard last in the order of the oral hearing.

Another option on which the Board would be interested in comments is whether it would be more efficient to initiate a consultation process to identify priority issues prior to OPG filing its application (“Early Prioritization”). This option is summarized below:

- The Board would initiate a consultation process to identify priority issues for the 2013-2014 payment amounts case.
- The filing guidelines would reflect a more detailed filing for priority issues and less detail for the secondary issues.
- After the application is filed, a technical conference would be held on the secondary issues and parties would have the option of making submissions to re-categorize issues prior to the hearing.
- The expectation would be that the interrogatories, any subsequent technical conference, intervenor evidence and the oral hearing would address the primary issues only.
- Secondary issues would be addressed through written submissions, with the expectation that generally the impact on revenue requirement related to secondary issues would remain as filed.

Parties are invited to comment on these options for prioritization of issues. The Board is also interested in hearing from parties on further alternatives.

Filing Guidelines

Board staff has made refinements to the previous filing guidelines. The refinements are provided in a track changes and clean version. Please note that Excel spreadsheets of proposed appendices will be issued at a later date for comment and for testing.

Parties are invited to comment on the filing guidelines and to suggest additions, deletions and revisions to the filing of evidence.

The document does not reflect the “Early Prioritization” option described above. In the event that the Board determines that an “Early Prioritization” process is appropriate, the filing guidelines may be revised to reflect a more limited filing on the secondary issues.

The Board expects OPG to rely on the filing guidelines in developing its next payments application and to use the comments provided by parties to develop a focused and comprehensive filing.

Invitation to Comment

Interested stakeholders are invited to submit written comments on the prioritization of issues and the filing guidelines.

Written comments must be filed with the Board by **September 23, 2011** in accordance with the filing instructions set out below. The Board expects to post all comments on the prioritization of issues and to issue the final version of the filing guidelines in November 2011 to enable OPG to file its next payment amounts application early in 2012.

Cost Awards and Instructions on Filing Material with the Board

Cost awards will be available to eligible persons under section 30 of the *Ontario Energy Board Act, 1998* for their participation in this consultation. Persons eligible for cost awards in EB-2010-0008 are eligible for cost awards in this consultative process. Cost awards will be available to eligible participants as follows:

Activity Eligible for Cost Awards	Total Eligible Hours <u>per</u> <u>Eligible Participant</u>
Written comments on prioritization of issues and filing guidelines	Up to 15 hours

All filings in relation to this consultation must quote file number **EB-2011-0286**, be made through the Board's web portal at <https://www.errr.ontarioenergyboard.ca>, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to boardsec@ontarioenergyboard.ca the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

Filings must be received by **4:45 pm** on the required date.

All materials related to this consultation will be available on the Board's web site at <http://www.ontarioenergyboard.ca>. The material will also be available for public inspection at the office of the Board during normal business hours.

If you have any questions regarding this consultation, please contact Violet Binette at 416-440-7674, or e-mail violet.binette@ontarioenergyboard.ca. The Board's toll-free number is 1-888-632-6273.

Yours truly,

Original Signed By

John Pickernell
Assistant Board Secretary