SUMMARY OF LEGISLATIVE FRAMEWORK

1.0 PURPOSE

The purpose of this evidence is to provide a summary of the extensive legislative and regulatory framework as well as other government requirements that govern OPG and apply to OPG's regulated facilities. The evidence also summarizes relevant best practices and guidelines to which OPG adheres, particularly in matters where regulations are under development.¹

2.0 INTRODUCTION

OPG is subject to provincial and federal legislation and regulations, including the decisions of administrative tribunals or other regulatory bodies whose powers are derived from such legislation or regulations (e.g., the Ontario Labour Relations Board, the Independent Electricity System Operator (“IESO”), and the Canadian Nuclear Safety Commission (“CNSC”)), and to Canada’s international obligations under certain international treaties (e.g., regarding international boundary waters and nuclear safeguards). Compliance with the legislative framework can drive the need for certain programs and capital and non-capital expenditures, and impact on OPG’s operations.

3.0 ONTARIO ENERGY BOARD ACT

The Ontario Energy Board Act, 1998 (“Act”), when read in conjunction with Ontario Regulation 53/05 (Attachment 1), as made under the Act, as amended (“Regulation”), establishes that OPG is a prescribed generator for the purposes of Section 78.1 of the Act (Attachment 2). The combination of the Act and the Regulation provide that OPG is entitled to receive just and reasonable payments, subject to specific rules in the Regulation, with respect to the output from the prescribed generating facilities.

¹ This evidence is substantially the same as that filed in EB-2013-0321, with the following exceptions: the addition of discussion of amendments to Ontario Regulation 53/05 in section 3; the removal of the discussion for the regulated hydroelectric facilities; modification to legislation regarding nuclear civil liability in section 7.2; and modification to legislation regarding security for nuclear facilities in section 7.5.
The Regulation was amended effective as of January 1, 2016. The amendments reduce volatility in OPG's regulated nuclear payment amounts during and following the execution of the Darlington Refurbishment Program, while permitting an orderly recovery of prudently incurred costs. The amendments establish and define the function of a rate smoothing deferral account in respect of OPG’s nuclear facilities, ensure the recovery of costs and firm financial commitments in respect of the Darlington Refurbishment Program, and establish the need for the Darlington Refurbishment Program. OPG’s nuclear rate smoothing proposal is discussed in Ex. A1-3-3.

4.0 ELECTRICITY ACT

Part IV.1 of the Electricity Act, 1998 applies directly to OPG. The provisions set out in this Part of the Electricity Act, 1998 establish the objects of OPG as well as certain obligations on OPG to provide reports to its shareholder.

5.0 ELECTRICITY MARKETS

Under authority granted to it by the Electricity Act, 1998, the IESO administers and ensures compliance with the Market Rules for the Ontario Electricity Market (the “Market Rules”). All of OPG’s prescribed generating facilities are registered in the IESO-controlled markets and are therefore required to comply with all applicable Market Rules.

6.0 OEB LICENCE

OPG holds an Electricity Generation Licence (EG-2003-0104) from the OEB, which is valid until October 30, 2023 (the “Licence”). The Licence can be found in Attachment 3. The Licence applies to all generating stations that are owned or owned and operated by OPG, including the prescribed facilities. The Licence obligates OPG to comply with all applicable provisions of the Act, the Electricity Act, 1998, all regulations under these acts, and all applicable Market Rules. The Licence further obligates OPG to enter into agreements for the supply of energy or ancillary services where the IESO deems necessary for the purpose of maintaining the reliability and security of the IESO-controlled electricity grid. Ancillary services provided by the nuclear facilities are discussed in Ex. G2-1-1.
7.0 REGULATED HYDROELECTRIC FACILITIES

OPG’s regulated hydroelectric facilities are subject to international treaties between Canada and the United States; federal and provincial regulatory and legislative requirements; and common law as it pertains to riparian interests, waterways, and real property. The key regulatory obligations and constraints applicable to the regulated hydroelectric facilities are highlighted below.

7.1 Water Rights and Usage

Relevant legislation and agreements include:

- Public Lands Act (Ontario);
- Lakes and Rivers Improvement Act (Ontario);
- Niagara Parks Act (Ontario);
- Boundary Waters Treaty of 1909 between Great Britain and the United States (sanctioned by the Parliament of Canada);
- Niagara Diversion Treaty of 1950 between Canada and the United States;
- Niagara Development Act, 1951 (Ontario);
- Agreement between OPG and the Niagara Parks Commission, February 2005;
- International Rapids Power Development Agreement Act, 1952, between Canada and Ontario;
- St. Lawrence Development Act, 1952 (No. 2) (Ontario);
- Dominion Water Power Act and Dominion Water Power Regulations (Canada);
- Ottawa River Water Powers Act, 1943 (Ontario and Quebec);
- Agreement Respecting Ottawa River Basin Regulation, 1983 (Canada, Ontario, Quebec) pertaining to management and regulation of the waters within the Ottawa River basin;
- Agreement Concerning the Revision of the Rent for the Water Powers of the Ottawa River, executed 1995 (Quebec, Ontario, Hydro Quebec, and Ontario Hydro);
- Lake of the Woods Control Board Act (Canada, 1921, and Ontario, 1922);
- Tripartite Agreement (Canada, Ontario, and Manitoba), 1922, pertaining to control of upper waters of the Winnipeg River;
- Lac Seul Conservation Act, 1928 (Canada and Ontario);
1. Lake of the Woods Control Board Amendment Act, 1958 (Canada, Ontario, and Manitoba);
3. Electricity Act, 1998, section 92.1, which addresses the gross revenue charge;
4. Water Power Leases and Water Power Lease Agreements, Crown Leases and Licences of Occupation with Ontario Ministry of Natural Resources;
5. Licences with Parks Canada for facilities on the Trent River and Rideau Canal;
6. Lease agreement with St. Lawrence Seaway Management Corporation for diversion of water from the Welland Ship Canal for utilization at DeCew Falls; and
7. Agreements between OPG and other utilities/generators (New York Power Authority, Manitoba Hydro, Hydro Quebec, H2O Power LP) related to operational requirements/guidelines, joint works, water sharing, water diversions, and compensation settlements.

7.2 Dam Safety

OPG’s Safe Operations Policy and the associated Dam Safety Program Management document require that all OPG dams be designed, constructed, operated and maintained in accordance with all regulations. In the absence of a specific regulation, the Canadian Dam Association (“CDA”) Dam Safety Guidelines (2013), the CDA Guidelines for Public Safety Around Dams (2011), or other appropriate industry standards shall apply. These guidelines and OPG’s internal standards provide guidance on dam safety covering inspections, testing of flow control equipment, emergency preparedness planning, periodic reviews of safety and other aspects considered critical for ensuring the safety of the regulated hydroelectric facilities and their operations.

In Ontario, provincial legislative authority over dams is exercised through the Lakes and Rivers Improvement Act and the supporting Regulation 454/96. In August 2011, the Province of Ontario enhanced the direction to dam owners with the provision of new Technical Guidelines for Approval under the Lakes and Rivers Improvement Act.
In Quebec, provincial legislative authority over dams is exercised through the *Quebec Dam Safety Act* and the supporting Quebec Dam Safety Regulation. This covers OPG facilities on the Ottawa River.

The Government of Canada exercises authority over dams through the *Navigation Protection Act* and the *Canada Shipping Act, 2001*, including associated Regulations. These acts apply to OPG in relation to the construction of new dams, alterations to existing dams, and the administration of “approved works”, such as safety booms and exclusion zones associated with OPG’s measures to manage public safety. The Government of Canada has jurisdiction over all boundary waters as well as waters associated with canals. As well as operating the Sir Adam Beck facilities on the Niagara River and the R.H. Saunders facility on the St. Lawrence River, OPG also operates a number of structures on the Trent Severn Waterway ("TSW") and the Rideau Canal which come under Federal jurisdiction. In the case of the OPG facilities located on the TSW and Rideau Canal, the guidelines OPG is required to follow are administered by Parks Canada’s Dam Safety Directive (2009).

Relevant dam safety guidelines and legislation include:

- CDA Dam Safety and Public Safety Around Dams Guidelines;
- *Lakes and Rivers Improvement Act* (Ontario);
- Province of Ontario Dam Safety Technical Guidelines;
- *Navigation Protection Act* (Canada);
- *Canada Shipping Act* and the Vessel Operation Restriction Regulations;
- International Joint Commission regulation of the Niagara and St. Lawrence Rivers, pursuant to the *Boundary Waters Treaty of 1909*;
- Quebec Dam Safety Act and Dam Safety Regulation;
- Quebec Civil Protection Act; and
7.3 Environmental

The environmental legislation and best practice standards that impact OPG’s regulated hydroelectric facilities include:

- *Fisheries Act* (Canada);
- *Conservation Authorities Act* (Ontario);
- *Clean Water Act, 2006* (Ontario);
- *Environmental Assessment Act* (Ontario);
- *Environmental Protection Act* (Ontario);
- *Great Lakes Protection Act, 2015* (Ontario);
- *Ontario Water Resources Act*;
- *Endangered Species Act, 2007* (Ontario);
- *Migratory Birds Convention Act* (Canada);
- *Species at Risk Act* (Canada); and
- *ISO 14001 Environmental Management System standard*, to which OPG has corporate registration.

7.4 Other

OPG’s regulated hydroelectric facilities are also subject to relevant municipal by-laws that apply locally, as well as to more generally applicable legislative and regulatory requirements such as in areas that include:

- Technical standards and safety including corresponding regulations and codes, particularly in respect of fuel storage tanks;
- Heritage;
- Dangerous goods transportation;
- Occupational health and safety;
- Employment standards;
- Labour relations; and
- Freedom of information.
8.0 NUCLEAR GENERATING FACILITIES

8.1 Nuclear Operations and Materials

OPG’s nuclear operations are subject to the jurisdiction of the Canadian Nuclear Safety Commission (“CNSC”), an independent federal government agency that derives its powers from, and is responsible for administering, ensuring compliance with and enforcing the Nuclear Safety and Control Act (Canada), which is described below. Several of the key regulatory regimes that are uniquely applicable to OPG’s nuclear facilities are discussed below.

The Nuclear Safety and Control Act (Canada) is intended to limit the risks to national security, health and the safety of persons and the environment that are associated with the development, production and use of nuclear energy, as well as to limit risks associated with the production, possession and use of nuclear substances, certain equipment and certain related information. This act also implements measures to which Canada has agreed respecting international control of the development, production and use of nuclear energy, including the non-proliferation of nuclear weapons and nuclear explosive devices. In addition, this act establishes the CNSC and delineates its powers.

The CNSC’s regulatory control extends to regulating all aspects of site selection, construction, operation and maintenance (including refurbishment for life extension), and decommissioning of nuclear facilities.

The CNSC exercises its mandate in respect of OPG’s nuclear operations largely by means of the issuance of operating licences and amendments, as well as through continuous monitoring and inspections to ensure compliance with operating licences, relevant standards and applicable regulations. The regulator issues requests for action and information on a routine basis in the order of 400 pieces of correspondence per station per year. Operating licences, which must be renewed approximately every five to ten years for the generating stations (or ten years in respect of certain nuclear waste facilities), impose numerous conditions and constraints on OPG, including obligations to comply with Regulatory Documents issued by the CNSC and various external standards and codes (e.g., National
Building Code, National Fire Code, CSA Standards). The CNSC has issued a number of Regulatory Documents for nuclear power plants, including for example, ones relating to maintenance programs, reliability programs, aging management, safety analysis, and emergency preparedness.

For refurbishment of nuclear power plants for life extension, the regulatory process and CNSC expectations have been documented in Regulatory Document 2.3.3 Periodic Safety Reviews, (which superseded RD-360, Life Extension of Nuclear Power Plants) (see Ex. D2-2-1, Attachments 3 and 4). This document outlines expectations for, and CNSC acceptance of, Periodic Safety Reviews against modern codes and standards, including requiring a safety factor review, a global assessment report, and the ensuing integrated implementation plan for the corrective actions and safety improvements. Regulatory control by the CNSC is exercised through amended operating licences by including licence conditions that have to be met.

The CNSC also issues Guidance Documents that provide direction to licensees and applicants on how to meet the requirements set out in the CNSC’s regulations, Regulatory Documents, and licences. It is OPG’s practice to incorporate the directions from these Guidance Documents into the design and operating documents for its nuclear generating stations.

