

DECISION AND ORDER

ONTARIO POWER GENERATION INC.

EB-2020-0290 – Application for Payment Amounts for the Period from January 1, 2022 to December 31, 2026

DECISION

On November 15, 2021, the Ontario Energy Board (OEB) issued its [Decision and Order](#) on an application filed by Ontario Power Generation Inc. (OPG) for the following:

- Changes in payment amounts to recover the costs for the output of its nuclear generating facilities in each of the five years beginning January 1, 2022 and ending December 30, 2026.
- In-keeping with regulation, approval to maintain, with no change, the base payment amount it charges for the output of its regulated hydroelectric generating facilities at the payment amount to be in effect on December 31, 2021, for the same five-year period.
- Recovery of balances in both hydroelectric-related and nuclear-related deferral and variance accounts (DVAs).

OPG filed a settlement proposal on July 16, 2021, covering nearly all of the issues in the proceeding.

A limited number of partially settled and unsettled issues pertaining to OPG's Heavy Water Storage and Drum Handling Facility (D2O Project) and its Small Modular Reactor (SMR) project, remained, and were the subject of an oral hearing held August 4, 5 and 6.

The approved settlement proposal includes an agreement to defer the consideration of rate smoothing. The OEB's final determination on rate smoothing will be included in a subsequent decision.

The OEB approved the settlement proposal at the conclusion of the oral hearing. The OEB's findings on the unsettled issues are summarized below, followed by a summary of the OEB-approved settlement proposal.

D2O Project-related Issues

At issue was whether the proposed capital costs for the D2O Project are reasonable. OEB staff and some intervenors argued for disallowances owing to OPG's imprudent management of the D2O Project.

The OEB finds that the D2O Project will provide a service that is essential for the operation of OPG's nuclear fleet. However, the OEB determined that a reduction to the D2O Project cost of \$94 million plus interest accrued between May 2017 and March 2020 is appropriate. The OEB determined that a \$94 million disallowance is appropriate based on OPG's poor management up to October 2014. The OEB determined that a disallowance of the interest costs incurred between May 2017 and March 2020 is appropriate as the project delays experienced with respect to the D2O Project were caused by OPG's failure to reasonably manage the completion of the work consistent with anticipated dates for the storage facility coming into service.

The OEB also finds that March 2020 is the appropriate in-service date of all approved costs for inclusion in rate base (as opposed to OPG's proposed 2016 and 2019 in-service dates).

SMR-related Issues

The OEB finds that:

- OPG's SMR-related costs as described in the application are consistent with the purpose of the Nuclear Development Variance Account (NDVA) and thereby appropriate to be booked in this account.

- OPG's proposal not to conduct customer engagement is appropriate recognizing that there will be appropriate engagement on SMR generating facilities in the coming year by other parties, and OPG will be part of that larger discussion. OPG stated that a SMR at the Darlington site is necessarily subject to a range of policy decisions and regulatory requirements. While OPG would own the facility, the major policy questions related to such a facility, including the Independent Electricity System Operator's (IESO) determination of the system need, will not ultimately be made by OPG. Similarly, decisions around the configuration and construction of a SMR nuclear generating facility at the Darlington site would be subject to regulatory approval by the Canadian Nuclear Safety Commission.
- No additional SMR-specific reporting requirements are required. The OEB finds that the list of reporting and record keeping requirements approved in the settlement proposal to be sufficient and comprehensive given the scope of OPG's activities for the next 5 years. The OEB agrees with OPG that the objective of reporting is to provide the OEB and ratepayers a view of OPG's actual performance relative to the plans presented to, and approvals made, by the OEB at its regulated facilities.

APPROVED SETTLEMENT PROPOSAL

The approved settlement proposal results included reductions to the proposed revenue requirement:

ITEM	PROPOSED	APPROVED Settlement	VARIANCE	
	\$M	\$M	\$M	%
2022-2026 Revenue Requirement	\$16,668.30	\$16,064.70	\$(603.60)	-3.62%*
2022-2026 Revenue Deficiency	\$3,300.40	\$2,445.60	\$(854.80)	-25.90%

* The 3.62% and 25.90% reductions are based on the approved settlement proposal. There are further changes that will result from the OEB's decision with respect to the D2O Project and the update to the ROE rate to reflect the OEB's 2022 Cost of Capital Parameter Update.

