Ontario

LEGISLATION AND REGULATIONS COMMITTEE: MINISTRY APPROVAL FORM

LRC Tracking #:
EVista Tracking #:

Ministry of Energy

OPG Sustainability & Amending Regulation 53/05
Regulation

Profile at a Glance

Priority: Key to Commitment
Public Interest: Low
Key Stakeholder Interest: High
New Costs/Burdens: Yes for Stakeholders; No for Government
New Savings/Opportunities: No for Stakeholders; Yes for Government

Proposed Items for Review

1. Amending the Payments Under Section 78.1 regulation ("Payments" regulation) made under the *Ontario Energy Board Act, 1998* (OEBA) (O. Reg. 53/05)

Approvals required prior to LRC

	Committee and date	Cabinet Date
Policy		
TB/MBC	TB - August 13, 2013	August 28, 2013

Serge Imbrogno
Deputy Minister

Nov. 18, 2013
Date

Minister

7/Nov/2013
Date

s. 1 Proposal and Context

See Appendix A, Overview Deck

- OPG's remaining 48 unregulated hydroelectric facilities are the last significant generation sources in the province that receive payment for their output based entirely on the Hourly Ontario Electricity Price (HOEP).
- HOEP has been decreasing in recent years and is expected to remain low for the near future, which will continue to negatively impact OPG's revenue and ability to maintain these assets in the long-term.
- The Ministry is proposing to subject certain of OPG's assets to rate regulation by the Ontario Energy Board (OEB), namely OPG's unregulated and un-contracted hydroelectric assets. Note that the OEB already regulates OPG's base-load hydro-electric and nuclear generation assets in accordance with s.78.1 (payments) of the *Ontario Energy Board Act, 1998* (OEBA) and O. Reg. 53/05.

s. 2 Approach and Intended Outcomes

See Appendix B, Regulation Comparison Chart

- Amending the Payments made regulation under s.78.1 of the OEBA, namely, O. Reg. 53/05, would prescribe Ontario Power Generation's (OPG) currently unregulated, non-contracted hydroelectric generation facilities for economic regulation by the Ontario Energy Board (OEB).
- Amending the Payments regulation to include all of OPG's remaining unregulated facilities is the most appropriate approach as it allows for consistent treatment for all of OPG's assets and would help improve the company's financial sustainability.
- The Ministry of Energy has already received policy approval for this amendment through Treasury Board on August 13th and by Cabinet on August 27th.
- The proposed amending regulation would improve regulatory efficiency by providing the OEB with the authority to regulate all of OPG's non-contracted facilities.
- This amending regulation would align with ongoing OEB-promulgated regulatory changes as the Board is currently developing an Incentive Rate Mechanism for those of OPG's generation facilities which are currently regulated under OEBA s.78.1 and the Payments regulation.
- This amending regulation would reduce volatility and improve OPG's ability to properly plan for and maintain these important hydroelectric assets.

s. 3 Direction and Urgency

- As part of its Business Plan for 2013-15, OPG proposed the concept of OEB-rate regulation of its remaining unregulated, non-contracted hydroelectric facilities.
- The Ministry of Energy received policy approval on key elements of OPG's plan including OEB-rate regulation from TB/MBC on August 13th, 2013 and Cabinet on August 27th, 2013.
- OPG has submitted an application to the OEB for rates for these assets effective July 1, 2014. In order to limit implementation delays and fiscal impacts associated with a delay this proposed amending regulation should proceed now.
- This is a key item needed to improve OPG's financial performance, a material component of the Province's path to balance.
- Regulating these assets would provide a fiscal benefit to the province by improving OPG's earnings before taxes (EBT) by approximately $320-400M annually.
- If this proposal does not proceed OPG will likely continue to sustain losses from this segment of its business.
- The government would be expected to, if this proposed amending regulation were to proceed, recognize a positive fiscal impact as OPG's earnings and payments in lieu of taxes (PILs) will increase as a result of the amendment.

s. 4 Impact Assessment and Costs

- Electricity customer bill impacts will depend on rates that are established by the OEB on the basis of its open and transparent rate setting process. OPG has estimated this proposal will increase the average residential customer's bill by approximately $1/month.
- The impact from increased rates will be distributed across all electricity ratepayers.
- Improved revenues would ensure that OPG is able to adequately maintain these low-cost, renewable facilities which generate power at times when the system needs it most.
- OPG can use new resources to grow its business, consistent with government policies, and to the benefit of ratepayers and the Province.
- This proposal would improve regulatory efficiency by subjecting to OEB rate-regulation all of OPG's currently unregulated and non-contracted facilities.
- There is no incremental increase to costs of regulation anticipated since the OEB already regulates OPG's base load hydroelectric and nuclear facilities.
- This proposal aligns with regulatory changes currently underway at the OEB as the OEB is developing an Incentive Rate Mechanism for currently regulated OPG hydro-electric generation assets. This could be extended to all of OPG hydro-electric generation assets.

s. 5 Implementation

- The OEB would be responsible for regulating the newly regulated facilities, as it is for OPG's currently regulated assets.
- OPG submitted its application for new rates for these assets in September 2013. Its application assumes these assets will be regulated by July 1, 2014.
- The regulation will either come into force immediately, with the new provisions effective July 1, 2014, or it will come into force on July 1, 2014, depending on the approach ultimately arrived at with Office of Legislative Counsel.