Although the above-mentioned conditions and constraints do not impose a limiting date for continued operation of a nuclear facility, OPG must maintain compliance in order to ensure that the nuclear facility is fit for service and continued operation.

OPG holds two Power Reactor Operating Licences from the CNSC, which allow for the operation of Pickering and Darlington nuclear generating stations, as well as separate licences that authorize the operation of nuclear waste management facilities. OPG also maintains regulated certificates for radioactive material transportation packages, and licences for the possession, transport, and import/export of certain radioactive materials.
OPG also maintains a licence for the preparation of site of a new nuclear power plant at the Darlington site.

In addition to the resources and costs associated with compliance with the conditions in these licences, the application process for each licence, including significant amendments or renewal, requires extensive preparation and the conduct of public hearings involving CNSC staff and intervening stakeholders. OPG is required to pay a licence fee to the CNSC each year, under the CNSC’s Cost Recovery Fees Regulations, which in effect covers the CNSC’s costs of staff and resources to administer the licence including compliance activities and inspections. The CNSC’s also has significant power to regulate licensing under the Nuclear Safety and Control Act. OPG’s nuclear facilities are required to operate in accordance with numerous regulations under this act, including:

- General Nuclear Safety and Control Regulations;
- Class 1 Nuclear Facilities Regulations;
- Packaging and Transport of Nuclear Substances Regulations;
- Nuclear Security Regulations;
- Radiation Protection Regulations;
- Nuclear Substances and Radiation Devices Regulations;
- Class II Nuclear Facilities and Prescribed Substances Regulations;
- Nuclear Non-proliferation Import and Export Control Regulations; and
- CNSC Cost Recovery Fees Regulations.

A person or organization may only possess or dispose of nuclear substances, or construct, operate and decommission nuclear facilities in accordance with the terms of a licence issued by the CNSC. Licence terms incorporate the applicable requirements set out in the regulations.

It is a fundamental principle of nuclear regulation that the licensee, in this case OPG, bears responsibility for the safe operation of nuclear facilities. The CNSC sets safety objectives in areas such as radiation protection, physical site security, and the transport of radioactive materials. OPG is required to design, implement, monitor, and continually improve upon its
extensive programs in each of these critical areas. The CNSC audits OPG’s performance against these objectives, continually monitors OPG’s safety performance and reports annually to Parliament with an assessment of licensee performance in all areas of nuclear safety. The delivery and continual improvement of these programs represent a significant cost driver for OPG in respect of the regulated nuclear facilities.

8.2 Civil Liability
OPG is subject to the *Nuclear Liability Act* (Canada), which governs civil liability for nuclear damage in Canada. On February 26, 2015, the federal *Nuclear Liability and Compensation Act* under Bill C-22 received Royal Assent, and will come into force by order of the Governor in Council. Once in force, it will replace and repeal the *Nuclear Liability Act* (Canada). The new legislation increases OPG’s risk management costs, which are centrally-held and, in turn, directly assigned to Nuclear (see Ex. F4-4-1).

8.3 Nuclear Waste Management
The *Nuclear Safety and Control Act* provides the CNSC with authority over nuclear waste from a health, safety and environmental protection perspective. The CNSC licenses all of OPG’s waste management facilities. OPG is also subject to the *Nuclear Fuel Waste Act* (Canada) which addresses the long-term handling and disposal of used nuclear fuel.

Coincident with the formation of OPG on April 1, 1999, OPG and the Province of Ontario entered into the Ontario Nuclear Funds Agreement (“ONFA”). The ONFA is an agreement that generally establishes the responsibilities for funding OPG’s nuclear waste management and decommissioning liabilities, which were inherited from Ontario Hydro. The ONFA is discussed in greater detail in Ex. C2-1-1.

8.4 Environmental
Projects associated with OPG’s nuclear facilities, including the nuclear waste management facilities, can be subject to requirements for the preparation of environmental assessments under the *Canadian Environmental Assessment Act* (Canada). In addition, nuclear operations are subject to a wide range of environmental legislation and regulation, both
federal (e.g., Fisheries Act, Canadian Environmental Protection Act, Transportation of
Dangerous Goods Act, Species at Risk Act) and provincial (e.g., Environmental Protection
Act, Ontario Water Resources Act, Endangered Species Act, 2007), along with the
associated costs of compliance and the need to respond to rapidly changing regulatory
requirements in these areas. OPG’s nuclear generating facilities also operate in accordance
with the ISO 14001 Environmental Management System standard.

8.5 Other

Beyond the nuclear-specific federal requirements described above, two pieces of provincial
legislation apply in respect of the security personnel associated with OPG’s nuclear
generating facilities. These are the Police Services Act (Ontario) and the Security for
Electricity Generating Stations and Nuclear Generating Stations Act (Ontario). Pursuant to
Bill 35, the Security for Electricity Generating Stations and Nuclear Generating Stations Act
(Ontario) replaced the Public Works Protection Act (Ontario) on June 24, 2015, and the
Public Works Protection Act (Ontario) was concurrently repealed.

OPG’s nuclear facilities are also subject to applicable legislation and regulations in areas
such as public access to information (Ontario or, indirectly as an affected third party,
Canada), occupational health and safety (Ontario), employment standards (Ontario) and
labour relations (provincial and federal), shipping and hazardous products as well as relevant
municipal by-laws.


1 ATTACHMENTS

2

3 Attachment 1: Ontario Regulation 53/05

4

5 Attachment 2: Section 78.1 of the OEB Act

6

7 Attachment 3: OPG Electricity Generation Licence
Ontario Energy Board Act, 1998  
Loi de 1998 sur la Commission de l’énergie de l’Ontario

ONTARIO REGULATION 53/05

PAYMENTS UNDER SECTION 78.1 OF THE ACT

Consolidation Period: From March 2, 2017 to the e-Laws currency date.

Last amendment: O. Reg. 57/17.

This Regulation is made in English only.

Definition

0.1 (1) In this Regulation,

“approved reference plan” means a reference plan, as defined in the Ontario Nuclear Funds Agreement, that has been approved by Her Majesty the Queen in right of Ontario in accordance with that agreement;

“calculation period” means each period for which the Board determines the approved revenue requirements under subparagraph 12 ii of subsection 6 (2) together with the year immediately prior to that period;

“Darlington Refurbishment Project” means the work undertaken by Ontario Power Generation Inc. in respect of the refurbishment, in whole or in part, of some or all of the generating units of the Darlington Nuclear Generating Station;

“deferral period” means the period beginning on January 1, 2017, and ending when the Darlington Refurbishment Project ends;

“hydroelectric facilities” means the hydroelectric generation facilities prescribed in paragraphs 1, 2 and 6 of section 2;

“nuclear decommissioning liability” means the liability of Ontario Power Generation Inc. for decommissioning its nuclear generation facilities and the management of its nuclear waste and used fuel;

“nuclear facilities” means the nuclear generation facilities prescribed in paragraphs 3, 4 and 5 of section 2;

“Ontario Nuclear Funds Agreement” means the agreement entered into as of April 1, 1999 by Her Majesty the Queen in right of Ontario, Ontario Power Generation Inc. and certain subsidiaries of Ontario Power Generation Inc., including any amendments to the agreement.

“OPG weighted average payment amount” for a year means the total production-weighted average payment amount that is used in the determination of the payments made under section 78.1 of the Act with respect to the generation facilities prescribed in section 2 of this Regulation, calculated according to the formula:
\[ \frac{((NPA + NPR) \times NPF) + (HPA + HPR) \times HPF)}{NPF + HPF} \]

where,

NPA is the Board-approved payment amount for the year in respect of the nuclear facilities,

NPR is the Board-approved payment amount rider for the year in respect of the recovery of balances recorded in the deferral accounts and variance accounts established for the nuclear facilities, excluding the deferral account established under subsection 5.5 (1),

NPF is the Board-approved production forecast for the nuclear facilities for the year,

HPA is the Board-approved payment amount for the year, or the expected payment amount resulting from a Board-approved rate-setting formula, as applicable, in respect of the hydroelectric facilities,

HPR is the Board-approved payment amount rider for the year in respect of the recovery of balances recorded in the deferral accounts and variance accounts established for the hydroelectric facilities, and

HPF is the Board-approved production forecast for the hydroelectric facilities for the year.

O. Reg. 23/07, s. 1; O. Reg. 353/15, s. 1; O. Reg. 57/17, s. 1.

(2) For the purposes of this Regulation, the output of a generation facility shall be measured at the facility's delivery points, as determined in accordance with the market rules. O. Reg. 312/13. s. 1.

Prescribed generator
1. Ontario Power Generation Inc. is prescribed as a generator for the purposes of section 78.1 of the Act. O. Reg. 53/05, s. 1.

Prescribed generation facilities
2. The following generation facilities of Ontario Power Generation Inc. are prescribed for the purposes of section 78.1 of the Act:

1. The following hydroelectric generating stations located in The Regional Municipality of Niagara:
   i. Sir Adam Beck I.
   ii. Sir Adam Beck II.
   iii. Sir Adam Beck Pump Generating Station.
   iv. De Cew Falls I.
   v. De Cew Falls II.

2. The R. H. Saunders hydroelectric generating station on the St. Lawrence River.

3. Pickering A Nuclear Generating Station.

4. Pickering B Nuclear Generating Station.

5. Darlington Nuclear Generating Station.

6. As of July 1, 2014, the generation facilities of Ontario Power Generation Inc. that are set out in the Schedule. O. Reg. 53/05, s. 2; O. Reg. 23/07, s. 2; O. Reg. 312/13, s. 2.

Prescribed date for s. 78.1 (2) of the Act
3. April 1, 2008 is prescribed for the purposes of subsection 78.1 (2) of the Act. O. Reg. 53/05, s. 3.
4. REVOKED: O. Reg. 312/13, s. 3.

Deferral and variance accounts
5. (1) Ontario Power Generation Inc. shall establish a variance account in connection with section 78.1 of the Act that records capital and non-capital costs incurred and revenues earned or foregone on or after April 1, 2005 due to deviations from the forecasts as set out in the document titled “Forecast Information (as of Q3/2004) for Facilities Prescribed under Ontario Regulation 53/05” posted and available on the Ontario Energy Board website, that are associated with,

   (a) differences in hydroelectric electricity production due to differences between forecast and actual water conditions;
   (b) unforeseen changes to nuclear regulatory requirements or unforeseen technological changes which directly affect the nuclear generation facilities, excluding revenue requirement impacts described in subsections 5.1 (1) and 5.2 (1);
   (c) changes to revenues for ancillary services from the generation facilities prescribed under section 2;
   (d) acts of God, including severe weather events; and
   (e) transmission outages and transmission restrictions that are not otherwise compensated for through congestion management settlement credits under the market rules. O. Reg. 23/07, s. 3.

(2) The calculation of revenues earned or foregone due to changes in electricity production associated with clauses (1) (a), (b), (d) and (e) shall be based on the following prices:

1. $33.00 per megawatt hour from hydroelectric generation facilities prescribed in paragraphs 1 and 2 of section 2.
2. $49.50 per megawatt hour from nuclear generation facilities prescribed in paragraphs 3, 4 and 5 of section 2. O. Reg. 23/07, s. 3.

(3) Ontario Power Generation Inc. shall record simple interest on the monthly opening balance of the account at an annual rate of 6 per cent applied to the monthly opening balance in the account, compounded annually. O. Reg. 23/07, s. 3.

(4) Ontario Power Generation Inc. shall establish a deferral account in connection with section 78.1 of the Act that records non-capital costs incurred on or after January 1, 2005 that are associated with the planned return to service of all units at the Pickering A Nuclear Generating Station, including those units which the board of directors of Ontario Power Generation Inc. has determined should be placed in safe storage. O. Reg. 23/07, s. 3.

(5) For the purposes of subsection (4), the non-capital costs include, but are not restricted to,

   (a) construction costs, assessment costs, pre-engineering costs, project completion costs and demobilization costs; and
   (b) interest costs, recorded as simple interest on the monthly opening balance of the account at an annual rate of 6 per cent applied to the monthly opening balance in the account, compounded annually. O. Reg. 23/07, s. 3.

5.1 REVOKED: O. Reg. 312/13, s. 3.

Nuclear liability deferral account
5.2 (1) Ontario Power Generation Inc. shall establish a deferral account in connection with section 78.1 of the Act that records, on and after the effective date of the Board’s first order under 78.1 of the Act, the revenue requirement impact of changes in its total nuclear decommissioning liability between,

   (a) the liability arising from the approved reference plan incorporated into the Board’s most recent order under section 78.1 of the Act; and
   (b) the liability arising from the current approved reference plan. O. Reg. 23/07, s. 3.
5.3 REVOKED: O. Reg. 312/13, s. 3.

