

October 3, 2006

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, Ontario M4P 1E4

**Re: Final Comments on Regulatory Options for Setting Payments for the Output from OPG's Prescribed Generation Assets, EB-2006-0064.**

The Power Workers' Union ("PWU") appreciates the opportunity provided by the Board for final comments on regulatory options for setting payments for the output from Ontario Power Generation's Prescribed Generation Assets ("OPG prescribed assets"). Attached please find our final comments.

The PWU also provided comment on Board Staff's Draft 1, Draft 2 and final version of the discussion paper. In all three sets of comments the PWU took the position that the preferred regulatory approach for setting payments for the output of OPG's prescribed assets is a cost of service ("CoS") regime. The PWU also consulted with other parties that support a CoS approach to make a common presentation representing the joint views of the proponents of that model before the Board on September 15, 2006. There is nothing in the submissions and oral presentations that parties have made in this process that changes our view.

We apologize for not having been able to meet the Board's deadline of September 29<sup>th</sup>, 2006. Our expert consultant was unavailable to help us with our final written comments for delivery by the stated deadline.

We hope that the Board will find our final comments helpful.

Yours truly,

Don MacKinnon  
President

## **Setting Payment Amounts for Output from OPG's Prescribed Generation Assets EB-2006-0064**

### **Power Workers' Union Final Written Comments**

In our final written comments, we repeat the Power Workers' Union's (PWU) position with regard to a regulatory approach for setting payment levels for Ontario Power Generation's Prescribed Generation Assets. We then provide evidence for the need for a Cost of Service (CoS) review even in the use of an Incentive Regulation ("IR") or Regulatory Contract ("RC") approach.

#### **Power Workers' Position**

The PWU's position is that a CoS approach is the appropriate regulatory mechanism for determining the payment amounts for the output from OPG's Prescribed Generation Assets ("prescribed assets"). We provided rationale for our position in earlier submissions made to Board staff and the Board in this consultation process. It is also our position that, if the Ontario Energy Board ("Board" or "OEB") contemplates the use of IR or a RC, a CoS review will still be required as the basis for either one of these alternative approaches.

#### **CoS basis in IR and RC Approaches**

The PWU submits that a CoS review is required to set the basis for both an IR and a CR regime. In the absence of a CoS basis for these alternatives, as the CoS Group demonstrates in its presentation material, the CoS approach is the most consistent with the guiding principles for an approach that is:

- consistent with government objectives;
- consistent with OEB objectives;
- transparent;
- flexible;
- logical.

With regard to the RC approach, the IESO and OPA's presentation material point to the need for a cost review in establishing a cost-basis for this approach.

The IESO identifies the following requirements for a regulatory approach for the prescribed assets:

- Ratepayers are provided guaranteed price for prescribed amount of their consumption;

- OPG manages the risk of not producing the prescribed output which provides OPG with incentive for efficient use of assets;
- Regulatory hearing to determine prescribed price and prescribed quantity that balance public policy goals;
- Additional investment cost to increase output, refurbish or add capacity recovered through adjustment of prescribed price determined through OEB revenue requirement hearing (“perhaps a cost-of-service review”);
- OPG may make application to adjust prescribed prices to address Variance and Deferral Accounts;
- Additional information, if and as necessary, to support limited CoS to establish appropriate prescribed prices.

The PWU submits that the requirements identified by the IESO above prescribes a CoS approach.

Further, the IESO proposes that prescribed prices are to be consistent with current regulatory arrangements, adjusted by an input cost inflation factor. If costs have materially changed, the Board is to review the prices in order to reset the prices. The PWU submits that establishing whether costs have materially changed requires a CoS review.

In its presentation material the OPA states that cost inputs to a regulatory contract should be determined in a transparent, quasi-judicial process based on a CoS like filing. The OPA also states that the key cost inputs ought to be based on a CoS like proceeding. It appears therefore, that the OPA, like the IESO, is suggesting a CoS basis for a regulatory contract approach.

The PWU agrees with EMIG that the Board is obliged to consider the hybrid model structure and government’s policy framework and should endeavour to select the methodology for determining payments for output from the OPG prescribed assets consistent with the objectives of the hybrid market. As we note above, in its presentation material the CoS Group has demonstrated how a CoS approach provides the best consistency with the objectives of Bill 100 compared to the proposed IR approach as well as to a RC approach.

These are the PWU’s final written comments on a regulatory approach for setting payment levels for OPG prescribed assets.