s. 6 Delivery and Results Tracking

- The Ministry of Energy tracks OPG's financial performance on an ongoing basis against the Province's fiscal plan. The Ministry is mindful that these forecasts are based on assumptions around future electricity production, as well as the OEB's decision on the final regulated rates.
- This proposal aligns with regulatory changes currently proposed at the OEB is developing an Incentive Rate Mechanism for currently regulated OPG hydro assets.

s.7 Stakeholder Consultations

- The Ministry has consulted the Independent Electricity System Operator, OEB and OPG on drafting of the amendment.
- Consulted stakeholders were generally supportive of the amendment, however wished to ensure that the proper incentives are in place to ensure once regulated that these assets will continue to be dispatched efficiently.
- On September 13th, 2013, the Ministry posted for public comment a plain language version of the proposed amendments to O. Reg. 53/05 on the Province's Regulatory Registry for a 45-day review and comment period.
- The Ontario Clean Air Alliance (OCAA) submitted that it does not support the amendment as it represents wealth transfer from ratepayers to OPG to be used to subsidize nuclear operations. In order to alleviate this concern, OEB oversight will ensure that all costs are prudently incurred and that cross subsidization does not occur.

s.8 Other Jurisdictions and Harmonization

- Other jurisdictions have regulated components to their electricity markets. This proposal would not affect interactions including the import and export of electricity to other jurisdictions.

s. 9 Communications

See Appendix C, Communications Plan

- The Ministry would, once approved, position the amended regulation as a necessity to ensure the long-term sustainability and reliability of Ontario's clean energy assets.
- The Ministry would work closely with OPG to develop materials for key stakeholders and comprehensive QA for media.

s. 10 Contacts and Appendices

Contacts

	Name	Phone Number
Ministry Policy/Program	Scott Nelms	416-212-6469
Ministry Legal	James Rehob	416-325-6676
Ministry Communications	Megan Biggs	416-325-4194
Assistant or Deputy Minister's Office	Michael Reid	416-325-6544
Cabinet Office Policy	Nick Cheeseman	416-325-5840

Appendices

Appendix A: Overview Deck
Appendix B: Regulation Comparison Chart
Appendix C: Communications Plan

Ontario
MINISTRY OF ENERGY

OPG Sustainability & Amending Regulation 53/05

November 2013

Regulatory Affairs and Strategic Policy

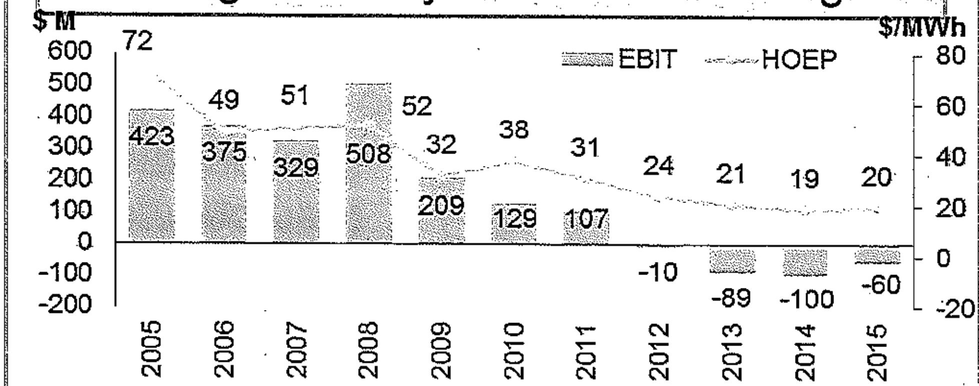
Purpose

- The Ministry of Energy has proposed an amendment to regulation 53/05 (Payments Under Section 78.1 of the *Ontario Energy Board Act, 1998* (OEBA)) in order to subject Ontario Power Generation's (OPG) remaining unregulated, non-contracted, hydroelectric facilities to rate regulation by the Ontario Energy Board (OEB)
- This presentation provides an overview of the following:
  1. Policy Rationale for the Amendment
  2. Key Considerations
  3. Details of the Amendment

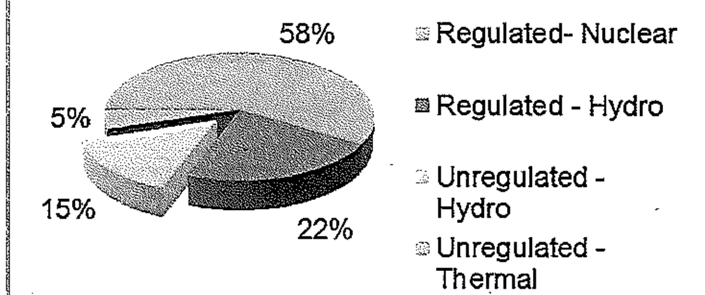
Context

- OPG owns and operates 59 hydroelectric stations that are not currently regulated by the OEB. These facilities accounted for approximately 15 % (12.4 TWh) of OPG's total generation in 2012 (83.7 TWh)
- 11 of OPG's generation stations are under contract with the Ontario Power Authority
- OPG's remaining 48 unregulated hydroelectric generation facilities are the last significant generation sources in the province that receive payment for their output based entirely on the Hourly Ontario Electricity Price (HOEP) also known as the IESO "spot" market price.
  - As shown in the charts below, earnings from these assets are declining in tandem with decreasing HOEP