Nuclear development variance account

5.4 (1) Ontario Power Generation Inc. shall establish a variance account in connection with section 78.1 of the Act that records, on and after the effective date of the Board’s first order under section 78.1 of the Act, differences between actual non-capital costs incurred and firm financial commitments made and the amount included in payments made under that section for planning and preparation for the development of proposed new nuclear generation facilities. O. Reg. 27/08, s. 1.

(2) Ontario Power Generation Inc. shall record interest on the balance of the account as the Board may direct. O. Reg. 27/08, s. 1.

Darlington refurbishment rate smoothing deferral account

5.5 (1) Ontario Power Generation Inc. shall establish a deferral account in connection with section 78.1 of the Act that records, on and after the commencement of the deferral period, the difference between,

(a) the revenue requirement amount approved by the Board that, but for subparagraph 12 i of subsection 6 (2) of this Regulation, would have been used in connection with determining the payments to be made under section 78.1 of the Act each year during the deferral period in respect of the nuclear facilities; and

(b) the portion of the revenue requirement amount referred to in clause (a) that is used in connection with determining the payments made under section 78.1 of the Act, after determining, under subparagraph 12 i of subsection 6 (2) of this Regulation, the amount of the revenue requirement to be deferred for that year in respect of the nuclear facilities.

O. Reg. 353/15, s. 2.

(2) Ontario Power Generation Inc. shall record interest on the balance of the account at a long-term debt rate reflecting Ontario Power Generation Inc.’s cost of long-term borrowing that is determined or approved by the Board from time to time, compounded annually. O. Reg. 353/15, s. 2.

Rules governing determination of payment amounts by Board

6. (1) Subject to subsection (2), the Board may establish the form, methodology, assumptions and calculations used in making an order that determines payment amounts for the purpose of section 78.1 of the Act. O. Reg. 53/05, s. 6 (1).

(2) The following rules apply to the making of an order by the Board that determines payment amounts for the purpose of section 78.1 of the Act:

1. The Board shall ensure that Ontario Power Generation Inc. recovers the balance recorded in the variance account established under subsection 5 (1) over a period not to exceed three years, to the extent that the Board is satisfied that,

   i. the revenues recorded in the account were earned or foregone and the costs were prudently incurred, and

   ii. the revenues and costs are accurately recorded in the account.

2. In setting payment amounts for the assets prescribed under section 2, the Board shall not adopt any methodologies, assumptions or calculations that are based upon the contracting for all or any portion of the output of those assets.
3. The Board shall ensure that Ontario Power Generation Inc. recovers the balance recorded in the deferral account established under subsection 5 (4). The Board shall authorize recovery of the balance on a straight line basis over a period not to exceed 15 years.

4. The Board shall ensure that Ontario Power Generation Inc. recovers capital and non-capital costs and firm financial commitments incurred in respect of the Darlington Refurbishment Project or incurred to increase the output of, refurbish or add operating capacity to a generation facility referred to in section 2, including, but not limited to, assessment costs and pre-engineering costs and commitments,
   i. if the costs and financial commitments were within the project budgets approved for that purpose by the board of directors of Ontario Power Generation Inc. before the making of the Board’s first order under section 78.1 of the Act in respect of Ontario Power Generation Inc., or
   ii. if the costs and financial commitments were not approved by the board of directors of Ontario Power Generation Inc. before the making of the Board’s first order under section 78.1 of the Act in respect of Ontario Power Generation Inc., if the Board is satisfied that the costs were prudently incurred and that the financial commitments were prudently made.

4.1 The Board shall ensure that Ontario Power Generation Inc. recovers the costs incurred and firm financial commitments made in the course of planning and preparation for the development of proposed new nuclear generation facilities, to the extent the Board is satisfied that,
   i. the costs were prudently incurred, and
   ii. the financial commitments were prudently made.

5. In making its first order under section 78.1 of the Act in respect of Ontario Power Generation Inc., the Board shall accept the amounts for the following matters as set out in Ontario Power Generation Inc.’s most recently audited financial statements that were approved by the board of directors of Ontario Power Generation Inc. before the effective date of that order:
   i. Ontario Power Generation Inc.’s assets and liabilities, other than the variance account referred to in subsection 5 (1), which shall be determined in accordance with paragraph 1.
   ii. Ontario Power Generation Inc.’s revenues earned with respect to any lease of the Bruce Nuclear Generating Stations.
   iii. Ontario Power Generation Inc.’s costs with respect to the Bruce Nuclear Generating Stations.

6. Without limiting the generality of paragraph 5, that paragraph applies to values relating to,
   i. capital cost allowances,
   ii. the revenue requirement impact of accounting and tax policy decisions, and
   iii. capital and non-capital costs and firm financial commitments to increase the output of, refurbish or add operating capacity to a generation facility referred to in section 2.

7. The Board shall ensure that the balance recorded in the deferral account established under subsection 5.2 (1) is
recovered on a straight line basis over a period not to exceed three years, to the extent that the Board is satisfied that revenue requirement impacts are accurately recorded in the account, based on the following items, as reflected in the audited financial statements approved by the board of directors of Ontario Power Generation Inc.,

i. return on rate base,

ii. depreciation expense,

iii. income and capital taxes, and

iv. fuel expense.

7.1 The Board shall ensure the balance recorded in the variance account established under subsection 5.4 (1) is recovered on a straight line basis over a period not to exceed three years, to the extent the Board is satisfied that,

i. the costs were prudently incurred, and

ii. the financial commitments were prudently made.

8. The Board shall ensure that Ontario Power Generation Inc. recovers the revenue requirement impact of its nuclear decommissioning liability arising from the current approved reference plan.

9. The Board shall ensure that Ontario Power Generation Inc. recovers all the costs it incurs with respect to the Bruce Nuclear Generating Stations.

10. If Ontario Power Generation Inc.'s revenues earned with respect to any lease of the Bruce Nuclear Generating Stations exceed the costs Ontario Power Generation Inc. incurs with respect to those Stations, the excess shall be applied to reduce the amount of the payments required under subsection 78.1 (1) of the Act with respect to output from the nuclear generation facilities referred to in paragraphs 3, 4 and 5 of section 2.

11. In making its first order under section 78.1 of the Act in respect of Ontario Power Generation Inc. that is effective on or after July 1, 2014, the following rules apply:

i. The order shall provide for the payment of amounts with respect to output that is generated at a generation facility referred to in paragraph 6 of section 2 during the period from July 1, 2014 to the day before the effective date of the order.

ii. The Board shall accept the values for the assets and liabilities of the generation facilities referred to in paragraph 6 of section 2 as set out in Ontario Power Generation Inc.'s most recently audited financial statements that were approved by the board of directors before the making of that order. This includes values relating to the income tax effects of timing differences and the revenue requirement impact of accounting and tax policy decisions reflected in those financial statements.

12. For the purposes of section 78.1 of the Act, in setting payment amounts for the nuclear facilities during the deferral period,

i. the Board shall determine the portion of the Board-approved revenue requirement for the nuclear facilities for each year that is to be recorded in the deferral account established under subsection 5.5 (1), with a view to making more stable the year-over-year changes in the OPG weighted average payment amount over each calculation period,
ii. the Board shall determine the approved revenue requirements referred to in subsection 5.5 (1) and the amount of the approved revenue requirements to be deferred under subparagraph i on a five-year basis for the first 10 years of the deferral period and, thereafter, on such periodic basis as the Board determines,

iii. for greater certainty, the Board’s determination of Ontario Power Generation Inc.’s approved revenue requirement for the nuclear facilities shall not be restricted by the yearly changes in payment amounts in subparagraph i,

iv. the Board shall ensure that Ontario Power Generation Inc. recovers the balance recorded in the deferral account established under subsection 5.5 (1), and the Board shall authorize recovery of the balance on a straight line basis over a period not to exceed 10 years commencing at the end of the deferral period, and

v. the Board shall accept the need for the Darlington Refurbishment Project in light of the Plan of the Ministry of Energy known as the 2013 Long-Term Energy Plan and the related policy of the Minister endorsing the need for nuclear refurbishment. O. Reg. 23/07, s. 4; O. Reg. 27/08, s. 2; O. Reg. 312/13, s. 4; O. Reg. 353/15, s. 3; O. Reg. 57/17, s. 2.

7. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 53/05, s. 7.

SCHEDULE

1. Abitibi Canyon.
2. Alexander.
3. Aquasabon.
4. Arnprior.
5. Auburn.
7. Big Chute.
8. Big Eddy.
9. Bingham Chute.
10. Calabogie.
11. Cameron Falls.
12. Caribou Falls.
13. Chats Falls.
15. Coniston.
18. Elliott Chute.
19. Eugenia Falls.
20. Frankford.
21. Hagues Reach.
22. Hanna Chute.
23. High Falls.
24. Indian Chute.
25. Kakabeka Falls.
26. Lakefield.
27. Lower Notch.
28. Manitou Falls.
29. Matabitchuan.
30. McVittie.
31. Merrickville.
32. Meyersberg.
33. Mountain Chute.
34. Nipissing.
35. Otter Rapid.
37. Pine Portage.
38. Ragged Rapids.
39. Ranney Falls.
40. Seymour.
41. Sidney.
42. Sills Island.
43. Silver Falls.
44. South Falls.
45. Stewartville.
46. Stinson.
47. Trethewey Falls.
48. Whitedog Falls.

O. Reg. 312/13, s. 5.
Ontario Energy Board Act, 1998

S.O. 1998, CHAPTER 15
Schedule B

Payments to prescribed generator
78.1 (1) The IESO shall make payments to a generator prescribed by the regulations with respect to output that is generated by a unit at a generation facility prescribed by the regulations. 2014, c. 7, Sched. 23, s. 7.

Payment amount
(2) Each payment referred to in subsection (1) shall be the amount determined in accordance with the order of the Board then in effect. 2014, c. 7, Sched. 23, s. 7.
(3) REPEALED: 2014, c. 7, Sched. 23, s. 7.

Board orders
(4) The Board shall make an order under this section in accordance with the rules prescribed by the regulations and may include in the order conditions, classifications or practices, including rules respecting the calculation of the amount of the payment. 2004, c. 23, Sched. B, s. 15.

Fixing other prices
(5) The Board may fix such other payment amounts as it finds to be just and reasonable,
(a) on an application for an order under this section, if the Board is not satisfied that the amount applied for is just and reasonable; or
(b) at any other time, if the Board is not satisfied that the current payment amount is just and reasonable. 2004, c. 23, Sched. B, s. 15.

Burden of proof
(6) Subject to subsection (7), the burden of proof is on the applicant in an application made under this section. 2004, c. 23, Sched. B, s. 15.

Order
(7) If the Board on its own motion or at the request of the Minister commences a proceeding to determine whether an amount that the Board may approve or fix under this section is just and reasonable,
(a) the burden of establishing that the amount is just and reasonable is on the generator; and
(b) the Board shall make an order approving or fixing an amount that is just and reasonable. 2004, c. 23, Sched. B, s. 15.

Application
(8) Subsections (4), (5) and (7) apply only on and after the day prescribed by the regulations for the purposes of subsection (2). 2004, c. 23, Sched. B, s. 15.
Electricity Generation Licence

EG-2003-0104

Ontario Power Generation Inc.