HIGHLIGHTS OF THE APPROVED SETTLEMENT PROPOSAL

The panel noted that this may be the first substantial settlement proposal filed in an OPG proceeding since OPG became subject to OEB regulation. In addition, the OEB acknowledges the "new" aspects of the settlement proposal that were not included in OPG's application. This indicates a progressive discussion and resolution among participants during the settlement conference, specifically:

- **Earnings Sharing Mechanism**
 - The approved settlement proposal introduces, for the first time for OPG, an earnings sharing mechanism (ESM) and brings OPG in line with other utilities whose rates are set using a similar rate-setting framework. An ESM is designed to protect customers by ensuring that they share in any excess earnings.
 - The importance of an ESM for OPG was highlighted by the fact that OPG reported significant overearnings in 2019, which led the OEB to initiate a regulatory review of 2021 payment amounts and to establish the 2021 Overearnings Variance Account. In the current application, OPG also reported significant overearnings in 2020.
 - The approved ESM in favour of ratepayers would apply to the combined nuclear and regulated hydroelectric earnings. Therefore, even though base hydroelectric payment amounts are frozen for the next five years, the ESM will operate as a safety valve in the event that the hydroelectric payment amounts drive OPG's overall earnings to a level that is in excess of the ESM threshold.

- **Approach to the Impact of the COVID-19 Pandemic**
 - The approved settlement proposal reflects an agreement with respect to the impact of the COVID-19 pandemic. OPG will credit ratepayers with \$46.6 million. This credit will operate to reduce the amount collected from customers.
- **Application of OPG's Long-term Debt Rate instead of the ROE Rate**
 - The approved settlement proposal includes the application of OPG's long-term debt rate (instead of the Return On Equity rate) for the equity portion of \$358 million of in-service capital additions, reducing the amount to be recovered from ratepayers relative to what OPG proposed in its application.
- **Resumption of OPG's Pension & Other Post-Employment Benefit (OPEB) Cost Variance Account**
 - The approved settlement proposal reflects an agreement to true-up the pension and OPEB costs reflected in revenue requirement to the actual costs incurred through OPG's Pension and Other Post-Employment Benefit (OPEB) Cost Variance Account.
 - OPG's pension and OPEB costs are subject to significant volatility as shown by prior forecast to actual differences and are sensitive to small changes in assumptions that factor into pension and OPEB costs.

The Pension and OPEB Cost Variance Account will help ensure that neither ratepayers nor OPG will be harmed by forecasting variances.

REGULATORY TERMS

The following is a list of some of the commonly used regulatory terms that appear in this Background, along with a plain language description for each one.

Deferral and Variance Accounts (DVAs)

Deferral accounts track the cost of a project or program which the utility could not forecast when the rates were set. When the costs are known, the utility can then request OEB approval to recover the costs in rates. Variance accounts track the difference between the forecast cost of a project or program, which has been included in rates, and the actual cost. If the actual cost is lower or higher, then the utility can request OEB approval to return the difference to customers as a credit or to recover the difference through rates.

Rate Smoothing

In November 2015, O. Reg. 53/05 was amended to include processes and parameters regarding the smoothing of nuclear payment amounts from January 1, 2017 to the end of the Darlington Refurbishment Program. The amended regulation stated that the OEB will determine the portions of the revenue requirement that will be deferred for recovery "with a view to making more stable the year-over-year changes in the payment amount."

Revenue Sufficiency/Deficiency

The revenue sufficiency or deficiency is the total amount by which a utility's revenue needs to decrease or increase from the current level to earn the revenue requirement. When the OEB sets new rates for a company, it compares the total revenue the company would earn using the current rates to the total revenue the company is entitled to earn. If there is a revenue sufficiency, it means the company would recover too much revenue under the current rates, and therefore rates need to be reduced. If there is a revenue deficiency, it means the company would not recover enough revenue under the current rates, and therefore rates need to be increased.

Revenue Requirement

The revenue requirement is the total cost for a utility to provide energy service. It includes the cost of salaries, equipment, capital projects, depreciation, taxes, interest and a return on the equity invested by shareholders. The revenue requirement is used to set rates for customers.

Settlement Conference

The OEB is committed to the settlement conference process as part of its objective of achieving greater regulatory efficiency and effectiveness.

The purpose of a settlement conference is to settle all the issues that are allowed for settlement in the proceeding or, at least, to settle as many issues as possible.

Commissioners do not participate in a settlement conference and are not advised of the admissions, concessions, offers to settle and related discussions that take place in the settlement conference.

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Ce document est aussi disponible en français.

This Backgrounder was prepared by OEB staff to inform Ontario's energy consumers about the OEB's decision and is not for use in legal or regulatory proceedings. It is not part of the OEB's reasons for decision; those may be found in the Decision and Order issued today, which is the official OEB document.