Unregulated Hydroelectric Earnings



2012 Electricity Generation



Ontario

Approvals to date

- The Ministry of Energy has already received policy approval for this amendment
  - As part of its Business Plan for 2013-15, OPG proposed the concept of OEB rate regulation of its remaining unregulated, non-contracted hydroelectric facilities
  - The Ministry of Energy received policy approval on key elements of OPG's plan including OEB rate regulation from **Treasury Board / Management Board of Cabinet** on August 13th, 2013 and **Cabinet** on August 27th, 2013

Background
The Proposal

- The proposed amending regulation would prescribe OPG's currently unregulated and un-contracted hydroelectric generation facilities for economic regulation by the OEB
  - The OEB would establish OPG's rates through public hearings based on OPG electricity rate filings and on the prescribed rules and criteria contained in O. Reg. 53/05. The OEB currently does this with OPG's base-load nuclear and hydroelectric generation facilities
- On September 13th, 2013, the Ministry posted for public comment a plain language version of the proposed amendments to O. Reg. 53/05 on the Province's Regulatory Registry for a 45-day review and comment period
- The Ministry has consulted with its agencies; OPG, OEB and the Independent Electricity System Operator (IESO), to ensure the amendment allows for the continued, efficient operation of these assets

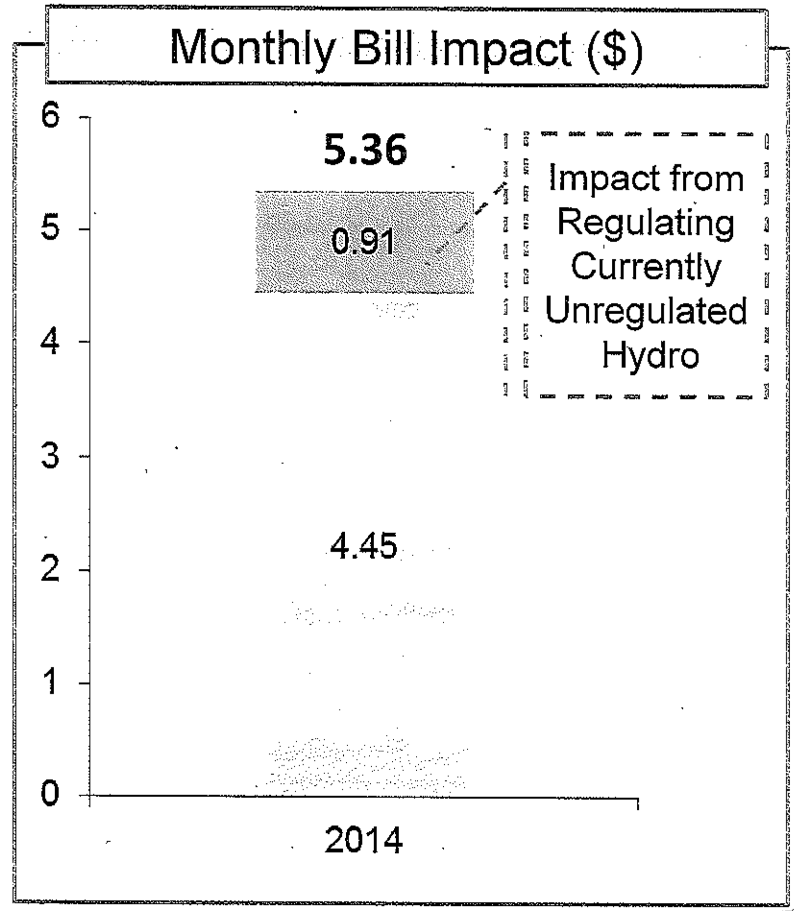
Policy Rationale

- **Improves regulatory efficiency** – results in an efficient regulatory process whereby all of OPG's non-contracted facilities would be rate regulated by the OEB
- **Aligns with regulatory changes** – the OEB is currently developing an Incentive Rate Mechanism (or IRM) for those of OPG's hydroelectric generation facilities which are currently regulated. This could be extended to all of OPG's rate-regulated hydro-electric generation facilities once the present amending regulation is approved and filed and the July 1, 2014 effective date passes
- **Increases price/revenue stability for customers and for OPG** – rate regulation is expected to remove some volatility that results from OPG's current exposure to market prices. This would improve predictability for customers and for OPG's cash flows
- **Properly values strategic assets** – improved revenues will ensure that OPG is able to adequately maintain these low-cost, renewable generation facilities which generate power at times when the system needs it most
- **Enables OPG investment in new generation** – OPG can use new revenue resources to grow its business, consistent with government policies, and to the benefit of ratepayers and the Province

Considerations

Rate Impact

- In September, 2013, OPG filed its application with the OEB for new rates effective January 1, 2014 for previously regulated hydro and July 1, 2014 for newly regulated hydro that, if approved in full, is expected to increase customer bills by ~$5/month
  - Based on previous filings, a decision is expected in the summer of 2014
- OEB regulation of OPG's unregulated hydro is estimated to make up ~$1/month of that bill impact
- Delivery and transmission rates are also expected to increase over this period, leading to further pressure on customer bills
- However, Ministry initiatives are underway to moderate bill impacts, including:
  - The recently-announced changes to the Green Energy Investment Agreement (GEIA) could lower consumer bills by up to $2 per month assuming that all the megawatts freed up are retired

