

# **Ontario Energy Board**

## **Setting Payment Amounts for Ontario Power Generation Inc.'s Prescribed Generation Assets**

**Energy Probe Research Foundation**

**◆Comments on Discussion Paper Draft 2◆**

**Submitted June 30, 2006**

## **Board Staff Discussion Paper – Draft 2**

### **Comments of Energy Probe Research Foundation**

**Following the Consultation of June 16, 2006**

#### **General Comments**

**The following comments are provided on behalf of Energy Probe Research Foundation (Energy Probe) in response to the Board Staff discussion paper “Regulatory Options for Setting Payments for the Output from OPG’s Prescribed Generation Assets” June 20, 2006.**

**Energy Probe appreciates the opportunity to review and comment on draft papers, and notes that the meeting organized by Board Staff to receive views from the interested parties on June 16<sup>th</sup> did include Ontario Power Generation (OPG) as requested in Energy Probe’s Comments on Draft No. 1.**

**Energy Probe continues to believe that any method for setting payments adopted by the Board should allow OPG to continue to operate in a business-like manner and to maximize the value of OPG’s generation resources to consumers, consistent with the constraints OPG faces.**

**Read together, Section 78.1 of the Ontario Energy Board Act and Ontario Regulation 53/05 ask the Board to determine appropriate payments to OPG for its output. Energy Probe suggests that the public, the government, and OPG will be looking to the Board to develop a fair and transparent regulatory methodology that validates the process.**

## **Comments Specific to the June 16<sup>th</sup> Consultation and Draft No. 2**

**As background to its comments on Board Staff's Draft No. 2, Energy Probe wishes to note that a full cost of service with Intervenor participation has never been completed on the prescribed assets that the Ontario Energy Board has been directed to regulate. That includes all the time that these assets formed part of Ontario Hydro. It was always too big a job, too difficult to undertake, the resources to do a full service were never available, the government of the day, no matter which of the three major Ontario political parties it represented, never had the will to do it – it was just too hard. Even as Ontario Hydro blew through billions of dollars of investments (stranded costs), it was always just too hard to do.**

**Energy Probe suggests that this is the time. Board Staff can run through all those tired excuses, and it has in drafts 1 & 2, but it should consider that it is never too late to do a thorough job for the ratepayers, those customers that the Ontario Energy Board is mandated to protect.**

**Regulatory efficiency should never be a goal which trumps regulatory effectiveness.**

### **Comments Attributed to Interested Parties**

**In Draft No. 2, Board Staff attributes multiple comments by interested parties in support of each of the three main categories of Regulatory Models put forward for consideration, and multiple comments by interested parties opposed to each.**

**Energy Probe notes that of the 12 interested parties that were interested enough to make a submission in writing on Draft No. 1, a review of their submissions reveals that none came out in favour of Incentive Regulation as their first choice. Board Staff is an outlier.**

**Constellation Energy submitted that the “Ideal Solution” would be to sell the prescribed OPG assets to independent owners, but accepted Regulatory Contracts as the best solution short of an asset sale to independent owners.**

**The Ontario Power Authority (OPA) endorsed Regulatory Contracts, perhaps not a stretch as a choice.**

**The Independent Electricity Market Operator (IESO) indicated that it pretty well likes things as they currently function.**

**The OPG in its submission wisely offered no final choice.**

**All other written submissions by interested parties picked Cost of Service, either full or modified, as their first choice of Regulatory Model. It is true that several parties felt that a form of incentive regulation would be an option for obtaining efficiency benefits once a Cost of Service process was undertaken. Nevertheless, Cost of Service was the overwhelming pick of the three Options presented.**

**One must ask the question: “Why is Board Staff an outlier?” Does Board Staff see what others miss? Or has Board Staff fell victim to accepting that same old conclusion – it is just too hard!**

### **Comments Directed Toward the London Economics International Report**

**The London Economics International (LEI) Report in its third paragraph on Page 4, states: “This research is intended primarily as an exploration of concepts that will be used to spark discussion.” Energy Probe wishes to commend the LEI for its research and commentary, believing that it has succeeded in its primary objective.**

Each discipline operates within its own bias, and where Energy Probe takes issue with the economists of LEI is in their belief that economic incentives will have an impact with OPG similar to that which one might expect to witness from a widely held commercial entity.

What incentive would be effective in motivating the sole owner of OPG? The sole owner reacts through the Energy Ministry. If the OEB was in a position to guarantee an election victory in 2007, perhaps it would have found an excellent incentive. It would certainly not be the first time that election pressures rearranged the operation of the electricity market in Ontario.

For OPG itself, it is very difficult to see any economic reward as having particular effectiveness in incenting its operations. Its profits are already promised elsewhere. It must contribute them to pay for the stranded assets generated while it formed part of Ontario Hydro. Perhaps if the Board were given oversight of all of OPG's assets and operations, it could formulate the compensation of management to include incentives that would support the conclusions of LEI.

Until then, Energy Probe submits that the OEB needs to bite the bullet and commence a Cost of Service Review as its base line for setting payments for OPG. Energy Probe suggests that OPG should bring its Cost of Service rate application forward every two years for its prescribed generation assets. Incentive based regulation can be implemented when costs have been more fully explored in a transparent review.

Respectfully submitted at Toronto, Ontario this 30<sup>th</sup> day of June, 2006.

**ENERGY PROBE RESEARCH FOUNDATION**