

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

Commission de l'énergie de l'Ontario
C.P. 2319
27^e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone: 416-481-1967
Télécopieur: 416-440-7656
Numéro sans frais: 1-888-632-6273



BY E-MAIL AND WEB POSTING

September 24, 2009

To: Parties to EB-2007-0905
Other Interested Stakeholders

**Re: Ontario Power Generation Inc. – Consultation on Next Prescribed Payment Amounts Application
Board File No. EB-2009-0331**

The Ontario Energy Board (the “Board”) is initiating a consultative process to discuss the filing requirements for Ontario Power Generation’s (“OPG”) next payment amounts application and the most efficient 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 November 3, 2008, the Board issued the first payment amounts decision for prescribed facilities and on December 2, 2008, the first payment amounts order was issued. The file number for that proceeding was EB-2007-0905 (the “first proceeding”).

The first proceeding was the Board’s initial review of OPG’s regulated facilities and, from the filing of the application to the issuance of a decision, took approximately one year to complete. Certain of the issues dealt with in the first proceeding will not be dealt with again (i.e. the disposition of transitional deferral accounts) while others, such as the

review of costs incurred in the course of the development of proposed new nuclear generation facilities, are issues which must be determined by the Board at every payment amounts proceeding.

The Board is of the view that updated filing guidelines and the scoping of the issues by the parties in advance of the filing of the application are likely to lead to a more efficient hearing process. To initiate discussion by the parties, a proposed update to the filing guidelines and a Board staff scoping paper have been drafted and accompany this document.

Staff Scoping Paper

One of the Board's objectives in initiating this consultation is to allow parties the opportunity to discuss, and possibly reach consensus on, the scope of review and the manner of proceeding of the next OPG payments proceeding. While the ultimate arbiter of the scope of review and the manner of proceeding is the Board, the Board will be assisted in its determination by the views of the parties.

To that end, the Board directed staff to draft a scoping paper identifying the subject areas which will be reviewed at OPG's next payments proceeding and setting out the issues likely to arise and the evidence likely to be filed for each subject area.

The scoping paper is not intended to limit OPG's ability to file information it feels is necessary to support its application, nor to restrict the ability of intervenors to comment on a formal Issues List, nor to supplement the filing guidelines. Its sole purpose is to prompt discussion between the parties.

Parties are invited to comment on the staff scoping paper. As the document is intended to prompt discussion, the Board does not expect to issue a final version of the scoping document; however, it is the Board's expectation that the time required to develop a formal Issues List will be greatly reduced by advanced consultation between the parties. A pre-filing consultation may also result in a more focused Issues List once the next payments proceeding begins, which in turn will lead to a more efficient review process. Discussion between the parties may also assist OPG in assembling and focusing its application.

Filing Guidelines

Board staff has made refinements to the previous filing guidelines that involve, among other matters, the inclusion of mandatory information requirements which the Board identified in the last cost of service proceeding. No substantive changes are recommended to the existing information requests currently included in the filing guidelines.

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

Invitation to Comment

The Board will hold a stakeholder meeting on **October 22, 2009**, and continuing on October 23, 2009 if necessary. The meeting will be attended by interested stakeholders, OPG and Board staff and will not be transcribed. The purpose of the meeting is to provide a forum for discussion on subject areas, proposed issues and the revised filing guidelines. Parties are asked to register their attendance by corresponding with the Board Secretary, quoting EB-2009-0331, by **October 13, 2009**.

Following the meeting, interested stakeholders are invited to submit written comments on the staff scoping paper and the filing guidelines. Specifically, the Board seeks comments on the following:

Staff Scoping Paper:

- What are the issues that parties are likely to want to explore for each subject area?

Filing Guidelines:

- What if any additional evidence should be filed? Please explain why it is relevant and necessary.

Written comments must be filed with the Board by **November 2, 2009** in accordance with the filing instructions set out below. The Board expects to post all comments on the staff scoping paper and to issue the final version of the filing guidelines in November 2009 to enable OPG to file its next payment amounts application early in 2010.

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-2007-0905 are eligible for cost awards in this consultative process. Any other parties seeking cost award eligibility will refer to Attachment A which contains important information regarding eligibility requests and objections. In order to facilitate a timely decision on cost eligibility, the deadlines for filing cost eligibility requests and objections will be strictly enforced. 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 staff scoping paper and filing guidelines	Up to 30 hours

All filings in relation to this consultation must quote file number **EB-2009-0331** and include your name, address, telephone number and, where available, an e-mail address and fax number. Three paper copies and one electronic copy of each filing must be provided. Paper copies are to be addressed to the Board Secretary at the Board's mailing address set out above. The electronic copy must be in searchable/unrestricted PDF format, be submitted through the Board's web portal at www.errr.oeb.gov.on.ca and conform to the Paper naming conventions and document submission standards outlined in the RESS e-Filing Guides (available on the Board's website at www.oeb.gov.on.ca on the e-Filing Services web page). A user ID is required for filings through the web portal. If you do not have a user ID, please visit the Board's web site on the e-Filings Services web page and fill out a user ID password request. If the web portal is not available, the electronic copy may be submitted by e-mail to BoardSec@oeb.gov.on.ca. Participants that do not have internet access may file their electronic copy on diskette or CD.

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 www.oeb.gov.on.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@oeb.gov.on.ca. The Board's toll-free number is 1-888-632-6273.

Yours truly,

Original signed by

Kirsten Walli
Board Secretary

Attachment A: Cost Award Information

Cost Award Eligibility

Persons eligible for cost awards in EB-2007-0905 need not file a further cost eligibility request.

The Board will determine eligibility for costs in accordance with its *Practice Direction on Cost Awards*. Any person requesting cost eligibility must file with the Board and OPG, a written submission to that effect by **October 1, 2009**, identifying the nature of the person's interest in this process and the grounds on which the person believes that it is eligible for an award of costs (including addressing the Board's cost eligibility criteria as set out in section 3 of the Board's *Practice Direction on Cost Awards*). An explanation of any other funding to which the person has access must also be provided, as should the name and credentials of any lawyer, analyst or consultant that the person intends to retain, if known.

Groups representing the same interests or class of persons are expected to make every effort to communicate and co-ordinate their participation in this process.

OPG will be provided with an opportunity to object to any of the requests for cost award eligibility. If OPG has any objections to any of the requests for cost eligibility, such objections must be filed with the Board Secretary by **4:45 pm on October 5, 2009**. The party whose cost eligibility was objected to will have until **October 9, 2009** to reply as to why their cost eligibility should be allowed. Again, a copy of the submission must be filed with the Board and one copy must be served on OPG. The Board will then make a final determination on the cost eligibility of the requesting parties.

Cost Awards

When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of its *Practice Direction on Cost Awards*. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

For more information on the cost awards process, please see the Board's *Practice Direction on Cost Awards*. This document can be found on the Board's website at http://www.oeb.gov.on.ca/html/en/industryrelations/rulesguidesandforms_regulatory.htm#general.