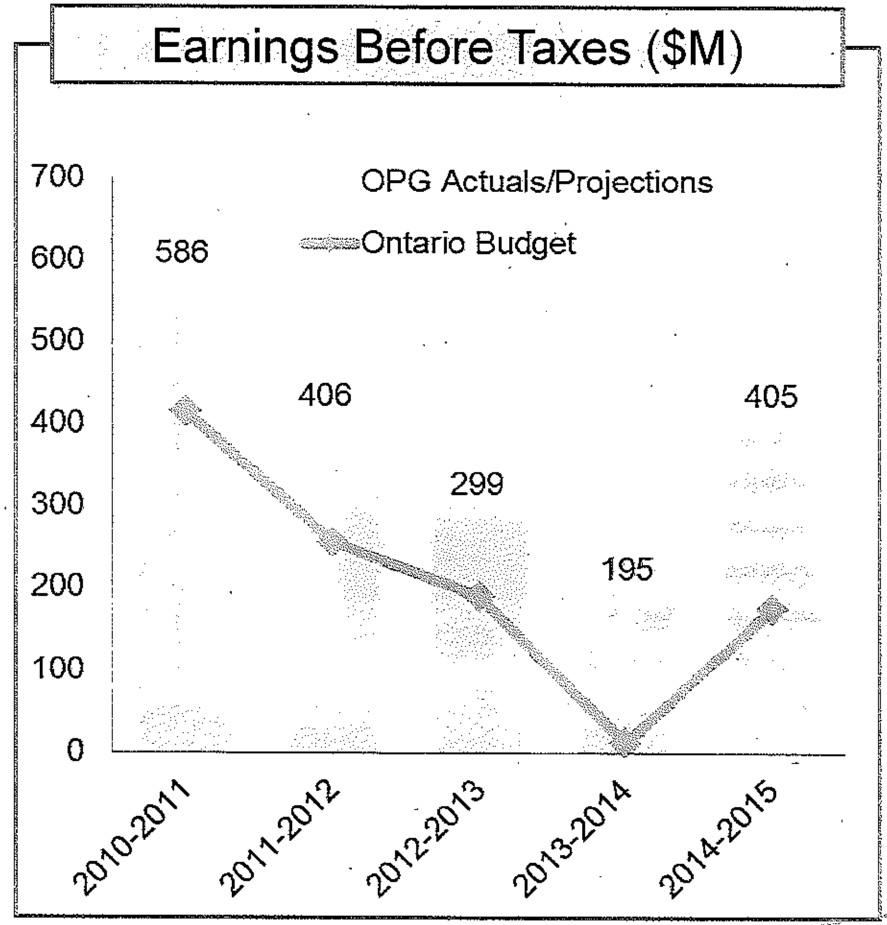


Ontario

Considerations

Fiscal Impact

- OPG has submitted a draft of its 2014-2016 business plan to the Ministry of Energy
- Dependent on OEB rate decisions, OPG's financial position is forecast to improve, based upon a combination of rate-regulation of currently unregulated hydro, as well as higher rates for OPG's existing portfolio of regulated assets
- This change is expected to strengthen the fiscal plan and assist in offsetting the impact of the Ontario Clean Energy Benefit (OCEB), which provides a 10 percent rebate to electricity customers



Considerations

Stakeholder Feedback

- The Ministry has consulted the IESO, OEB and OPG on drafting of the amendment
- Perspectives of these entities, together with a formal submission from the Ontario Clean Air Alliance (OCAA), and a staff level comments from the Association of Major Power Consumers in Ontario (AMPCO) in response to the plain language posting are summarized below

Stakeholder	Feedback	Staff Response
OPG	▪ Supportive of the amendment and seeking to parallel provisions for currently regulated assets	▪ Amendment aligns with current approach to rate-regulated assets
IESO	▪ The amended regulation should explicitly maintain existing market incentives for OPG to offer its output into the market in order to achieve efficient dispatch of resources. Estimate the value of maintaining incentives of at least $5M annually (See appendix)	▪ Ministry staff will consider adding language to MOA with OPG to highlight importance of preserving market incentives
OEB	▪ Supportive of this change as it will streamline the regulatory process	▪ n/a
OCAA	▪ Does not support the amendment as it represents wealth transfer from ratepayers to OPG to be used to subsidize nuclear operations	▪ OEB oversight will ensure all costs are prudently incurred and no cross subsidization occurs
AMPCO (staff level)	▪ Does not support the amendment as it will increase the burden on ratepayers. Did not feel it was given adequate opportunity to provide meaningful feedback	▪ Stakeholders will have an opportunity to intervene in rate hearings to ensure costs are prudently incurred

Elements of the Amending Regulation

- Ontario Regulation 53/05 was established in 2005 in order to prescribe OPG's baseload hydro and nuclear assets under Section 78.1 of the OEBA
- Ministry staff and LSB are working with Legislative Counsel, OPG and OEB to amend O. Reg. 53/05 to include OPG's 48 currently unregulated, non-contracted hydro-electric generation facilities, while aligning with the intent and structure of the regulation as it is currently worded
- Proposed amendments would include:
  - Listing the specific facilities which would be subjected to rate regulation as of July 1, 2014
  - Prescribing the assets as of July 1, 2014, ensuring OPG continues to receive payments based on IESO market rules up until this date
  - Establishing a variance account to recover any differences that result from any timing lag between the July 1st , 2014 rate-regulation date and the Board's first order (*note that OEB may move straight to a first order and this section is designed to enable, but not require recoveries as a result of timing differences*)
  - Establishing asset/liabilities values based upon audited financials at the time the assets are prescribed
- The regulation is still under development and LSB has not yet received a first draft; therefore certain aspects of the approach contained in this document are subject to change

