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## VIA E-MAIL AND WEB POSTING

July 27, 2007

**To:** All Participants in Consultation Process EB-2006-0064  
All Other Interested Parties

**Re:** **Setting Payment Amounts for Ontario Power Generation Inc.'s Prescribed Generation Assets Filing Guidelines**  
**Board File No.: EB-2006-0064**

The Board has today issued its *Filing Guidelines for Ontario Power Generation: Setting Payment Amounts for Prescribed Generation Assets* (the "Filing Guidelines"). The Filing Guidelines set out the information that the Board expects Ontario Power Generation Inc. ("OPG") to file for purposes of the setting of payment amounts for certain of OPG's generation assets under section 78.1 of the *Ontario Energy Board Act, 1998* (the "Act").

### **Background**

Under section 78.1 of the Act, the Board is authorized to determine the payment amounts to be paid to OPG for output from facilities that are identified in the *Payments Under Section 78.1 of the Act Regulation, O. Reg. 53/05* ("Regulation 53/05"). Regulation 53/05 establishes April 1, 2008 as the date on which the Board's authority to determine those payments commences, and identifies the following as the generation facilities to which the payments apply (the "prescribed generation assets"): the nuclear generating stations operated by OPG (Pickering A and B Nuclear Generating Stations and Darlington Nuclear Generating Station); and the hydroelectric generating stations located in the Regional Municipality of Niagara (Sir Adam Beck I, Sir Adam Beck II, Sir Adam Beck Pump Generating Station, De Cew Falls I and De Cew Falls II) and on the St. Lawrence River (R.H. Saunders).

On November 30, 2006, following consultation with interested parties, the Board issued its report entitled *A Regulatory Methodology for Setting Payment Amounts*

for the Prescribed Generation Assets of Ontario Power Generation Inc. (the “OPG Report”). In the OPG Report, the Board concluded that a series of limited issues cost of service processes would be used to set the base payment for the prescribed generation assets that will ultimately form the basis of an incentive regulation formula.

On March 30, 2007, the Board issued a Board Staff Discussion Paper outlining draft filing requirements for comment by interested parties. The Board received submissions from OPG and 8 other stakeholders. The Filing Guidelines issued today reflect the Board’s consideration of both staff’s discussion paper and the comments received on that document.

### **Filing Guidelines: Comments and Board Approach**

The following summarizes some of the key comments received on Board staff’s discussion paper as well as whether and the manner in which those comments have been reflected in the Filing Guidelines. The summary below is not exhaustive of all comments received. All of the written comments are available on the Board’s website at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca) and at the office of the Board during normal business hours.

#### *1. General*

OPG in particular commented that the draft filing requirements outlined in the staff discussion paper were too onerous and required the filing of information that appeared to be superfluous having regard to the prescriptive rules set out in Regulation 53/05. By contrast, other stakeholders requested that OPG be required to file more information than was called for in the staff discussion paper.

The Board is embarking on its first payment setting exercise in relation to the prescribed generation assets. The Filing Guidelines should strike an appropriate balance between the need to be sufficiently prescriptive in order to ensure that the minimum information currently considered to be necessary is provided and the need to take an approach that recognizes the impracticality of identifying every detail as well as the impact of the prescriptive rules set out in Regulation 53/05. As such, the Board has eliminated certain information that would have been required in Board staff’s discussion paper, and has generally not included significant additional detail in the Filing Guidelines. That said, there will be opportunity during the pre-hearing and hearing processes for parties to request additional information, and the Board will address such requests at the relevant time with a view to ensuring that there is a complete record before it to enable an adequate understanding and adjudication of the issues before the Board. Comments received on staff’s discussion paper should be instructive to OPG in anticipating the elements of information that parties may seek to obtain at a later date.

## 2. *Hearing Structure*

Staff's discussion paper proposed that the Board would review the prescribed nuclear and hydroelectric generation assets in separate sequential proceedings. All but one stakeholder commented that it would be more efficient for there to be a single proceeding to deal with both classes of facilities. The Board has accepted those comments, and will hold a single proceeding. The proceeding is expected to consist of three parts: a part that considers aspects common to both the hydroelectric and nuclear assets, and then separate parts for each of the hydroelectric and nuclear assets.