Valid Until

October 30, 2023

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
27th Floor
Toronto, ON M4P 1E4

Commission de l'énergie de l'Ontario
C.P. 2319
2300, rue Yonge
27e étage
Toronto ON M4P 1E4
### LIST OF AMENDMENTS

<table>
<thead>
<tr>
<th>Board File No.</th>
<th>Date of Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>EB-2005-0245</td>
<td>April 25, 2005</td>
</tr>
<tr>
<td>EB-2006-0042</td>
<td>April 10, 2006</td>
</tr>
<tr>
<td>EB-2006-0007</td>
<td>June 23, 2006</td>
</tr>
<tr>
<td>EB-2006-0110</td>
<td>September 12, 2006</td>
</tr>
<tr>
<td>EB-2008-0054</td>
<td>May 7, 2008</td>
</tr>
<tr>
<td>EB-2008-0114</td>
<td>June 24, 2008</td>
</tr>
<tr>
<td>EB-2008-0107</td>
<td>October 2, 2008</td>
</tr>
<tr>
<td>EB-2009-0319</td>
<td>November 10, 2009 (corrected December 3, 2009)</td>
</tr>
<tr>
<td>EB-2010-0027</td>
<td>March 18, 2010</td>
</tr>
<tr>
<td>FB-2010-0267</td>
<td>November 30, 2010</td>
</tr>
<tr>
<td>Part/Schedule</td>
<td>Description</td>
</tr>
<tr>
<td>---------------</td>
<td>------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Part 1</td>
<td>General Conditions</td>
</tr>
<tr>
<td>Part 2</td>
<td>Price Cap and Rebate</td>
</tr>
<tr>
<td>Part 3</td>
<td>Transfer of Effective Control</td>
</tr>
<tr>
<td>Part 4</td>
<td>Inbound Transmission Rights and Import Limits</td>
</tr>
<tr>
<td>Part 5</td>
<td>Market Based Ancillary Services</td>
</tr>
<tr>
<td>Part 6</td>
<td>Bruce Decontrol Related Conditions</td>
</tr>
<tr>
<td>Schedule A</td>
<td>Terms and Conditions of Settlement Agreement Between IESO and OPGI</td>
</tr>
<tr>
<td>Schedule B</td>
<td>Additional Terms and Conditions of Settlement Agreement Between IESO &amp; OPG</td>
</tr>
<tr>
<td>Schedule 1</td>
<td>List of Licensed Generation Facilities</td>
</tr>
</tbody>
</table>
PART 1 GENERAL CONDITIONS

1 Definitions

In this Licence:


"generation facility" means a facility for generating electricity or providing ancillary services, other than ancillary services provided by a transmitter or distributor through the operation of a transmission or distribution system and includes any structures, equipment or other things used for that purpose;

"Licensee" means Ontario Power Generation Inc.;

"regulation" means a regulation made under the Act or the Electricity Act;

2 Interpretation

2.1 In this Licence words and phrases shall have the meaning ascribed to them in the Act or the Electricity Act. Words or phrases importing the singular shall include the plural and vice versa. Headings are for convenience only and shall not affect the interpretation of this Licence. Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. In the computation of time under this Licence where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens. Where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

3 Authorization

3.1 The Licensee is authorized, under Part V of the Act and subject to the terms and conditions set out in this licence:

a) to generate electricity or provide ancillary services for sale through the IMO-administered markets or directly to another person subject to the conditions set out in this Licence. This Licence authorizes the Licensee only in respect of those facilities set out in Schedule 1;

b) to purchase electricity or ancillary services in the IMO-administered markets or directly from a generator subject to the conditions set out in this Licence; and

c) to sell electricity or ancillary services through the IMO-administered markets or directly to another person, other than a consumer, subject to the conditions set out in this Licence.
4 Obligation to Comply with Legislation, Regulations and Market Rules

4.1 The Licensee shall comply with all applicable provisions of the Act and the Electricity Act, and regulations under these acts, except where the Licensee has been exempted from such compliance by regulation.

4.2 The Licensee shall comply with all applicable Market Rules.

5 Obligation to Maintain System Integrity

5.1 Where the IMO has identified, pursuant to the conditions of its licence and the Market Rules, that it is necessary for purposes of maintaining the reliability and security of the IMO-controlled grid, for the Licensee to provide energy or ancillary services, the IMO may require the Licensee to enter into an agreement for the supply of energy or such services.

5.2 Where an agreement is entered into in accordance with paragraph 5.1, it shall comply with the applicable provisions of the Market Rules or such other conditions as the Board may consider reasonable. The agreement shall be subject to approval by the Board prior to its implementation. Unresolved disputes relating to the terms of the Agreement, the interpretation of the Agreement, or amendment of the Agreement, may be determined by the Board.

6 Restrictions on Certain Business Activities

6.1 Neither the Licensee, nor an affiliate of the Licensee shall acquire an interest in a transmission or distribution system in Ontario, construct a transmission or distribution system in Ontario or purchase shares of a corporation that owns a transmission or distribution system in Ontario except in accordance with section 81 of the Act.

7 Provision of Information to the Board

7.1 The Licensee shall maintain records of and provide, in the manner and form determined by the Board, such information as the Board may require from time to time.

7.2 Without limiting the generality of paragraph 7.1 the Licensee shall notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee, as soon as practicable, but in any event no more than twenty (20) days past the date upon which such change occurs.

8 Term of Licence

8.1 This Licence shall take effect on October 31, 2003 and expire on October 30, 2023. The term of this Licence may be extended by the Board.

9 Fees and Assessments

9.1 The Licensee shall pay all fees charged and amounts assessed by the Board.
10 Communication

10.1 The Licensee shall designate a person that will act as a primary contact with the Board on matters related to this Licence. The Licensee shall notify the Board promptly should the contact details change.

10.2 All official communication relating to this Licence shall be in writing.

10.3 All written communication is to be regarded as having been given by the sender and received by the addressee:

a) when delivered in person to the addressee by hand, by registered mail or by courier;

b) ten (10) business days after the date of posting if the communication is sent by regular mail; or

c) when received by facsimile transmission by the addressee, according to the sender’s transmission report.

11 Copies of the Licence

11.1 The Licensee shall:

a) make a copy of this Licence available for inspection by members of the public at its head office and regional offices during normal business hours; and

b) provide a copy of this Licence to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

PART 2 PRICE CAP AND REBATE

1 Definitions and Interpretation

In Parts 2 through 5 inclusive of these Licence Conditions:

“Average Price” or “AP” is the price against which the Price Cap is compared to determine whether a Rebate is required in respect of a Settlement Period. The Average Price is determined by summing the product of the Hourly Price multiplied by the Contract Weight for all hours of that Settlement Period;

“Changes in Law” means changes in law (including without limitation environmental laws, laws affecting OPGI’s generation facilities, tax laws and the general laws affecting the regulation of electricity in Ontario), but excluding provincial tax laws and, for greater certainty, excluding changes in licence conditions and market rules;

“Contract Required Quantity” or “CRQ” means the quantity of energy upon which any Rebate is determined, in respect of a Settlement Period, as set forth in the Model Output Data and as may be modified pursuant hereto. Subject to such adjustments, the CRQ will equal the sum of all Hourly Quantities for all hours in a Settlement Period;
"Contract Weight" or "CW<sub>n</sub>" means the weighting for each hour in a Settlement Period, h, that is used to calculate the Average Price. For any particular hour, the Contract Weight equals the Hourly Quantity for that hour divided by the CRQ for that Settlement Period;

"Effective Control" in respect of output means control over the timing, quantity and bidding into the Ontario market of such output;

"Force Majeure Adjustment" or "FMA" means a reduction in the Rebate as a result of a Force Majeure Event;

"Force Majeure Event" means an event defined in clause 2(c)(ii) of Part 2 below;

"Force Majeure Replacement Cost" or "FMRC<sub>n</sub>" means, for any particular hour in a Settlement Period, h, the predetermined net incremental replacement cost for each OPGI generation unit, as set forth in the Model Output Data that is used in determining the Force Majeure Adjustment, and as may be modified pursuant hereto. FMRC<sub>n</sub> may be constant in the Model Output Data over the hours in a month or other period;

"Hourly Quantity" or "Q<sub>n</sub>" means, for any particular hour in a Settlement Period, h, the quantity of energy upon which the Contract Weight is established, as set forth in the Model Output Data. The sum of the Hourly Quantities for all hours in a Settlement Period equals the CRQ for that Settlement Period;

"Hourly Price" or "P<sub>n</sub>" means, for any particular hour in a Settlement Period, h, the unconstrained spot price for energy for that hour expressed in a price in $ per MWh, as determined by the IESO pursuant to its market rules;

"Hourly Reserve Capacity Price" is the hourly market clearing price of reserve capacity;

"Hourly Unit Quantity," or "q<sub>n,i</sub>" means, for any particular hour in a Settlement Period, h, the hourly quantity of energy associated with a particular OPGI generation unit, i, upon which the Hourly Quantity is established, as set forth in the Model Output Data. The sum of all Hourly Unit Quantities for all OPGI generation units in respect of an hour equals the Hourly Quantity for that hour;

"Locational Spot Price" means, for any particular hour in a Settlement Period, h, and any particular OPGI generation unit, the spot price for energy at such generation unit’s interconnection, which will only apply if location-based marginal pricing is developed in Ontario;

"Model Output Data" means the data filed with the Board. The Model Output Data contains data, some of which is confidential, derived from a production cost model of the electricity market in Ontario and neighbouring regions under the assumption that OPGI is assumed to bid its generation units in a manner that achieves an average sales price of $ 38/MWh. The resulting CRQ, Q<sub>n</sub>, and q<sub>n,i</sub> data reflects 90 per cent of OPGI’s predicted sales to Ontario customers;

"OPGI" means Ontario Power Generation Inc.

"Potential Force Majeure Event" means an event defined in clause 2(c)(i) of Part 2 below;

"Price Cap" or "CAP" means $38/MWh, which is the threshold used in calculating the Rebate;
“Price Spike Adjustment” or “PSA” means the reduction in the Rebate as a result of qualifying price spikes, as calculated pursuant hereto;

“Prime Rate” means the variable annual rate of interest, calculated on the basis of a calendar year, announced from time to time by the IESO’s then principal Canadian banker as the reference rate of interest (commonly known as its prime rate) then in effect and used by such bank for determining interest rates on Canadian dollar denominated commercial loans made by it in Canada to customers of varying degrees of credit-worthiness;

“Rebate” or “R” means the amount OPGI must pay the IESO as a consequence of the Average Price in any Settlement Period exceeding the Price Cap, less any applicable adjustments;

“Rebate Carryforward Adjustment” or “RCA” means the adjustment in which negative Rebates from a Settlement Period are used to offset Rebates in subsequent Settlement Periods;

“Reserve Capacity Ratio” is a number greater than 1, such as 1.2, that is set by the IESO for the purposes of multiplying by the hourly demand to determine the reserve capacity target in such hour;

“Settlement Period” means each time period over which OPGI’s compliance with the Price Cap shall be measured, which shall be over a 12 month period, except that (1) the first Settlement Period shall commence on the opening of the competitive electricity market and shall consist of the first full 12 calendar months plus the days, if any, in the first partial month; and (2) the last Settlement Period shall end on the termination of the provisions of Part 2, and therefore could be less than 12 full calendar months, and

“Tier 1” capacity means all nuclear and hydroelectric generation in Ontario and “Tier 2” capacity means that portion of Ontario’s generation capacity, including inter-tie capacity and demand-side bidding, that is not part of Tier 1 capacity. For such purposes, generation capacity shall be based upon the maximum continuous rating of a unit, inter-tie capacity shall be based on the average of summer and winter season Ontario transfer capacity, and demand-side bidding shall be based on the sum of the dispatchable and interruptible loads, all expressed in MW.

All dollar amounts referred to are expressed in Canadian dollars.

2 Determination of Rebate

OPGI shall pay a Rebate to the IESO in respect of each Settlement Period in which the Average Price (AP) exceeds the Price Cap (CAP). The amount of the Rebate shall be determined in accordance with the following formula:

\[ R = [(AP - CAP) \times CRQ] - (RCA + PSA + FMA) \]

If the calculated Rebate in respect of any Settlement Period is a negative number, then there shall be no Rebate, and the Rebate Carryforward Adjustment shall be changed as described herein.

(a) Rebate Carryforward Adjustment
Initially, the Rebate Carryforward Adjustment ("RCA") shall be zero. In any Settlement Period in respect of which the calculated Rebate is negative, the absolute value of that amount shall be the Rebate Carryforward Adjustment for the purposes of the next Settlement Period.

(b) **Price Spike Adjustment**

A Price Spike Adjustment (PSA) shall be calculated for all hours in a Settlement Period in which both (1) the Hourly Price ($P_h$) exceeds $125/MWh, and (2) OPGI's Generation for that hour is less than the Hourly Quantity ($Q_h$). The PSA for a Settlement Period shall equal the sum of the adjustments for each applicable hour, which shall be calculated pursuant to the following formula:

\[
\text{PSA} = (P_h - 125) \times (Q_h - \text{OPGI's Generation for that hour})
\]

where OPGI's Generation for that hour = OPGI's energy generated from all sources in Ontario (metered as per IESO market rules) the output of which is Effectively Controlled by OPGI and which was included as OPGI energy generated in the Model Output Data, and includes the current power purchase agreement with Manitoba Hydro.