Interconnections

- There are other interconnected OPG initiatives that may be impacted by the proposed regulatory amendment:

  1. **OPG Audit:** The Auditor General plans to release her audit of OPG's HR practices as part of this year's annual report, likely in early December
  2. **MOA Refresh**: Ministry staff are refreshing the OPG MOA to ensure it is updated to align with current government objectives
  3. **Business Development Opportunities**: OPG is exploring new business opportunities to leverage its expertise and provide nuclear energy consulting services outside of Ontario
  4. **FIT Large Procurement:** The Minister of Energy's June 12, 2013 direction to the OPA stated that the OPA shall permit OPG to compete in a new procurement process that will replace the Large FIT process
  5. **LTEP & Refurbishment Decisions:** As part of LTEP there may be an announcement to move forward with a coordinated refurbishment strategy. OPG will need strong leadership to drive this process

Timeline

- The following schedule shows the key steps for both the OEB proceeding for OPG's application for 2014/2015 rates (in ●) and the regulatory amendment (in ●)
- While a date has not been set, Ministry staff are planning for the November 25th LRC, in order to avoid implementation delays impacting OPG's application for 2014 and 2015 rates

Sept. 13
Plain Language Amendment Posted on the Regulatory Registry

Sept. 24
OPG Holds Stakeholder Consultation Session for Rate Application

OPG Submits Rate Application to OEB
Sept. 27

Oct. 28
Regulatory Registry Posting for Amendment Closes

1st OEB Conference Identifying Issues
Late Nov.

Nov.25
Present Regulation Amendment to LRC

OEB Conference Discussing Technical Elements
Late Jan.

Mar.
OEB Stakeholder Conference (*first opportunity for rate settlement*)

OEB Oral Hearings
Apr.

Jul.
OEB Decision on new rates

Communications Plan

Strategic Approach:

- Position the amended regulation as a necessity to ensure the long-term sustainability and reliability of Ontario's clean energy assets
- Work closely with OPG to develop materials for key stakeholders and comprehensive QA for media

Key Messages:

- OPG is a reliable and dependable supplier of electricity to the people of Ontario
- These hydroelectric facilities are critical to the operation of Ontario's electricity system, as they represent about 3,000 megawatts of reliable, clean generation that are able to respond to changing load demands in the province
- OPG's hydroelectric stations generate some of the most affordable electricity in the province
- Subjecting OPG's unregulated, non-contracted assets to regulation will improve operational planning for and maintenance for these important hydroelectric assets
- The OEB will determine the regulated rates for these hydroelectric assets

Next Steps

- Ministry staff are working towards the following next steps:
  - Response to OCAA Regulatory Registry submission
  - Policy to work through amendment drafting process with LSB and Legislative Counsel
  - Work toward November 25th LRC date including seeking all necessary approvals from Cabinet Office to make special arrangements to deal with truncated timelines