## 3. *Test Years*

Consistent with the OPG Report, staff's discussion paper proposed that the forward test year be the period from April 1, 2008 to March 31, 2009. A number of stakeholders, including OPG, suggested that the test period should be adjusted to match the expected end of the period for which payment amounts are expected to be set, and to align with OPG's fiscal year. The Board has set the forward test years as 2008 and 2009. The Filing Guidelines call for OPG to file data for the full two calendar years 2008 and 2009. The Board cautions interested parties that the selection of these dates as the forward test period does not mean that payment amounts will be set by the Board for that same period. The Board will not set payment amounts for the period preceding April 1, 2008. Moreover, it appears unlikely that the Board will be in a position to issue a final order setting payment amounts effective April 1, 2008. The Board anticipates that timing of implementation of the payment amounts will be an issue in the proceeding.

## 4. *Historical Data*

OPG, along with some other stakeholders, submitted that data should not be required for 2004 or earlier years, as proposed in staff's discussion paper. As the current payment regime was implemented in April 2005, these stakeholders questioned the relevance of 2004 and pre-2004 information. OPG, for its part, also indicated that providing the information would be a significant burden for it. The Board has accepted these submissions, and has not included information relating to 2004 or earlier years in the Filing Guidelines.

## 5. *Spreadsheets and Spreadsheet Formulae*

Staff's discussion paper included a requirement to provide some spreadsheets, but did not generally call for the filing of spreadsheet formulae. One stakeholder specifically requested that spreadsheets and spreadsheet formulae be provided. The Board agrees that this information will enable parties to more easily understand the data and the relationships between spreadsheet entries. The Board has included in the Filing Guidelines a more general provision regarding

the filing of spreadsheets, and has also provided for the filing of “on-sheet” calculations. With this information, derived numbers such as averages, subtotals and totals on a spreadsheet can be more readily understood. The Board has not required that “off-sheet” formulae relationships be provided.

6. *Auditor Confirmation*

Both staff’s discussion paper and the Filing Guidelines stipulate that audited financial statements be provided. One stakeholder suggested that the filing should include evidence confirming that the auditors specifically audited the information that the Board is required by Regulation 53/05 to accept. The Board expects that OPG’s financial statements will be audited in accordance with generally accepted auditing standards, and does not believe that it is necessary to require proof that the auditors have specifically reviewed certain items of information set out in those financial statements. This has therefore not been included in the Filing Guidelines.

7. *Affiliate Transactions*

One stakeholder proposed that OPG be required to file information regarding dealings or business arrangements with its affiliates that are relevant to the operation of the prescribed generation assets. The Filing Guidelines stipulate that OPG should file information regarding material transactions with all third parties, which includes affiliate transactions, to enable the Board to consider the prudence of the costs incurred. The information that should be provided includes the identity of the counterparty to the transaction, the tendering process used or, where a tendering process was not used an explanation of why that was the case and a description of the methodology used to determine pricing. The Board has not included a specific reference to affiliate transactions in the Filing Guidelines.

8. *Pro Forma Financial Statements*

Staff’s discussion paper proposed that OPG file pro forma statements for the bridge and test years. OPG indicated that it does not produce pro forma statements for the business associated with the prescribed assets separately, but does so only for the corporation as a whole. As such, pro forma financial statements would disclose confidential forward-looking information regarding the unregulated facilities and prejudice OPG’s position in the competitive electricity markets. The Board has not included pro forma financial statements in the Filing Guidelines. However, the Board confirms that, in this case as with any forward test year rate-making process, there is a need for forward looking data. A consistent set of forward-looking data for each of the nuclear and hydroelectric businesses that can be used as a basis for comparison will therefore need to be provided by OPG.

## 9. *Other Revenue*

Staff's discussion paper included a requirement that OPG provide information on energy revenue from contract sales, export sales and the global adjustment. OPG noted that this information is not related to the prescribed generation assets as, with one exception, the output from those assets is entirely sold into the IESO-administered markets. OPG also noted that it does not receive global adjustment revenues other than a small amount associated with station service.

Revenue derived from the use of assets is relevant to a determination of the revenue requirement in cost of service proceedings and, as such, those revenues should be identified. The Filing Guidelines are, however, less prescriptive than proposed by staff, and refer more simply to "other revenue derived from the use of the prescribed assets, broken down by revenue source". It will be the responsibility of OPG to identify any such other revenue and revenue sources when it makes its filing.

## 10. *Outage Information*

Staff's discussion paper proposed that OPG provide outage information pertaining to the prescribed nuclear assets, to enable the Board to examine the issue of maximization of the efficient use of those assets. OPG indicated that the release of planned outage information has the potential to allow other market participants to "price up" or to withhold offers, and therefore raises potential market surveillance and market competition issues. As an alternative, OPG proposed that it file evidence on the percentage of annual planned outage days that are forecast to fall within the months of peak demand, which are the summer and winter months.

