



Jay Shepherd
Direct Line (416) 214-5224
Direct Fax (416) 214-5424
jay.shepherd@shibleyrighton.com

TORONTO OFFICE:
250 University Avenue, Suite 700, Toronto, Ontario, M5H 3E5
Main 416 214-5200 Toll free 1-877-214-5200
Facsimile 416 214-5400

WINDSOR OFFICE:
2510 Ouellette Avenue, Windsor, Ontario, N8X 1L4
Main 519 969-9844 Toll free 1-866-522-7988
Facsimile 519 969-8045

www.shibleyrighton.com

Please Reply to the TORONTO OFFICE

BY EMAIL

April 30, 2007
Our File No. 2060552

Ontario Energy Board
2300 Yonge Street
26th Floor
Toronto, Ontario
M4P 1E4

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: Ontario Power Generation - Payments for Prescribed Assets – EB-2006-0064

We are counsel for the School Energy Coalition, and in this letter are providing our comments on the Board Staff Discussion Paper dated March 30, 2007 relating to filing requirements for the OPG Prescribed Assets proceeding(s).

General Comments

The Paper is very thorough, and so as will be seen below we have little to add. We should particularly comment that the overall approach of the Paper – seeking to ensure that there is a detailed prefile so that interrogatories are kept to a minimum – is very welcome and will serve the process well if OPG adheres to Staff's filing philosophy.

We also have had an opportunity to review the submissions of the Vulnerable Energy Consumers Coalition in this matter, and except as set forth below we are in agreement with their observations.

Specific Suggestions

Against that background, we have the following specific suggestions that we hope will improve the quality and efficiency of the process:

1. Staff has suggested in a couple of places that OPG file data in Excel format. We believe that all numeric data should be filed in Excel format, and further that the spreadsheets should include the

formulae for calculating cells, rather than just the numbers themselves. There will obviously be cases where the formulae are too complex for the spreadsheet, and data is actually calculated in a separate spreadsheet or other model, but in the many cases where the spreadsheet has internal calculations, it should be filed with those intact so that parties and the Board can model variations without wasting time reconstructing the live spreadsheet.

2. With respect to section 5(1) of Regulation 53/05, OPG should be asked to file all of the forecasts and related baseline calculations, and a detailed chart showing individual deviations and both their isolated and cumulative effects.
3. With respect to sections 5(4) and 5.1(1) of Regulation 53/05, the filing should include evidence that the auditors specifically audited the numbers that the Board is accepting without review. We are particularly concerned that the materiality level established by the auditors for individual transactions may have been so high that they could have left many items unaudited, particularly in the 5(4) deferral account. While individually not material for auditing purposes, such unaudited numbers could add up to a sizeable total. In our view, the legislature did not intend the Board to accept numbers from the audited financial statements that the auditors had not, in fact, reviewed.
4. With respect to capital and non-capital costs and commitments under section 6(2)4 of Regulation 53/05, the Board should require that the approved budgets, the Board approvals themselves, and any submissions, presentations or recommendations made by management to the Board in the course of receiving approval, should be filed in these proceedings.
5. With respect to Bruce, the Board is required to accept the revenues and costs in the audited financials. However, the underlying data on which those totals are based is also important baseline information for the Board going forward. Therefore, we believe details of those revenues and costs should be filed in this proceeding, and reconciled to the figures in the audited financial statements.
6. Along with the audited financial statements, we think it would be useful to all parties and the Board if OPG were to file a compendium setting out each number in the financials that the Board is required to accept, for which purpose, plus any proposed adjustments, explanations, etc. Where any of those numbers have been specifically discussed by the OPG Board or Audit Committee, any presentations to the Board or Committee related to those numbers should be filed, along with the excerpt from the Board or Committee minutes in which that discussion and its resolution is described.
7. VECC in their submissions have proposed lower materiality thresholds for capital and non-capital items. We suggest that the Board consider a two-level materiality. Any item over \$1 million should be listed separately with a one-line explanation. Any item over \$5 million should include the material set out in the Paper, ie. essentially a business case for the project or initiative.
8. Under the section Energy Revenue, the Board should specifically require detailed evidence on the weather forecasting and hydrological forecasting methodologies inherent in the forecasts.

Historical data should be tracked to those assumptions, and sensitivity analyses should be provided.

9. A variance reporting level of 10% for operating costs is far too high, and the VECC suggestion of 5% is also too high. In our view, any variance that exceeds GDPPI should be explained. This does not mean they are unjustified. It just means that the Board should know why the variance was that large. In addition, OPG should be advised that it is required to explain any variance that is noteworthy (ie. has important underlying causes), even if it is within the variance band. For example, if OPG implemented a control system that was supposed to drive down costs, but instead costs rose, but were still under inflation, OPG should explain the competing forces at work, and why the control system did not achieve the results sought. It is more efficient for the process if issues such as these are discussed in the prefile, rather than left to be chased down by intervenors in the interrogatories process.
10. The use of consecutive proceedings appears to us to be problematic, since so many issues will be common to both. One possibility may be to have three phases, the first dealing with common issues, and then the next two with specific issues relating to each category. As long as all of the evidence for all three components is filed at the outset, this should allow a more manageable hearing process while still ensuring that all issues are properly addressed.

Conclusion

We appreciate having had the opportunity to provide our input on this process.

Yours very truly,
SHIBLEY RIGHTON LLP

Jay Shepherd

Cc: Interested parties (by email)