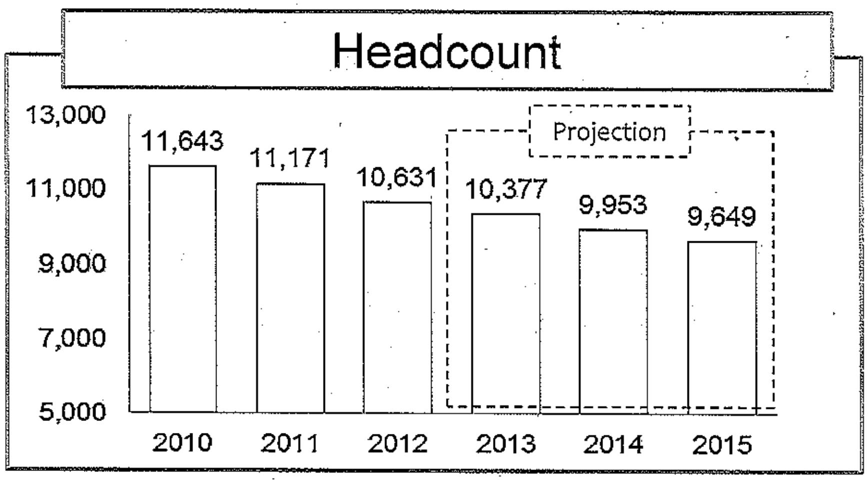
Ontario
MINISTRY OF ENERGY

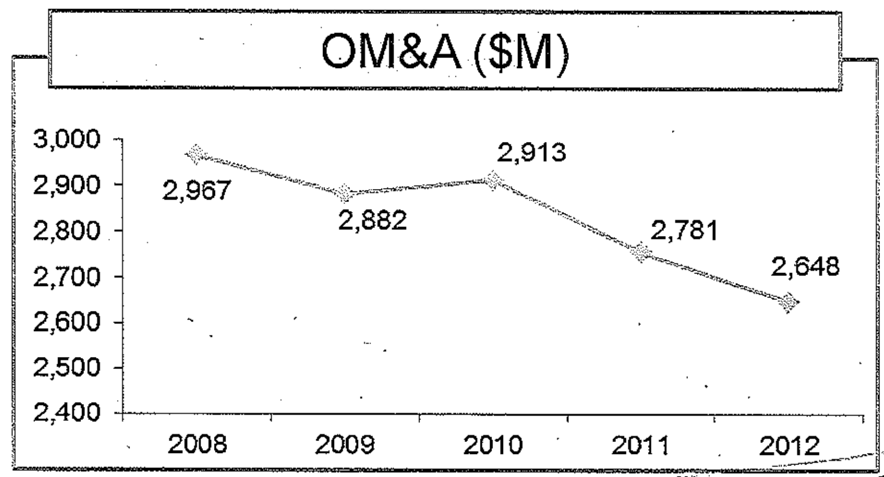
Appendix

OPG Sustainability

Current Business Transformation Initiative

- OPG has been actively pursuing cost savings through its Business Transformation Initiative, to enhance efficiency and reduce spending to moderate electricity prices
- The initiative includes headcount reductions of approximately 2,000 between 2011-2015, which is expected to result in cost savings of ~$700M between 2011 and 2015
  - By the end of September 2013, OPG headcount reductions had already reached ~1500
- KPMG was tasked with conducting a benchmarking review of OPG to uncover further efficiencies.
  - KPMG was satisfied with OPG's strategy and identified limited incremental savings that OPG plans to act upon





Ontario

Incentive Analysis

Value of Maintaining the Existing Market Incentives

- The IESO and OPG have undertaken some analysis on the benefits of maintaining the efficient dispatch of the soon-to-be prescribed hydro assets, and reported the following findings:

IESO Assumptions:

- At least $5M annually can be recovered by maintaining the existing market incentives
  - Represents the cost of replacement energy during peak hours, assuming OPG allocated its hydro resource output evenly throughout the day
  - Does not consider the potential increase in SBG-related costs (i.e. frequency of nuclear shutdowns and wind curtailment which would likely increase if OPG produced more during off-peak hours)
- Other factors that will increase the value of maintaining the existing market incentives include:
  - The $5M is likely to grow over time given our current surplus of energy. As the surplus decreases in future years the price spread between on- and off- peak is likely to increase
  - The price of natural gas is at an all-time low. If the price of gas rises then the $5M will increase as the resource most likely to offset hydro on peak is natural gas
  - The $5M does not take into account any start-up or day-ahead commitment costs associated with running the natural gas fleet differently
  - The lost efficiency in the Operating Reserve (OR) market has not been factored into the result

OPG Assumptions:

- OPG estimates the consumer benefit from incenting newly regulated assets to operate based upon market signals would be ~$18M annually.
  - Modeled a base case, assuming OPG maximizes earnings with a hydro incentive, relative to a case where no hydro incentive exists
  - With no incentive, instead of using the Pump Generating Station to store water when prices are low, PGS is not operated at all. Instead, all units are operated at maximum capacity to maximize revenues

Regulation Changes & Rational

Draft language from Leg Counsel

Section	Change	Rationale
0.1	**Addition of subsection (2)** (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.	Previously section 4 (3), moved to reflect the revisions made to section 4
2	**Addition of Paragraph 6** 6. As of July 1, 2014, the generation facilities of Ontario Power Generation that are set out in the Schedule	To ensure that all 48 facilities named are prescribed and fall under the purview of the Ontario Energy Board for the establishment of payment amounts for their electricity output
4	**Removed**	Section is spent and should be revoked
5.1	**Removed**	Spent and should be revoked
5.3	**Removed**	Spent and should be revoked

Regulation Changes & Rational

Draft language from Leg Counsel

Section	Change	Rationale
6 (2)	**Revision to Paragraph 7** 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 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	Removes reference to s. 5.1 which is revoked
6 (2)	**Revision to Paragraph 7.1** 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 iii. The financial commitments were prudently made.	Removes reference to s.5.3 which is revoked

Regulation Changes & Rational

Draft language from Leg Counsel

Section	Change	Rationale
6 (2)	**Addition of Paragraph 11** In making its first order under section 78.1 of the Act in respect of Ontario Power Generation Inc. on or after July 1, 2014, the following rules apply: i. Unless the Board makes an order that does so before July 1, 2014, 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	Ensures OPG would receive payment amounts in respect of the period between July 1, 2014 and the date (e.g. effective date) of the Board's first order, in respect of the newly prescribed facilities, in the event that the order is made after July 1, 2014. Ensures that OEB accepts the differences between the tax and accounting values of OPG s assets and liabilities, and the revenue requirement impact of any accounting and tax policy that OPG may have adopted
Schedule	**Addition of a Schedule** (List of all 48 newly prescribed facilities)	Names all 48 newly regulated facilities

Amendments to "O. Reg. 53/05", "Payments Under Section 78.1 of the Act" under the "Ontario Energy Board Act, 1998"

Current Regulation	Proposed Amendment	Rationale for Change
Section 0.1	**Addition of subsection (2)** (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.	Previously section 4 (3), revised and moved to reflect the revisions made to section 4.
Section 2	**Addition of Paragraph 6** 6. As of July 1, 2014, the generation facilities of Ontario Power Generation that are set out in the Schedule.	To ensure that all 48 facilities named are prescribed for the purposes of 78.1 of the OEBA, and fall under the purview of the Ontario Energy Board for the establishment of payments amounts for their electricity output

