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Energy
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BY EMAIL

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Saba Zadeh
VP Regulatory Affairs
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Dear Mr. Elson and Ms. Zadeh:

Re: Ontario Power Generation Inc. (OPG) Clean Energy Credits

The Ontario Energy Board (OEB) has considered the request made by Environmental Defence (ED) on May 2, 2022 to re-open or institute a new proceeding to consider issues relating to OPG's sales of clean energy credits (CECs) arising from its regulated generation facilities. For the reasons below, the OEB has concluded that it will not do so.

Background

On May 2, 2022, the OEB received a letter sent by Mr. Elson on behalf of ED, which was copied to OPG and all parties to the most recent OPG payment amounts proceeding (EB-2020-0290), in which ED was an approved intervenor.

The letter asserted that OPG appears to have “been selling clean energy credits to buyers outside of Ontario for some time now” through registries such as the Midwest Renewable Energy Tracking System (M-RETS) or via Attestation Letters.

The letter asked the OEB to institute a new proceeding on its own motion under s. 78.1(5)(b) of the *Ontario Energy Board Act, 1998* or, alternatively, re-open the EB-2020-0290 proceeding on the basis that “details with respect to clean energy credit revenue, both past and forecast, were not included in the application.” In either case, the purpose of the proceeding would be to explore the following two issues:

1. Is it appropriate for OPG to sell environmental attributes, credits, and/or rights with respect to the regulated assets funded by ratepayers?
2. If yes, how should the proceeds be accounted for and allocated?

By way of a letter dated May 4, 2022, the OEB provided OPG with an opportunity to respond to ED's request. OPG did so on May 6, 2022, asking the OEB to deny the request. OPG noted that the revenues from the sale of CECs have been immaterial and that, since its hydroelectric payment amounts were frozen pursuant to O. Reg. 53/05 (Payments under Section 78.1 of the Act), it did not lead any evidence about CEC sales related to its hydroelectric facilities in the last payment amounts case. OPG added that:

The determination of how revenues from Clean Energy Credits sales will either flow back to ratepayers or be used to support future clean energy projects will be based on developing government policy direction, which is expected to issue following the conclusion of the Independent Electricity System Operator's ('IESO') ongoing stakeholder engagement to develop a Clean Energy Credit registry.

ED replied the same day, taking issue with a number of OPG's responses.

Shortly thereafter, the OEB received letters from the following entities supporting ED's request: the Atmospheric Fund, Clean Air Council, Ontario Sustainable Energy Association (OSEA), and the City of Ottawa (among them, only OSEA had intervened in the EB-2020-0290 proceeding).

OEB staff also required additional information from OPG about its past and forecast sales of CECs, which was provided on June 10, 2022.

Correspondence related to ED's request, including a version of OPG's response to OEB staff's information request that has been partially redacted on confidentiality grounds, has been posted on the [OPG page](#) on the OEB's website.

Analysis

The final Payment Amount Order for the EB-2020-0290 proceeding was issued on January 27, 2022. The OEB will not re-open this closed proceeding.

As mentioned above, the IESO has been consulting with stakeholders on the development of a CEC registry. That consultation was initiated after the Minister of Energy [directed](#) the IESO on January 26, 2022 to assess options for a provincial CEC registry, including examining the availability of CECs from contracted and regulated resources to enable the registry to be launched in January 2023.

On August 2, 2022, the Government posted a [regulatory proposal](#) for the development of a CEC registry. As described in the regulatory registry posting, two aspects of the proposal are legislative or regulatory amendments that would:

- Allow the minister to direct how the revenues from CECs created by regulated assets owned by Ontario Power Generation Inc. or CECs arising from IESO's

procurement contracts should be used, including directly benefiting ratepayers and supporting the future development of new clean energy in the province.

- Add reporting requirements for the sale and retirement of CECs to ensure transparency and accountability.

Comments from stakeholders on the Government's proposal are due September 16, 2022.

The OEB will monitor this initiative on developing a provincial CEC registry. Until those consultations have concluded and the results are known, it would be premature for the OEB to consider the matters raised by ED. The OEB is therefore not initiating a proceeding on this matter.

After receiving ED's letters, the OEB considered establishing a new deferral or variance account to track any OPG revenue from the sale of CECs, but has determined that doing so at this time is not warranted. Based on the forecast provided by OPG, the revenue amounts are well below OPG's materiality threshold on an annual basis. Furthermore, the use of such revenues is within the scope of the Government consultation.

There may be other matters for the OEB to consider once the results of the Government's consultation on the development of a CEC registry are known. For example, there may be value in a CEC reporting requirement for OPG but the OEB notes that this is a matter being considered within the current consultation. It is therefore premature for the OEB to impose any reporting requirements. Furthermore, any direction from the Minister on how revenues from CECs should be used may impact how the earnings sharing mechanism for OPG is determined. There may be value in ensuring there is clarity on this prior to the end of the 2022 to 2026 term for OPG's payment amounts. Again, these are matters best considered after completion of the Government's consultation.

To be clear, nothing in this letter should be taken as expressing a view on the OEB's jurisdiction to impose conditions on CEC sales by OPG, a question on which ED and OPG evidently disagree.

Yours truly,

Original Signed By

Lynne Anderson
Chief Commissioner

c: The Atmospheric Fund, Clean Air Council, OSEA, City of Ottawa
All parties to EB-2020-0290