The Board believes that outage information should be provided, and has clarified in the Filing Guidelines that OPG's filing should include historical planned (both forecast and actual) and historical forced outage information for the period ending on the filing date. The Board is of the view that future planned outage information should also be filed. The Board is mindful of the concerns expressed about the sensitive nature of certain outage planning information. However, the Board believes that confidentiality concerns can be adequately addressed using the procedures set out in the Board's *Practice Direction on Confidential Filings*. OPG may avail itself of those procedures and file a public version of the commercially sensitive information, together with a filing containing all of the information identified in the Filing Guidelines and a request that this filing be treated in confidence by the Board.

### 11. *Gross Assets*

Staff's discussion paper proposed the use of an average of monthly averages methodology to establish gross asset values. OPG asserted that use of that methodology is not suited to it, as additions to and retirements of OPG's gross assets lack significant seasonality. In addition, OPG noted that it is not currently capable of using this methodology. The Board acknowledges this concern, and the Filing Guidelines therefore call for the use of mid-year averages.

### 12. *Description of Assets*

A stakeholder requested that OPG be required to provide a description of the prescribed generation assets and of financial assets. While the Board believes that this would have been included in any event, the Filing Guidelines specifically call for that description to be provided. The Filing Guidelines also call for OPG to identify its capitalization policy as part of the capital budget evidence, and the Board expects that this will include the capitalization policy for overheads and other elements.

### 13. *Materiality Thresholds*

Staff's discussion paper proposed materiality thresholds for various elements of the filing, with detailed information being required where the threshold is exceeded. Some stakeholders indicated that the materiality thresholds were too high, while OPG indicated that they were too onerous. Suggestions for appropriate materiality thresholds varied. The Board has determined the following:

- **For the "Rate Base" portion of the filing**, no materiality threshold is required although OPG should provide a summary explanation identifying the key drivers of variances affecting the rate base;
- **For capital projects of \$10 million or more**, detailed information should be provided, including the project name, project description, project need and project costs. For these projects, a variance analysis should be provided for any variance of 10% or more of the project budget. The aggregate cost of all projects in this category should be filed;
- **For capital projects of between \$5 million and \$10 million**, the information that should be provided includes the project name, project description, and project costs. The aggregate cost of all projects in this category should also be filed;
- **For capital projects of less than \$5 million**, OPG should identify the number of projects that fall into this category, the total cost of all such projects in the aggregate and the average costs of these projects; and

- **For operating costs**, detailed information should be provided for expenses that exceed the lesser of 1% of total expenses before taxes or \$20 million. A variance analysis should be provided for any variance of 10% or more of the category expenses.

The Filing Guidelines reflect the above.

#### 14. *Working Capital*

Staff's discussion paper proposed that the working capital analysis include the average of monthly averages for various items. OPG and other stakeholders recommended the use of a lead/lag study to determine the cash working capital. The Board has accepted this recommendation.

#### 15. *Interest Rate on Non-enduring Variance and Deferral Accounts*

As noted by a stakeholder, staff's discussion paper did not indicate the interest rate applicable to certain of the variance and deferral accounts required by Regulation 53/05. This issue relates to the interest rate on the balance remaining in the accounts during the period between the date of the Board's first order and the date on which the accounts are cleared. The Board has clarified in the Filing Guidelines that the 6 percent interest rate prescribed in Regulation 53/05 continues to apply to these accounts until the balance has been cleared.

#### 16. *Incentive Regulation*

A number of stakeholders proposed that additional information be filed to enable the Board to assess the efficient use of the prescribed generation assets and to explore incentive mechanisms. The Board believes it premature to require such additional information at this time, but may incorporate that information into subsequent iterations of the Filing Guidelines for use in future proceedings.

OPG, for its part, reiterated the comments it made in earlier consultations to the effect that it is not reasonable or workable to establish an incentive for the Beck Pump Generating Station separately from the other Niagara facilities. Examination of such an incentive mechanism was identified in the OPG Report as a matter to be addressed during the payment setting proceeding, and the Board remains of the view that there is merit to exploring this approach.

With respect to the issue of the MWh threshold before market prices apply in relation to the prescribed hydroelectric assets, the Board has clarified in the Filing Guidelines that the threshold relates to the total combined output from those assets, as opposed to the output from each of the assets individually. This is consistent with Regulation 53/05. For comparative purposes, the Filing

Guidelines call for OPG to file data relating to two thresholds; namely, 1500 MWh and 1900 MWh.

The Board thanks all participants in this consultation for their contribution to the development of the Filing Guidelines.

The Board will address the issue of cost awards for this consultation in accordance with the Notice of Hearing being issued today for that purpose.

Yours truly,

*Original signed by*

Peter H. O'Dell  
Assistant Board Secretary