Current Regulation	Proposed Amendment	Rationale for Change
Section 4 **4.** (1) For the purpose of clause 78.1 (2) (a) of the Act, the amount of a payment that the IESO is required to make with respect to a unit at a generation facility prescribed under section 2 is, (a) for the hydroelectric generation facilities prescribed in paragraphs 1 and 2 of section 2, $33.00 per megawatt hour with respect to output that is generated during the period from April 1, 2005 to the later of, (i) March 31, 2008, and (ii) the day before the effective date of the Board's first order in respect of Ontario Power Generation Inc.; and (b) for the nuclear generation facilities prescribed in paragraphs 3, 4 and 5 of section 2, $49.50 per megawatt hour with respect to output that is generated during the period from April 1, 2005 to the later of, (i) March 31, 2008, and (ii) the day before the effective date of the Board's first order in respect of Ontario Power Generation Inc. O. Reg. 53/05, s. 4 (1). (2) Despite subsection (1), for the purpose of clause 78.1 (2) (a) of the Act, if the total combined output of the hydroelectric generation facilities prescribed under paragraphs 1 and 2 of section 2 exceeds 1,900 megawatt hours in any hour, the total amount of the payment that the IESO is required to make with respect to the units at those generation facilities is, for that hour, the sum of the following amounts: 1. The total amount determined for those facilities under clause (1) (a), for the first 1,900 megawatt hours of output. 2. The product obtained by multiplying the market price determined under the market rules by the number of megawatt hours of output in excess of 1,900 megawatt hours. O. Reg. 53/05, s. 4 (2). (2.1) The total amount of the payment under subsection (2) shall be allocated to the hydroelectric generation facilities prescribed under paragraphs 1 and 2 of section 2 on a proportionate basis equal to each facility's percentage share of the total combined output in that hour for those facilities. O. Reg. 269/05, s. 1. (2.2) Subsection (2.1) applies in respect of amounts payable on and after April 1, 2005. O. Reg. 269/05, s. 1. (3) For the purpose of this section, 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. 53/05, s. 4 (3).	**Removed**	Section is spent and should be revoked

Current Regulation	Proposed Amendment	Rationale for Change
Section 5.1 **5.1** (1) Ontario Power Generation Inc. shall establish a deferral account in connection with section 78.1 of the Act that records for the period up to the effective date of the Board's first order under section 78.1 of the Act the revenue requirement impact of any change in its nuclear decommissioning liability arising from an approved reference plan, approved after April 1, 2005, as reflected in the audited financial statements approved by the board of directors of Ontario Power Generation Inc. O. Reg. 23/07, s. 3. (2) 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.	**Removed**	Section is spent and should be revoked

Current Regulation	Proposed Amendment	Rationale for Change
Section 5.3 **5.3** (1) Ontario Power Generation Inc. shall establish a deferral account in connection with section 78.1 of the Act that records, for the period up to the effective date of the Board's first order under section 78.1 of the Act, the costs incurred and firm financial commitments made on or after June 13, 2006, in the course of planning and preparation for the development of proposed new nuclear generation facilities that are associated with any one or more of the following activities: 1. Activities for carrying out an environmental assessment under the *Canadian Environmental Assessment Act*. 2. Activities for obtaining any governmental licence, authorization, permit or other approval. 3. Activities for carrying out a technology assessment or for defining all commercial and technical requirements to, or with, any third parties. O. Reg. 27/08, s. 1. (2) 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. 27/08, s. 1.	**Removed**	Section is spent and should be revoked

Current Regulation	Proposed Amendment	Rationale for Change
Section 6(2) – Paragraph 7 7. The Board shall ensure that the balances recorded in the deferral accounts established under subsections 5.1 (1) and 5.2 (1) are 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 accounts, 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.	**Revision to Paragraph 7** 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.	Removes reference to spent s.5.1 which would be revoked

Current Regulation	Proposed Amendment	Rationale for Change
Section 6(2) – Paragraph 7.1 7.1 The Board shall ensure the balances recorded in the deferral account established under subsection 5.3 (1) and the variance account established under subsection 5.4 (1) are 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.	**Revision to Paragraph 7.1** 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.	Removes reference to spent s.5.3 which would be revoked

Current Regulation	Proposed Amendment	Rationale for Change
Section 6(2)	**Addition of Paragraph 11** In making its first order under section 78.1 of the Act in respect of Ontario Power Generation Inc. on or after July 1, 2014, the following rules apply: i. Unless the Board makes an order that does so before July 1, 2014, 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	Ensures OPG would receive payment amounts in respect of the period between July 1, 2014 and the date (e.g. effective date) of the Board's first order, in respect of the newly prescribed facilities, in the event that the order is made after July 1, 2014. Ensures that OEB accepts the differences between the tax and accounting values of OPG s assets and liabilities, and the revenue requirement impact of any accounting and tax policy that OPG may have adopted

Current Regulation	Proposed Amendment	Rationale for Change
Schedule	**Addition of Schedule** (list of all 48 newly prescribed facilities)	To ensure that all 48 facilities named are prescribed and fall under the purview of the Ontario Energy Board for the establishment of payments amounts for their electricity output
Commencement	**Addition of Commencement** This regulation comes into force on the later of July 1, 2014 and the day it is filed.	Ensures assets are prescribed under 78.1 of the OEBA, as of July 1, 2014.

Ontario

Executive Council
Conseil exécutif

Order in Council
Décret

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and concurrence of the Executive Council, orders that:

Sur la recommandation de la personne soussignée, le lieutenant-gouverneur, sur l'avis et avec le consentement du Conseil exécutif, décrète ce qui suit :

the appended Regulation be made under the *Ontario Energy Board Act, 1998*.

