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BY EMAIL

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October 15, 2020

Brenda MacDonald
Vice President, Regulatory Affairs
Ontario Power Generation Inc.
700 University Ave., 19th floor, Toronto, ON M5G 1X6

Dear Ms. MacDonald:

Re: Must-Offer Condition Agreement (EB-2020-0110)

On April 9, 2020, the Ontario Energy Board (OEB) issued a Decision and Order (EB-2019-0258 / EB-2020-0110) amending the generation licence of Ontario Power Generation Inc. (OPG). One of the new conditions in the amended licence was a “Must-Offer Condition” requiring OPG at all times to offer all available generating capacity into the markets administered by the Independent Electricity System Operator (IESO) for Operating Reserve, the Day Ahead Commitment Process and for real-time Energy. The amended licence required OPG to enter into an agreement with the IESO in respect of the Must-Offer Condition, which was to include an IESO monitoring program, and to submit the agreement to the OEB for approval.

On July 29, 2020, OPG submitted to the OEB a Must-Offer Condition Agreement (the Agreement) signed by OPG and the IESO, which would take effect on the day it is approved by the OEB.

The OEB has reviewed the Agreement and is satisfied that it is consistent with the purposes underlying the Must-Offer Condition.

The Must-Offer Condition was one of the new conditions added to OPG’s licence following the acquisition by OPG (through a wholly owned subsidiary, Portlands Energy Centre L.P., also known as Atura Power) of control over the Halton Hills Generating Station and the Napanee Generating Station, and all of the Portlands Energy Centre, in

which it previously held a 50% interest. These conditions were meant “to ensure confidence in the market and to protect consumers”, and “to address concerns about the potential abuse of market power that may arise from the completion of the transaction.” The Must-Offer Condition in particular was intended to ensure that OPG’s generation assets fully participate in the IESO-administered markets.

The Agreement sets out a process for *ex post* monitoring by the IESO to ensure OPG complies with the Must-Offer Condition. In the event the IESO discovers that OPG or its subsidiary, Portlands Energy Centre L.P., benefitted as a result of physical or economic withholding of generation resources from the market, the amount of the benefit may be recovered by the IESO. (The April 9, 2020 Decision and Order also amended the generation licence held by Portlands Energy Centre L.P. and imposed a similar Must-Offer Condition.)

The Agreement is hereby approved. This approval is made by delegated authority pursuant to section 6 of the *Ontario Energy Board Act, 1998* (OEB Act). OPG’s licence specifies that any material changes to the Agreement must be filed with the OEB for approval.

Acceptance of the Agreement does not in any way prevent the OEB from using any of the regulatory tools available to it, should the need arise. As noted in the April 9, 2020 Decision and Order, these tools include the authority to make further licence amendments under section 74 of the OEB Act. As indicated in the April 9, 2020 Decision and Order, the OEB expects that the Market Surveillance Panel (MSP) will monitor and report on the impact of OPG’s acquisition of control the generation facilities referred to above. The OEB’s approval of the Agreement should not be taken as limiting or restricting the scope of that activity.

OPG’s Confidentiality Request

OPG requested confidential treatment for parts of the Agreement, citing the need to protect commercially and operationally sensitive information that, if publicly disclosed, could give other Market Participants an unfair advantage over OPG in the electricity market. In response to a letter from the OEB seeking clarification of its confidentiality request, OPG narrowed the scope of its request to the information in Tables 4.4.1.1 and 4.4.1.2 of the Agreement, which identify certain parameters that are considered in creating the offers for OPG’s generation fleet and which, OPG explained, could provide other Market Participants with insights into its offer strategy. After reviewing OPG’s written submissions on confidentiality, the OEB asked OPG to elaborate on its concerns in a telephone call.

The OEB is now satisfied that disclosing the information in Tables 4.4.1.1 and 4.4.1.2 to other Market Participants (including Atura Power) could cause economic harm to OPG by revealing aspects of its offer strategy. The information will therefore be redacted from the public version of the Agreement. This decision should in no way be considered as affecting the MSP's access to the Agreement in its entirety, and the OEB expects that OPG will provide the unredacted version of the Agreement to the MSP upon its request.

Yours truly,

Original Signed By

Brian Hewson
Vice President, Consumer Protection & Industry Performance

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