(c) **Force Majeure Adjustment**

(i) **Potential Force Majeure Event**

A Potential Force Majeure Event is any event consisting of any of the following conditions or events that results in the loss or failure of, or the inability to operate, in whole or in part, one or more generation units in Ontario the output of which is Effectively Controlled by OPGI and that, in each case, is beyond the reasonable control of OPGI and which is not a result of OPGI's failure to comply with pre-existing laws or licence conditions or market rules or to reasonably maintain or to use its best efforts to promptly repair any generation unit or units:

(A) acts of war, revolution, riot, sabotage, occupation or vandalism;
(B) earthquakes, tornadoes or severe storms;
(C) other acts of God;
(D) local, regional or national states of emergency;
(E) strikes or other labour disputes;
(F) other failure or damage to an OPGI generating facility, including failure or damage caused by construction defects, fire, or damage to necessary equipment and which is not a result of negligence in the maintenance or repair thereof;
(G) interruptions in the supply of fuel or other essential supplies (excluding variations in water supplies in the case of hydroelectric generation units);
(H) failure of transmission or distribution facilities in Ontario;
(I) other system emergencies in Ontario; and
(J) Changes in Law.

(ii) Definition of Force Majeure Event

A Force Majeure Event is either an Isolated Force Majeure Event or a Cumulative Force Majeure Event.

An Isolated Force Majeure Event is that portion of any Potential Force Majeure Event that occurs after the Potential Force Majeure Event has caused a reduction in the energy actually generated by the applicable units greater than 250,000 MWh from the sum of such units' Hourly Unit Quantities during the effectiveness of such Potential Force Majeure Event.

A Cumulative Force Majeure Event occurs in a Settlement Period when the cumulative reduction in that Settlement Period of energy actually generated by affected generation units in Ontario the output of which is Effectively Controlled by OPRI caused by Potential Force Majeure Events exceeds 500,000 MWh when compared to the sum of such affected units' Hourly Unit Quantities during the effectiveness of such Potential Force Majeure Events. OPRI will, where applicable, designate within 15 days following the end of the applicable Settlement Period that portion of Potential Force Majeure Events that is in excess of 500,000 MWh and that qualifies as a Cumulative Force Majeure Event.

A Potential Force Majeure Event, or a portion of a Potential Force Majeure Event, that qualifies as both an Isolated Force Majeure Event or a Cumulative Force Majeure Event may at the discretion of OPRI within 15 days following the end of the applicable Settlement Period be designated as either type of Force Majeure Event, but not as both, and, for greater certainty, a Potential Force Majeure Event designated as one type of Force Majeure Event by OPRI shall not be treated for purposes of determining whether the other type of Force Majeure Event has occurred.

(iii) Force Majeure Adjustment

A Force Majeure Adjustment (FMA) in respect of any Settlement Period shall be equal to the sum, for all generation units the output of which is Effectively Controlled by OPRI subject to Force Majeure Events, of the Force Majeure Replacement Cost (FMRC_n) in respect of each applicable unit for each hour during the effectiveness of each Force Majeure Event in respect of such unit during the Settlement Period, less any insurance or other recovery in respect of such loss or deemed loss.

The Force Majeure Adjustment in respect of any Settlement Period for each generation unit the output of which is Effectively Controlled by OPRI whose generation is reduced as a consequence of a Force Majeure Event shall be calculated pursuant to the following formula, prior to any recovery adjustment:

\[ \Sigma [q_n^t \cdot FMRC_n \cdot ((Capacity - Reduced Capacity_n)/Capacity)] \]

where:
Capacity = the maximum continuous rating of the unit at the time of the Force Majeure Event (at normal head for hydroelectric generation units);
and
Reduced Capacity,_n = the reduced capacity in an hour of the unit as a consequence of and during the effectiveness of the Force Majeure Event.

(iv) Adjustment to Force Majeure Replacement Cost

In the event that over 2,000 MW of OPGI generating capacity the output of which is Effectively Controlled by OPGI qualifies for a particular Force Majeure Event, OPGI shall have the right to petition the Board to increase the amount of the Force Majeure Replacement Cost in respect of one or more affected unit(s) in the applicable hours, which petition shall be granted if OPGI can demonstrate to the Board’s satisfaction higher incremental replacement costs (net of any variable costs avoided as a consequence of the Force Majeure Event) than those set forth in the Model Output Data.

(v) Notice

OPGI shall promptly notify the IESO of any Force Majeure Event claimed by OPGI and shall provide the IESO with all information reasonably required to verify the Force Majeure Event and to calculate the Force Majeure Adjustment.

3 Conduct of OPGI

3.1 OPGI may engage in unilateral actions to attempt to maintain Hourly prices at levels that will result in the Average Price for a Settlement Period equaling the Price Cap, plus all adjustments provided for in Part 2, Section 2 above. In the event that unilateral actions taken by OPGI cause the Average Price to exceed such a level, the sole remedy shall be for OPGI to pay the Rebate as provided for in paragraph 2 of Part 2 above.

4 Reduction to CRQ and \( Q_h \) Upon Decontrol

(a) Unadjusted Reductions

Except as may be provided in (b) below, in the event that OPGI completes the transfer of Effective Control over the output of a generation unit, as determined by the Board under Part 3, then \( Q_h \) for each hour in respect of the current and any subsequent Settlement Period shall be reduced by 110 percent of the transferred unit for each hour subsequent to the completion of the transfer. As a result, the CRQ in respect of each applicable Settlement Period shall be reduced by these reductions in \( Q_h \).

(b) Adjustment Necessitated by Environmental Laws

In the event that OPGI transfers Effective Control over the output of a generation unit and the transferee, at the date of completion of the transfer, does not have and cannot reasonably obtain sufficient environmental emission permits or other environmental authorizations ("emission permits"), in respect of the applicable hours in the period commencing following the completion of the transfer of Effective Control (the "applicable hours"), to enable the unit's potential output during the applicable hours (the "transferred permitted output") to meet or exceed 110 percent times the sum for the applicable hours of the \( q_i \), of such unit (the "transferred output"), whether as the result of a change in environmental laws or otherwise, then.
(i) any adjustment to $Q_n$ and CRQ otherwise provided for in (a) above will reduced by the proportion that the transferred permitted output is of the transferred output, subject to (ii) below;

(ii) in circumstances where OPGI’s remaining emission permits following the transfer of Effective Control are not sufficient to enable its remaining output during the applicable hours (the “remaining permitted output”) to meet or exceed 110 percent times the sum for the applicable hours of the $q_n^{'}$’s of its remaining units, (the “remaining output”), then, in lieu of the adjustment provided for in (i) above, any adjustment to $Q_n$ and CRQ otherwise provided for in (a) above will be multiplied by the result of the following formula, which if greater than 1.0 shall be deemed to be equal to 1.0:

\[
\frac{(\text{transferred permitted output}/\text{transferred output})}{(\text{remaining permitted output}/\text{remaining output})}, \text{ and}
\]

(iii) where the transferee’s emission permits are affected by more than one substance, then the resulting adjustment to $Q_n$ and CRQ otherwise provided for in (i) or (ii) above will be that which operates to constrain the transferee’s output.

5 Administration of Rebate

5.1 OPGI shall enter into and comply with a settlement agreement with the IESO consistent with the document attached as Schedule A and B to this licence.

6 Capacity Reserve Market

6.1 In the event that a capacity reserve market is developed in Ontario at any time while the provisions of Part 2 are in effect, then:

(a) the following definition of “Average Price” or “AP” shall be used in lieu of the definition provided for in paragraph 1 of Part 2 above:

“Average Price” or “AP” is the price against which the Price Cap is compared to determine whether a Rebate is required in respect of a Settlement Period. The Average Price is determined by using the following formula:

\[
AP = \frac{\Sigma [CW_n \times (P_n + \text{Hourly Reserve Capacity Price} \times \text{Reserve Capacity Ratio})]}{n}
\]

(b) the Price Spike Adjustment shall be calculated according to the following formula in lieu of the formula provided for in paragraph 2(b) of Part 2 above:

\[
PSA = [(P_n + \text{Hourly Reserve Capacity Price} \times \text{Reserve Capacity Ratio}) - $125/MWh] \times (Q_n - \text{OPGI's Generation for that hour});
\]

(c) OPGI may apply to the Board for adjustments to (a) or (b) above if necessary or desirable depending upon the precise nature of the capacity reserve market introduced.
7 Location-Based Marginal Pricing

In the event that location-based marginal pricing is developed in Ontario at any time while the provisions of Part 2 are in effect, then:

(a) the following definition of "Average Price" or "AP" shall be used in lieu of the definition provided for in paragraph 1 of Part 2 above:

"Average Price" or "AP" is the price against which the Price Cap is compared to determine whether a Rebate is required in respect of a Settlement Period. The Average Price is determined by using the following formula:

\[ AP = \Sigma (\text{Locational Spot Price} \times q_i^h)/CRQ \]

(b) the Hourly Price, or \( P_h \), for purposes of determining if a price spike has occurred and in order to calculate the Price Spike Adjustment in each applicable hour, shall be the average price of energy OPGI sells into the IESO spot market in that hour, which average price shall be determined by dividing OPGI's hourly spot market revenue in $ by the quantity (calculated in MWh) of OPGI's spot market sales, and

(c) OPGI may apply to the Board for adjustments to (a) or (b) above if necessary or desirable depending upon the precise nature of the location-based marginal pricing introduced.

8 Capacity Reserve Market and Location-Based Marginal Pricing

In the event that both a capacity reserve market and location-based marginal pricing are developed in Ontario at any time while the provisions of Part 2 are in effect, then:

(a) the following definition of "Average Price" or "AP" shall be used in lieu of the definitions provided for in paragraphs 1, 6 or 7 of Part 2 above:

"Average Price" or "AP" is the price against which the Price Cap is compared to determine whether a Rebate is required in respect of a Settlement Period. The Average Price is determined by using the following formula:

\[ AP = \Sigma [CW_h \times (\text{Hourly Reserve Capacity Price} \times \text{Reserve Capacity Ratio})] \]

\[ + \Sigma (\text{Locational Spot Price} \times q_i^h)/CRQ \]

(b) the Price Spike Adjustment shall be calculated according to the following formula in lieu of the formula provided for in paragraphs 2(b) or 6 of Part 2 above:

\[ PSA = [(\text{Hourly Reserve Capacity Price} \times \text{Reserve Capacity Ratio}) \]

\[ + \Sigma ((\text{Locational Spot Price} \times q_i^h)/Q_h) - $125/MWh]\]

\[ \times (Q^h - \text{OPGI's Generation for that hour}); \]
(c) OPGI may apply to the Board for adjustments to (a) or (b) above if necessary or desirable depending upon the precise nature of the capacity reserve market or location-based marginal pricing introduced.

9 Additional Adjustment for Changes in Law

If one or more Changes in Law cause or are reasonably expected to cause a decrease in OPGI’s net annual income equal to or greater than $60,000,000, then, rather than treating such Changes in Law as a Force Majeure Event for purposes of paragraph 2 above, OPGI may apply to the Board for a variation in the CRQ, Rebate, and/or the Price Cap methodology in respect of the Settlement Period in which the Change in Law occurs and all subsequent Settlement Periods the Change in Law is reasonably expected to affect in order to ensure that OPGI is not materially adversely affected as a result, taking into account all Changes in Law and whether the net effect of these Changes in Law have benefited or are reasonably likely to benefit OPGI during the same time period or any prior or subsequent time period.

10 Termination of Part 2

Beginning April 1, 2005 the OPG rebate calculation will be determined by the formula set out in Schedule B - Additional Terms and Conditions of Settlement Agreement Between IESO & OPG as amended from time to time.

PART 3 TRANSFER OF EFFECTIVE CONTROL

[Part 3 is revoked, effective December 7, 2005]

PART 4 INBOUND TRANSMISSION RIGHTS AND IMPORT LIMITS

1 Definitions and Interpretation

In this Part 4, "season" means the winter period (the “winter season”) from and including November 1 until and including April 30 of the following year or the summer period (the “summer season”) from and including May 1 until and including October 31 of the same year, as applicable.

2 Inter-tie and Import Limits

(a) OPGI shall not import energy into Ontario in excess of the energy import limits set forth in (b) below. In no event shall a purchase from the IESO spot market in Ontario be construed as an import of energy into Ontario for such purposes.

