

June 5 2006 OEB Consultation Session

Board Staff Discussion Paper Draft 1 Regulatory Options for Setting Payments for the Output from OPG's Prescribed Generation Assets (EB-2006-0064)

Preliminary PWU Comment Summary

The following are the PWU's summary comments on a regulatory framework for OPG's Prescribed Generation Assets ("PGA").

- The PWU's policy position is for full utilization and ongoing investment (e.g. in maintenance, rehabilitation, upgrading) in OPG's PGA and new build on OPG prescribed generation sites to provide on-going stable, predictable, reliable electricity under a cost of service ("CoS") regime.
- Develop a fair and transparent regulatory framework for OPG's PGA, and apply consistently. Review the on going applicability and effectiveness of the regulatory framework on a regular basis.
- Allow OPG's PGA the opportunity to earn a fair rate of return to ensure their on-going financial viability.
- Ensure that OPG recovers all prudent/reasonable cost of service that ensures the on going protection of "the interests of customers with respect to price and the adequacy, reliability and quality of electric service".
- OPG must have the responsibility to maintain and refurbish its PGA to ensure their ongoing value. The efficient operation of these assets through prudent management and investment will be a critical and cost effective alternative to investment in new facilities, and will be a key contribution to ongoing guarantee of reliable, and secure electricity supply and predictable prices.
- CoS regulation will provide the opportunity for the scrutiny of specific and detailed evidence required to support a decision through a transparent adjudicative process that allows for stakeholder participation. Through this process the Board and stakeholders will be provided with an understanding of OPG's operation of the PGA and the associated costs. Given the newness of the Board's regulation of the PGA, this learning process gives the Board and stakeholders the opportunity of building the expertise required in reviewing an application.
- While there are costs associated with CoS proceedings, this form of regulation ensures that all relevant issues are considered. Moreover, as indicated in Board Staff's Discussion Paper (the "Discussion Paper") CoS regulation ensures financial certainty and delineation of how risks are to be allocated. A cost of service review will form a robust and essential basis for the payments, which are to be made effective with the Board's first order under section 78.1 expected in

March 2008. It also provides a sound basis for any Incentive Regulation plan or Regulatory Contract that may follow subsequently.

- A full CoS is preferable to a modified CoS process that accepts existing payments prescribed in Regulation 53/05 as a “base payment” and focuses on establishing the changes that should be made to the base payment. The modified CoS approach, as suggested in the Discussion Paper would see the examination of major issues by addressing single topics annually. If a full examination of the PGA’s cost of service is too onerous to accomplish in the first year of the Board’s review of the PGA’s costs, full cost of service review could be phased-in over several years by examining a different group of costs annually over two or even three years if necessary. However, some major issues related to OPG’s PGA will likely be interrelated, and with a phased review process it may be difficult to provide a comprehensive review of all issues. The grouping of costs that are to be reviewed simultaneously will therefore be the challenge.
- The theory that CoS regulation fails to provide an incentive for efficiency is not sufficient reason to avoid a review of OPG’s PGA costs. An understanding of the cost drivers is needed before contemplating efficiency incentives to avoid putting in place perverse incentives that jeopardize long term supply reliability.
- The Discussion Paper gives the impression that Board Staff is adverse to full CoS regulation because it perceives it to be unduly complex. The Board should accept that regulation of the PGA can be expected to be complex given that it is a part of the generation sector which otherwise is a competitive sector. Further, the operation of the PGA, and in particular the operation of the nuclear stations is complex. While unnecessary complexity should be avoided in the regulatory framework for the PGA, it is necessary to accept the complexity of the nature of the PGA and to manage that complexity. Any contemplation of Incentive Regulation requires consideration of performance indicators and standards to ensure that the incentive for higher earnings does not result in the sacrifice of short and long-term operational performance. Time will be required for the development of reasonable performance indicators and standards.
- The concept of a regulatory contract appears to be inconsistent with the Board’s general approach to carrying out its function through public hearings and consultations that ensure the Board makes informed decisions. It also has the potential of resulting in overly complex regulatory administration in its implementation that is unrelated to the Board’s primary objective of ensuring reasonableness of costs.