(b) The energy import limits referred to in (a) above are:

(i) 7.24 TWh during the winter season (increased to 7.28 TWh in a leap year); and

(ii) 6.58 TWh during the summer season;

all of which figures shall be increased, at the in service date of new or upgraded inter-tie facilities, by 35 percent times the number of hours in a season multiplied by any applicable net increase in inter-tie capacity in Ontario as determined by the IESO from that in effect on the date of the opening of the competitive electricity market. For such
purposes, inter-tie capacity shall be based on the Ontario transfer capacity in the applicable season.

(c) The foregoing provisions of paragraph 2 shall not be required to be complied with by OPGI with the IESO’s consent in an emergency situation.

3 Export Limits

Unless otherwise provided herein, none of the provisions of Parts 2 through 5 shall limit OPGI’s ability to export energy from Ontario.

PART 5 MARKET BASED ANCILLARY SERVICES

(Note: Market based ancillary services are currently comprised of Operating Reserves only, but the principles outlined herein suggest a framework that could be used for other market based ancillary services.)

Unless the IESO has determined, based on the number of independently controlled competing alternatives and other circumstances in its discretion, that a competitive market for any category of operating reserves (i.e. 10-minute and 30-minute) exists, OPGI shall be required to comply with the following requirements:

(a) subject to (a.1), the price to be offered by OPGI associated with each category of OPGI operating reserve services will not exceed a cap to be contained in an agreement to be negotiated between OPGI and the IESO, which cap will be designed, taking into account the relevant IESO market rules, to compensate OPGI for its actual cost of providing such operating reserve services, including additional operating and maintenance costs, additional fuel costs, additional opportunity costs associated with providing such operating reserve services from OPGI hydroelectric generation units, and a reasonable rate of return on incremental capital needed to provide such operating reserve services, and which agreement shall require OPGI to offer the maximum available amount of each category of operating reserve services, consistent with good utility practices, for each OPGI generation unit capable of providing such services;

(a.1) notwithstanding (a) above, save and except where the IESO has advised OPGI that specific units are required to offer in for reliability, OPGI may offer less than the maximum available amount of any category of operating reserve where this is necessary in order for OPGI to satisfy its obligations under, or to give effect to, any shareholder declaration or resolution of the Minister of Energy in effect at the relevant time relating to, or any Regulation made under the Environmental Protection Act (Ontario) relating to, carbon dioxide (CO₂) emissions arising from the use of coal at OPGI’s coal-fired generation stations;

(b) subject to (a.1), in the event that the agreement referred to in (a) above cannot be reached, the terms of such agreement shall be determined through binding commercial arbitration by a mutually agreed independent arbitrator on agreed terms of arbitration;

(c) subject to (a.1), in the event that either OPGI or the IESO subsequently determines that the operation of the market is such that the intent of the agreement referred to in (a) or (b) above is materially frustrated, then OPGI and the IESO shall negotiate amendments (which may be retroactive) to the terms of such agreement with a view to correcting such situation and, in the event that they cannot agree on such amendments, the amendments, if any, shall be determined
through binding commercial arbitration by a mutually agreed independent arbitrator on agreed terms of arbitration;

(d) subject to (a.1), OPGI shall comply with the terms of the agreement referred to in (a) or (b) above, as it may be amended under (c) above;

(e) subject to (a.1), pending reaching an agreement, or pending the resolution of any dispute, the IESO may at any time set the price cap and terms on which OPGI must provide any category of operating reserve services, subject to later adjustment upon final agreement or final resolution of the dispute with interest at the Prime Rate, calculated and accrued daily; and

(f) subject to (a.1), if the IESO’s market rules at any time are such that the market clearing price for a category of operating reserve services does not include both the offer price and the opportunity cost of the marginal unit providing the service, and the agreement referred to in (a) or (b) above has not taken such factors into account, then the agreement referred to in (a) or (b) above shall be considered to have been materially frustrated for purposes of (c) above.

PART 6 BRUCE DECONTROL RELATED CONDITIONS

1. The Licensee shall implement a Ring-Fence plan in accordance with the plans referred to in Section 8A of OPG’s pre-filed evidence, and as detailed more fully in Interrogatory Responses I 6.5, and I 15.13 of RP-2002-0142, with the following exception:

a) Only commercially sensitive information will be captured by the Ring-Fence plan. For clarity, this consists of Bruce Power outage information not already in the public domain and unit condition information only.

2. The Licensee shall conduct internal audits of the Ring-Fence plan every two calendar years. For clarity, the next internal audit will take place in 2007.

3. The Licensee must provide to the Board every year a self-certification statement signed by both the Chief Executive Officer and the Senior Regulatory Officer or other Senior Officer of OPG that the Ring-Fence plan methodology is operational for the activities that remain ring-fenced.

4. OPG shall make Status Reports to the Board within 30 days of:

a. Any additional agreements entered into with BP LP;

b. Any amendments, replacements or extensions of existing agreements with BP LP; and

c. Expired agreements under the Bruce Transaction.

5. Prior to May 1st of every other year of this licence (coincident with the years in which an internal audit is conducted), OPG shall submit an annual Confidential Audit Report to the Board. For clarity, the next report will be filed on or before May 1, 2007. The report shall include:

a. A review of the design, implementation, completeness and security of the Ring-Fence plan by OPG’s internal audit group;
b. A list of all the violations of the Ring-Fence plan with an explanation as to the type of violation, the employee's position and department or group, and whether the incident represents a repeat violation by a given employee;

c. Recommendations regarding corrective action where the Ring-Fence plan has been violated;

d. A list of the number of employees that have moved outside the Ring-Fence to a new position in OPG (whether the position is permanent or temporary). The Report shall identify the old position and department or group that was in the Ring-Fence plan, and the new position and department or group in which the employee now works.

6. Prior to December 31st of every other year of this licence (coincident with the years in which an internal audit is conducted), OPG shall submit an annual Public Audit Report to the Board for the public record. The report shall include the above findings from the Confidential Audit Report, however, the report shall be redacted to remove personal information and any other information that the Board agrees may be redacted under its confidential filing guidelines. For clarity, the next report will be filed on or before December 31, 2007.

7. The Contract for Differences for Forced Outages agreement between OPG and BP LP shall not be renewed at its expiry on the second anniversary of Market Opening.
SCHEDULE A

TERMS AND CONDITIONS OF SETTLEMENT AGREEMENT BETWEEN IESO AND OPGI

For these purposes, terms with initial capitals not otherwise defined herein shall have the meanings ascribed thereto in paragraph 1 of Part 3 of the licence conditions of OPGI or the IESO’s Market Rules, as applicable.

OPGI will be required to rebate annually to the IESO. As soon as practicable and preferably within 15 days following the final settlement of transactions which occurred during each Settlement Period, the IESO shall calculate the Rebate and notify OPGI of such calculated Rebate.

If OPGI agrees with the IESO’s calculation then, within 30 days of being notified, OPGI will be required to pay such Rebate, if any, to the IESO. If OPGI does not agree with the IESO’s calculation and the parties can agree within a further 30 days on a revised Rebate, then, within 30 days of so agreeing, OPGI will be required to pay the agreed revised Rebate, if any, to the IESO. If OPGI does not agree with the IESO’s calculation and the parties cannot agree on a revised Rebate within such further 30 day period, then the matter shall be finally determined by arbitration by the Dispute Resolution Panel of the IESO, and, within 30 days of such final determination, OPGI will be required to pay the finally determined Rebate, if any, to the IESO. The initially calculated, agreed revised, or finally determined Rebate, as applicable, shall be the Rebate in respect of such Settlement Period for all purposes hereof. Unless the Rebate is paid within 30 days of the IESO notifying OPGI, interest at the Prime Rate, calculated and accrued daily, from such 30th day until the date of payment to the IESO will in all cases be added to (and based upon) the final Rebate owing.

Following payment of the Rebate by OPGI to the IESO, the IESO shall pay or apply the Rebate as follows:

(a) Where the Rebate is $10 million or more, exclusive of any amounts representing interest or GST, the IESO shall pay the Rebate, including GST and interest, to all persons who were Market Participants in Ontario during the Settlement Period and who pursuant to the Market Rules had attributed to them during the Settlement Period an allocated quantity of energy withdrawn at a Delivery Point (the “Ontario Payees”). The IESO shall pay the Rebate to Ontario Payees by the next IESO Payment Date for the real-time market following the end of the month in which the payment from OPGI is received and the IESO shall distribute payment of the Rebate to Ontario Payees in proportion to the allocated quantities of energy withdrawn at a Delivery Point which were attributed to each Ontario Payee during the Settlement Period. The IESO may, to the extent practicable, pay the Rebate to all or some Ontario Payees by applying a Rebate settlement credit to the Ontario Payees’ applicable Settlement Statements; and

(b) Where the Rebate is less than $10 million, exclusive of any amounts representing interest or GST, the IESO shall retain and apply the Rebate, inclusive of any amounts representing interest or GST, to offset the IESO Administration Charge imposed on Market Participants in accordance with section 4.5, Chapter 9 of the Market Rules, during the period in which the first order of the OEB approving the IESO Administration Charge made,

(i) pursuant to subsection 19(2) of the Electricity Act, 1998, and

(ii) subsequent to the date on which payment of the Rebate is received by the IESO, is in effect.
Where paragraph (a) applies, if by the date upon which the IESO is required to pay the Rebate to Ontario Payees, the IESO cannot locate an Ontario Payee, or a successor or other representative of the said Ontario Payee to whom the IESO is permitted or required by law to pay the said Ontario Payee’s share of the Rebate, the IESO shall retain the said Ontario Payee’s share of the Rebate for a period of 90 days from the date upon which the Rebate is otherwise payable to all other Ontario Payees, and during this period the IESO will make commercially reasonable efforts to locate and payout the applicable share of the Rebate to the said Ontario Payee or his successor or other legal representative. If the IESO is unable to locate the said Ontario Payee or his successor or other legal representative within this 90 day period, the IESO shall retain the said Ontario Payee’s share of the Rebate and apply it to the IESO Administration Charge in accordance with paragraph (b), as set out herein.

Nothing shall preclude agreements that require the purchaser to return the rebate or any portion thereof to OPGI or any other party.

The Settlement Agreement may also include the following terms:

- Definitions and Interpretation
- Notice by OPGI to IESO of Payment and Non-Payment
- Appropriate limitations of liability
- IESO shall recover its reasonable rebate administration expenses through its fees
- Appropriate indemnification provisions
- IESO to act on its own behalf and as agent for Ontario Metered Market Participants entitled to rebates to the extent of their interests, and such Metered Market Participants are entitled, provided that they give a satisfactory funded indemnity to the IESO, to enforce, by arbitration, the Settlement Agreement directly against OPGI if desired, with reasonable assistance to be provided by IESO at their expense
- IESO may assign agreement to a qualified replacement upon approval of OEB. No other assignments without consent of other party and OEB
- IESO may subcontract any duties required of it
- Fund transfer instructions, which may be changed on notice to OPGI by IESO
- Arbitration clause with Dispute Resolution Panel as arbitrator
- Recipient registrants responsible for all taxes, if any
- Any interest earned on funds by IESO shall be paid to recipient registrants similarly to other funds
- IESO not to be viewed as in conflict in any respect as a result of its participation in the Settlement Agreement
- IESO may hold funds on deposit with a Canadian financial institution or in short-term obligations of the federal or Ontario government or any Canadian financial institution
- IESO may, but shall not be obliged to, retain and refrain from distributing any funds in the event of any dispute, and may seek advice from the Dispute Resolution Panel
- Termination of agreement when OPGI Rebate obligations terminate and all funds distributed or applied. OPGI/IESO indemnification obligations and third party enforcement rights to survive termination, former indefinitely and latter for 2 years only
- IESO may rely on any document which it believes to be genuine and on the advice of counsel, if it acts in good faith
- IESO not responsible for any non-payment by OPGI
- Binding on successors and permitted assigns
- Notice clause
- Only may be amended in writing
- Governed by the laws of Ontario
- Counterparts clause
- Further assurances clause
SCHEDULE B

ADDITIONAL TERMS AND CONDITIONS OF SETTLEMENT AGREEMENT BETWEEN IESO & OPG


For the First Settlement Period (May 1, 2002 to April 30, 2003)

1) The first MPMA Rebate is to be paid out for the 9-month period ending January 31, 2003. This is the amount, as calculated by the IESO and agreed to by OPG, that OPG is required to rebate for the nine month period, based on OPG’s MPMA license conditions, less the interim payment already made by OPG of approximately $335 million and amounts relating to decontrol applications pending before the Ontario Energy Board. OPG is to pay this net amount to the IESO by May 9, 2003.

2) The second MPMA Rebate will cover the three-month period February 1, 2003 to April 30, 2003 inclusive. This is the amount, as calculated by the IESO and agreed to by OPG, that OPG is required to rebate for the three month period, based on OPG’s license conditions, adjusted for any true-up required to ensure that the sum of the two rebates for the first settlement period, including the interim payment, is equal to OPG’s full rebate requirements for the first Settlement Period under the OPG’s MPMA license conditions. OPG is to pay this amount to the IESO by August 12, 2003.

3) The IESO will pay the pro rata share of the first MPMA Rebate and the second MPMA Rebate based on the allocated quantity of energy withdrawn during the applicable period by market participants who are receiving the fixed price under sections 79.4 and 79.5 of the Ontario Energy Board Act, 1998 to the Ontario Energy Financial Corporation.

4) The IESO will pay the pro rata share of the first MPMA Rebate and the second MPMA Rebate based on the allocated quantity of energy withdrawn during the applicable period by market participants who are not distributors and are not receiving the fixed price under sections 79.4 and 79.5 of the Ontario Energy Board Act, 1998 directly to those market participants or their assignees that are market participants where the market participants have assigned their MPMA rebate.

5) The IESO will pay to distributors who are market participants, including host distributors on behalf of their embedded distributors, the pro rata share of the first MPMA Rebate and the second MPMA Rebate based on the share of energy withdrawn during the applicable period by consumers in the distributor’s or embedded distributor’s respective service areas who are not receiving the fixed price under sections 79.4 and 79.5 of the Ontario Energy Board Act, 1998 and by customers of retailers who have assigned all or a portion of their entitlement to an MPMA Rebate to that retailer. In making these calculations and payments the IESO will rely on the information reported by the distributors to the IESO as required under Appendix D. Once the IESO has received the information from the distributors and disbursed the first MPMA Rebate or
the second MPMA Rebate in accordance with this Schedule B, there shall be no opportunity to
correct any such information or provide any additional information and all amounts paid shall be
final and binding and not subject to any adjustment.

6) After making the payments set out in 3), 4), and 5), the IESO is to pay any remaining Rebate to
the Ontario Electricity Financial Corporation to offset in whole or in part the cost of providing the
fixed price of 4.3 cents per kilowatt hour to consumers who are eligible to receive, are receiving or
have received the fixed price under sections 79.4 and 79.5 of the Ontario Energy Board Act,
1998. Any amounts returned to the IESO by distributors in accordance with their license
conditions shall be paid over to the Ontario Electricity Financial Corporation.

For the Settlement Periods (May 1, 2003 to January 31, 2005)

7) For each Settlement Period or partial Settlement Period from May 1, 2003 to January 31, 2005,
OPG is to make quarterly MPMA Rebate payments to the IESO, consistent with OPG's MPMA
license conditions, as calculated by the IESO and agreed to by OPG. The IESO and OPG may
agree to appropriate true-up and carry forward mechanisms provided that these are consistent
with forwarding the Rebate as soon as practicable.

8) For each Settlement Period or partial Settlement Period from May 1, 2003 to January 31, 2005
the MPMA rebate payments to market participants will be calculated and determined by the IESO
as follows:

\[ BPPR = [(WAP - CAP) \times 0.5 \times TAQEW] \]

Where:

"Business Protection Plan Rebate" or "BPPR" is the MPMA Rebate paid out to consumers who
are not receiving the fixed price under sections 79.4 and 79.5 of the Ontario Energy Board Act,
1998. The BPPR is to rebate half of the amount by which the weighted average commodity price
of electricity exceeds 3.8 cents per kilowatt-hour.

"Weighted Average Price" or "WAP" is the average Hourly Ontario Electricity Price weighted by
load over the Settlement Period as determined by the IESO.

"Total Allocated Quantity of Energy Withdrawn" or "TAQEW" is the total electricity withdrawn
from the IESO-controlled grid for use in Ontario during the Settlement Period.

9) The IESO will make quarterly MPMA payments to market participants based on the applicable
Settlement Period to the end of the previous quarter, and taking into account all prior quarterly
MPMA payments made with respect to the applicable Settlement Period. The IESO will adjust the
payment for the final quarter of each Settlement Period to ensure that the sum of the quarterly
MPMA payments for the applicable Settlement Period does not exceed the BPPR entitlement for
the Settlement Period. If there is an overpayment of quarterly payments over a Settlement
Period based on the BPPR entitlement for that Settlement Period, any such overpayment can be
carried over to successive Settlement Periods to be offset against future payments.

10) The IESO will pay the pro rata share of the BPPR based on the allocated quantity of energy
withdrawn for the applicable period by market participants who are receiving the fixed price under
sections 79.4 and 79.5 of the Ontario Energy Board Act, 1998 to the Ontario Electricity Financial
Corporation.
11) The IESO will pay the pro rata share of the BPPR based on the allocated quantity of energy withdrawn for the applicable period by market participants who are not distributors and are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998* directly to those market participants or their assignees that are market participants where the market participants have assigned their MPMA Rebate.

12) The IESO will pay to distributors who are market participants, including host distributors on behalf of their embedded distributors, the pro rata share of the BPPR based on the share of energy withdrawn for the applicable period by consumers in the distributor’s or embedded distributor’s respective service areas who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998* for the MPMA Rebate and by customers of retailers who have assigned all or a portion of their entitlement to an MPMA Rebate to that retailer. In making these calculations and payments the IESO will rely on the information reported by the distributors to the IESO as required under Appendix D. Once the IESO has received the information from the distributors and disbursed the BPPR for that quarter in accordance with this Schedule B, there shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment.

13) For the quarterly periods from May 1, 2003 to January 31, 2005, after making the payments set out in 10), 11) and 12), the IESO is to pay any remaining Rebate to the Ontario Electricity Financial Corporation to offset in whole or in part the cost of providing the prices established under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998* to consumers who are eligible to receive the prices established under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998*. Any amounts returned to the IESO by distributors in accordance with their license conditions shall be paid over to the Ontario Electricity Financial Corporation.

**For the Payment for the Period (February 1, 2005 to March 31, 2005)**

14) For the Payment for the Period from February 1, 2005 to March 31, 2005, OPG is to make an MPMA Rebate payment to the IESO, consistent with OPG’s MPMA license conditions, as calculated by the IESO and agreed to by OPG. The IESO and OPG may agree to appropriate true-up and carry forward mechanisms provided that these are consistent with forwarding the Rebate as soon as practicable.

15) For the Payment for the Period from February 1, 2005 to March 31, 2005 the MPMA rebate payments to market participants will be calculated and determined by the IESO as follows:

\[
\text{BPPR} = (\text{WAP} - \text{CAP}) \times 0.5 \times \text{TAQEW}
\]

Where:

*B Business Protection Plan Rebate* or *BPPR* is the MPMA Rebate paid out to consumers who are not receiving the fixed price under sections 79.4, 79.5, and 79.16 of the *Ontario Energy Board Act, 1998*. The BPPR is to rebate half of the amount by which the weighted average commodity price of electricity exceeds 3.8 cents per kilowatt hour.

*Weighted Average Price* or *WAP* is the average Hourly Ontario Electricity Price weighted by load over the Settlement Period as determined by the IESO.

*Total Allocated Quantity of Energy Withdrawn* or *TAQEW* is the total electricity withdrawn from the IESO-controlled grid for use in Ontario during the Settlement Period.
16) The IESO will make the MPMA payment to market participants for the two month period ending March 31, 2005 taking into account all prior MPMA payments made in that Settlement Period.

17) The IESO will pay the pro rata share of the BPPR based on the allocated quantity of energy withdrawn for the applicable period by market participants who are receiving the prices established under sections 79.4, 79.5 and 79.16 of the Ontario Energy Board Act, 1998 to the Ontario Electricity Financial Corporation.

18) The IESO will pay the pro rata share of the BPPR based on the allocated quantity of energy withdrawn for the applicable period by market participants who are not distributors and are not receiving the prices established under sections 79.4, 79.5, and 79.16 of the Ontario Energy Board Act, 1998 directly to those market participants or their assignees that are market participants where the market participants have assigned their MPMA Rebate.

19) The IESO will pay to distributors who are market participants, including host distributors on behalf of their embedded distributors, the pro rata share of the BPPR based on the share of energy withdrawn for the applicable period by consumers in the distributor’s or embedded distributor’s respective service areas who are not receiving the prices established under sections 79.4, 79.5, and 79.16 of the Ontario Energy Board Act, 1998 for the MPMA Rebate and by customers of retailers who have assigned all or a portion of their entitlement to an MPMA Rebate to that retailer. In making these calculations and payments the IESO will rely on the information reported by the distributors to the IESO as required under Appendix D. Once the IESO has received the information from the distributors and disbursed the BPPR for that quarter in accordance with this Schedule B, there shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment.

20) After making the payments set out in 17), 18), and 19), the IESO is to pay any remaining Rebate to the Ontario Electricity Financial Corporation to offset in whole or in part the cost of providing the prices established under sections 79.4, 79.5, and 79.16 of the Ontario Energy Board Act, 1998 to consumers who are eligible to receive the prices established under sections 79.4, 79.5, and 79.16 of the Ontario Energy Board Act, 1998. Any amounts returned to the IESO by distributors in accordance with their license conditions shall be paid over to the Ontario Electricity Financial Corporation.

Replacement of the MPMA Rebate With A New Payment for the Period (April 1, 2005 to December 31, 2005)

21) For the Payment for the Period from April 1, 2005 to December 31, 2005, OPG is to make a single payment to the IESO, calculated as follows:

\[
\text{Payment} = \text{Sum over all hours} \left[ (\text{HOEP} - \$47) \times (\text{ONPA (output)} \times 0.85) \right]
\]

Where:

**ONPA or OPG's Non-Prescribed Assets** are those generation assets operated and controlled by Ontario Power Generation, excluding Lennox Generating Station, that are not prescribed assets under section 78 1 of the Ontario Energy Board Act, 1998 as amended by the Electricity Restructuring Act, 2004.

**HOEP** is the Hourly Ontario Energy Price as determined by the IESO.
ONPA (output) is the generation output from OPG’s Non-Prescribed Assets generation assets over each hour of the period adjusted to take account of volumes sold through Transitional Rate Option contracts and forward contracts in effect as of January 1, 2005.

22) For the Payment for the Period from April 1, 2005 to December 31, 2005 the single payment to market participants will be equal to the payment calculated in 21) above.

23) The IESO will pay the pro rata share of the Payment based on the allocated quantity of energy withdrawn for the applicable period by market participants who are receiving the prices established under sections 79.4, 79.5 and 79.16 of the Ontario Energy Board Act, 1998 to the Ontario Power Authority to be applied to the variance account established under section 25.33 (5) of the Electricity Act, 1998 as amended by the Electricity Restructuring Act, 2004.

24) The IESO will pay the pro rata share of the Payment based on the allocated quantity of energy withdrawn for the applicable period by market participants who are not distributors and are not receiving the prices established under sections 79.4, 79.5, and 79.16 of the Ontario Energy Board Act, 1998 directly to those market participants or their assignees that are market participants where the market participants have assigned their Payment.

25) The IESO will pay to distributors who are market participants, including host distributors on behalf of their embedded distributors, the pro rata share of the Payment based on the share of energy withdrawn for the applicable period by consumers in the distributor’s or embedded distributor’s respective service areas who are not receiving the prices established under sections 79.4, 79.5, and 79.16 of the Ontario Energy Board Act, 1998 for the Payment and by customers of retailers who have assigned all or a portion of their entitlement to a Payment to that retailer. In making these calculations and payments the IESO will rely on the information reported by the distributors to the IESO as required under Appendix D. Once the IESO has received the information from the distributors and disbursed the Payment for the period in accordance with this Schedule B, there shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment.

26) After making the payments set out in 23), 24), and 25), the IESO is to pay any remaining amount of the Payment to the Ontario Power Authority to be applied to the variance account established under section 25.33 (5) of the Electricity Act, 1998 as amended by the Electricity Restructuring Act, 2004.

27) With respect to its non-prescribed generating facilities, OPG shall maximize their value to the people of Ontario by operating those facilities in response to the price signals of the IESO-administered markets. OPG’s conduct in the IESO-administered markets under this direction is subject to review by the Market Surveillance Panel of the Ontario Energy Board.

Replacement of the MPMA Rebate With A New Payment for the Period (January 1, 2006 to April 30, 2006)

28) For the Payment for the Period from January 1, 2006 to April 30, 2006, OPG is to make a single payment to the IESO, calculated as follows:

\[
\text{Payment} = \text{Sum over all hours } [((\text{HOEP} - $47) \times (\text{ONPA (output)} \times 0.85)) + ((\text{PA (price)} - $52) \times (\text{PA (amount)}))] 
\]

Where
ONPA or OPG’s Non-Prescribed Assets are those generation assets operated and controlled by Ontario Power Generation, excluding Lennox Generating Station, that are not prescribed assets under section 78.1 of the Ontario Energy Board Act, 1998 as amended by the Electricity Restructuring Act, 2004.

HOEP is the Hourly Ontario Energy Price as determined by the IESO.

ONPA (output) is the generation output from OPG’s Non-Prescribed Assets generation assets over each hour of the period adjusted to take account of volumes sold through Transitional Rate Option contracts and forward contracts in effect as of January 1, 2005 and volumes sold through the Pilot Auction administered by the Ontario Power Authority in the first half of 2006 with sales volumes commencing on April 1, 2006.

PA is the Pilot Auction administered by the Ontario Power Authority in the first half of 2006, which includes a limited amount of output from OPG’s non-prescribed assets, with sales to commence on April 1, 2006.

PA (amount) is the hourly volume in MWh of OPG non-prescribed assets output sold through the Pilot Auction administered by the Ontario Power Authority in the first half of 2006 with sales commencing on April 1, 2006.

PA (price) is the weighted average auction price in $/ MWh realized in each hour of the Period for the output of the limited amount of OPG non-prescribed assets output volume sold through the Pilot Auction administered by the Ontario Power Authority in the first half of 2006 with sales volumes commencing on April 1, 2006.

29) For the Payment for the Period from January 1, 2006 to April 30, 2006 the single Payment to market participants will be equal to the Payment calculated in 28) above.

30) The IESO will pay the pro rata share of the Payment based on the allocated quantity of energy withdrawn for the applicable period by market participants who are receiving the prices established under sections 79.4, 79.5 and 79.16 of the Ontario Energy Board Act, 1998 to the Ontario Power Authority to be applied to the variance account established under section 25.33 (5) of the Electricity Act, 1998 as amended by the Electricity Restructuring Act, 2004.

31) The IESO will pay the pro rata share of the Payment based on the allocated quantity of energy withdrawn for the applicable period by market participants who are not distributors and are not receiving the prices established under sections 79.4, 79.5, and 79.16 of the Ontario Energy Board Act, 1998 directly to those market participants or their assignees that are market participants where the market participants have assigned their Payment.

32) The IESO will pay to distributors who are market participants, including host distributors on behalf of their embedded distributors, the pro rata share of the Payment based on the share of energy withdrawn for the applicable period by consumers in the distributor’s or embedded distributor’s respective service areas who are not receiving the prices established under sections 79.4, 79.5, and 79.16 of the Ontario Energy Board Act, 1998 for the Payment and by customers of retailers who have assigned all or a portion of their entitlement to a Payment to that retailer. In making these calculations and payments the IESO will rely on the information reported by the distributors to the IESO as required under Appendix D. Once the IESO has received the information from the distributors and disbursed the Payment for the period in accordance with this Schedule B, there
shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment.

33) After making the payments set out in 30), 31), and 32), the IESO is to pay any remaining amount of the Payment to the Ontario Power Authority to be applied to the variance account established under section 25.33 (5) of the Electricity Act, 1998 as amended by the Electricity Restructuring Act, 2004.

34) With respect to its non-prescribed generating facilities, OPG shall maximize their value to the people of Ontario by operating those facilities in response to the price signals of the IESO-administered markets. OPG's conduct in the IESO-administered markets under this direction is subject to review by the Market Surveillance Panel of the Ontario Energy Board.

OPG Rebate for the Period (May 1, 2006 to April 30, 2009)

35) For the Period from May 1, 2006 to April 30, 2009, OPG is to make quarterly Payments to the IESO, as calculated by the IESO and agreed to by OPG as follows:

\[
\text{Payment} = \text{Sum over all hours } [(\text{HOEP} - \text{ORL}) \times (\text{ONPAO x 0.85} - \text{PAA}) + (\text{PAP} - \text{PAORL}) \times \text{PAA}]
\]

Ontario Power Generation's quarterly payments will be based on a cumulative calculation commencing May 1, 2006 to the end of each quarter less the same cumulative calculation to the end of the previous quarter. This will continue until the final quarter ending April 30, 2009. For greater certainty, where the payment formula results in an amount owing to OPG for any quarter, no such payment will be made to OPG by the IESO and any such amount will be carried forward into subsequent quarters.

Where:

**ONPA or OPG's Non-Prescribed Assets** are those generation assets operated and controlled by Ontario Power Generation assets in service as of January 1, 2006, excluding Lennox Generating Station and excluding stations whose generation output is subject to a contract with the Ontario Power Authority (OPA) in the form of a hydroelectric energy supply agreement [entered into by the OPA and OPG pursuant to a ministerial direction made under section 25.32 of the Electricity Act, 1998], that are not prescribed assets under section 78.1 of the Ontario Energy Board Act, 1998 as amended by the Electricity Restructuring Act, 2004.

**HOEP** is the Hourly Ontario Energy Price as determined by the IESO.

**ONPAO** is the generation output from OPG's Non-Prescribed Assets, over each hour of the quarter adjusted to take account of volumes sold through forward contracts in effect as of January 1, 2005. For greater certainty, any output from ONPA resulting from fuel conversion by Ontario Power Generation in ONPA, or incremental output from ONPA resulting from refurbishment or expansion, or is subject to a contract with the OPA in the form of a hydroelectric energy supply agreement, [entered into by the OPA and OPG pursuant to a ministerial direction made under section 25.32 of the Electricity Act, 1998] is to be excluded from ONPAO.

**Incremental Output is defined as:**
generation output x (new total installed capacity – installed capacity as of January 1, 2006) / new total installed capacity.
ORL is the Ontario Power Generation Revenue limit  
For the period May 1, 2006 to April 30, 2007 ORL is equal to $46/ MWh.  
For the period May 1, 2007 to April 30, 2008 ORL is equal to $47/ MWh.  
For the period May 1, 2008 to April 30, 2009 ORL is equal to $48/ MWh. 

PA is the Pilot Auction administered by the Ontario Power Authority in the first half of 2006. 

PAA is the volume in MWh over each hour in the quarter that is sold by Ontario Power Generation through the PA. 

PAORL is the Pilot Auction Ontario Power Generation Revenue limit 
For the period May 1, 2006 to April 30, 2007 PAORL is equal to $51/ MWh.  
For the period May 1, 2007 to April 30, 2008 PAORL is equal to $52/ MWh.  
For the period May 1, 2008 to April 30, 2009 PAORL is equal to $53/ MWh. 

PAP is the weighted average auction price in $/ MWh over each hour of the quarter realized for the PAA by Ontario Power Generation. 

36) For the Payment for the Period from May 1, 2006 to April 30, 2009 quarterly payments made by the IESO to market participants will be equal to the quarterly Payment calculated in 35) above. In the event of any quarterly Payment calculated in 35) above being negative, no quarterly payment will be made by the IESO to market participants. 

37) The IESO will pay the pro rata share of the Payment based on the allocated quantity of energy withdrawn for the applicable quarter by market participants who are receiving the prices established under sections 79.4, 79.5 and 79.16 of the Ontario Energy Board Act, 1998 to the Ontario Power Authority to be applied to the variance account established under section 25.33 (5) of the Electricity Act, 1998 as amended by the Electricity Restructuring Act, 2004. 

38) The IESO will pay the pro rata share of the Payment based on the allocated quantity of energy withdrawn for the applicable quarter by market participants who are not distributors and are not receiving the prices established under sections 79.4, 79.5, and 79.16 of the Ontario Energy Board Act, 1998 directly to those market participants. 

39) The IESO will pay to distributors who are market participants, including host distributors on behalf of their embedded distributors, the pro rata share of the Payment based on the share of energy withdrawn for the applicable quarter by consumers in the distributor’s or embedded distributor’s respective service areas who are not receiving the prices established under sections 79.4, 79.5, and 79.16 of the Ontario Energy Board Act, 1998 for the Payment. In making these calculations and payments the IESO will rely on the information reported by the distributors to the IESO as required under Appendix D. Once the IESO has received the information from the distributors and disbursed the Payment for the quarter in accordance with this Schedule B, there shall be no opportunity to correct any such information or provide any additional information and all amounts paid shall be final and binding and not subject to any adjustment. 

40) After making the payments set out in 37), 38), and 39), the IESO is to pay any remaining amount of the Payment to the Ontario Power Authority to be applied to the variance account established under section 25.33 (5) of the Electricity Act, 1998 as amended by the Electricity Restructuring Act, 2004.
41) With respect to its non-prescribed generating facilities, OPG shall maximize their value to the people of Ontario by operating those facilities in response to the price signals of the IESO-administered markets. OPG’s conduct in the IESO-administered markets under this direction is subject to review by the Market Surveillance Panel of the Ontario Energy Board.
**SCHEDULE 1  LIST OF LICENSED GENERATION FACILITIES**

The Licence authorizes the Licensee only in respect to the following:

**Hydraulic Generation Facilities by River System - Owned and Operated**

<table>
<thead>
<tr>
<th>Niagara River System</th>
<th>Montreal River System</th>
<th>Aguasabon River System</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sir Adam Beck - No. 1</td>
<td>Indian Chute</td>
<td>Aguasabon</td>
</tr>
<tr>
<td>Sir Adam Beck - No. 2</td>
<td>Matabitchuan River System</td>
<td>Mississippi River System</td>
</tr>
<tr>
<td>Pumping Gen. Stn.</td>
<td>Matabitchuan</td>
<td>High Falls</td>
</tr>
<tr>
<td>DeCew Falls No. 1</td>
<td>South River</td>
<td>Rideau River System</td>
</tr>
<tr>
<td>DeCew Falls No. 2</td>
<td>Elliott Chute</td>
<td>Merrickville</td>
</tr>
<tr>
<td>St. Lawrence River System</td>
<td>Bingham Chute</td>
<td>Otonabee River System</td>
</tr>
<tr>
<td>Robert H. Saunders</td>
<td>Nipissing</td>
<td>Auburn</td>
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<tr>
<td>Ottawa River</td>
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<td>Lakefield</td>
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<td>Otto Holden</td>
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<td>Des Joachims</td>
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<tr>
<td>Chenaux</td>
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<tr>
<td>Chats Falls (Units 2,3,4,5)</td>
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<tr>
<td>Madawaska River System</td>
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<td>Mountain Chute</td>
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<td>Barrett Chute</td>
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<td>Amprior</td>
<td>Steorgeon River System</td>
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<td>Stewartville</td>
<td>Stinson</td>
<td>Muskoka River System</td>
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<td>Calabogie</td>
<td>Coniston</td>
<td>Ragged Rapids</td>
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<td>Trent River System</td>
<td>MCVittie</td>
<td>Big Eddy</td>
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<tr>
<td>Healey Falls</td>
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<td>South Muskoka</td>
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<td>Ranney Falls</td>
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<td>South Falls</td>
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<td>Meyersburg</td>
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<td>Trethewey Falls</td>
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<td>Sidney</td>
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<td>Hanna Chute</td>
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<td>Hagues Reach</td>
<td>Wanapitei River System</td>
<td>Beaver River System</td>
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<tr>
<td>Seymour</td>
<td>Stinson</td>
<td>Eugenia Falls</td>
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<td>Franford</td>
<td>Coniston</td>
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<td>Sills Island</td>
<td>McVittie</td>
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<tr>
<td>Montreal River System</td>
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<td>Lower Notch</td>
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<td>Mattagami River System</td>
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<td>Smokey Falls</td>
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</tbody>
</table>
Hydraulic Generation Facilities by River System – Operated Only

St. Lawrence River System
Chats Falls (Units 6,7,8,9)

Fossil Generation - Owned and Operated

Lambton
Nanticoke
Thunder Bay - Unit 1
Thunder Bay - Units 2, 3
Atikokan
Lennox

Nuclear Generation - Owned and Operated

Pickering A
Pickering B
Darlington

Wind Generation - Owned and Operated

BiC Wind Turbine
Pickering Wind Turbine

Nuclear Generation - Owned Only

Bruce A
Bruce B