Recommended ______________________
Minister of Energy

Concurred ______________________
Chair of Cabinet

Approved and Ordered ______________________
Date

____
Lieutenant Governor

R.O.C./Décret (R)

CONFIDENTIAL
Until filed with the
Registrar of Regulations

REG2013.0402.e
4-BW

ONTARIO REGULATION

made under the

ONTARIO ENERGY BOARD ACT, 1998

Amending O. Reg. 53/05

(PAYMENTS UNDER SECTION 78.1 OF THE ACT)

1. Section 0.1 of Ontario Regulation 53/05 is amended by adding the following subsection:

(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.

2. Section 2 of the Regulation is amended by adding the following paragraph:

6. As of July 1, 2014, the generation facilities of Ontario Power Generation that are set out in the Schedule.

3. Sections 4, 5.1 and 5.3 of the Regulation are revoked.

4. (1) Paragraph 7 of subsection 6 (2) of the Regulation is amended by striking out the portion before subparagraph i and substituting the following:

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.,

(2) Paragraph 7.1 of subsection 6 (2) of the Regulation is amended by striking out the portion before subparagraph i and substituting the following:

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,

(3) Subsection 6 (2) of the Regulation is amended by adding the following paragraph:

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

    i. Unless the Board makes an order that does so before July 1, 2014, 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.

5. The Regulation is amended by adding the following Schedule:

SCHEDULE

1. Abitibi Canyon.

2. Alexander.

3. Aquasabon.

4. Arnprior.

5. Auburn.

6. Barrett Chute.

7. Big Chute.

8. Big Eddy.

9. Bingham Chute.
10. Calabogie.
11. Cameron Falls.
12. Caribou Falls.
13. Chats Falls.
14. Chenaux.
15. Coniston.
16. Crystal Falls.
17. Des Joachims.
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.

36. Otto Holden.

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.

Commencement

6. This Regulation comes into force on the later of July 1, 2014 and the day it is filed.

Communications Snapshot: OPG Sustainability Regulation

Communications Objectives

- Mitigate negative reaction to the proposed amendment to regulate Ontario Power Generation's (OPG's) remaining hydroelectric generation facilities that are presently unregulated and not under contract.
- Position the amended regulation as a necessity to ensure the long-term sustainability and reliability of Ontario's clean energy assets.

Context

- OPG is a government-owned business corporation, established under the Electricity Act, 1998 to generate electricity in Ontario. In 2012 the company generated approximately 59 percent of Ontario's primary electricity demand.
- OPG owns and operates 59 hydroelectric stations that are currently not regulated by the Ontario Energy Board (OEB). Eleven stations are under contract with the Ontario Power Authority.
- OPG's remaining 48 unregulated, non-contracted hydroelectric facilities are the last significant generators in Ontario that receive payment for their output based entirely on the Hourly Ontario Electricity Price (HOEP).
- HOEP is the wholesale market price for electricity in Ontario, and reflects the marginal cost of electricity based on variable costs of the price-setting generator. HOEP has been declining in recent years, which subjects OPG to cash flow volatility.
- The Ministry of Energy proposes amending Ontario Regulation 53/05 in order to prescribe OPG's remaining 48 hydroelectric generation facilities that are unregulated and not under contract.
- The regulatory process to establish and update rates for these assets would be determined by the OEB according to its processes and mandate, subject to Ontario Regulation 53/05.
- Subjecting these hydroelectric facilities to regulation by the OEB would improve OPG's ability to properly plan for and maintain these important hydroelectric assets.
- These facilities are critical to the operation of Ontario's electricity market, as they represent about 3,000 megawatts of reliable, clean generation that are able to respond to changing load demands in the province.
- Providing for the amendments now makes sense since the OEB is in the midst of updating its processes for regulating OPG's existing regulated assets.
- Customer bill impacts will depend on rates that are established by the OEB on the basis of its open and transparent rate setting process.
- This decision does not diminish the importance of Ontario's electricity market. Every day the IESO uses the market to meet the province's electricity needs in the most affordable way possible. Regulated and unregulated generators must compete in this market.

Target Audience

- Ratepayers
- Businesses and large industrial energy users
- Opposition parties
- Energy industry associations (AMPCO, EDA)

Key Messages

- OPG is a reliable and dependable supplier of electricity to the people of Ontario.
- These hydroelectric facilities are critical to the operation of Ontario's electricity system, as they represent about 3,000 megawatts of reliable, clean generation that are able to respond to changing load demands in the province.

- OPG's hydroelectric stations generate some of the most affordable electricity in the province.
- Subjecting OPG's unregulated, non-contracted assets to regulation would improve operational planning for and maintenance for these important hydroelectric assets.
- The OEB will determine the regulated rates for these hydroelectric assets.

Strategic Approach

- Work closely with OPG to develop materials for key stakeholders and comprehensive QA for media.

Issues Mitigation

Stakeholder	Issue	Response
Ratepayers	Regulating these assets will increase ratepayers' bills.	The OEB has a mandate to protect the interests of Ontario energy consumers by ensuring reasonable rates.
Businesses and large industry	Higher electricity bill will impact the bottom line for my business and may put me out of business.	Ontario offers incentive programs for large electricity consumers to help improve operation efficiency while helping to conserve electricity.
Businesses and large industry	Regulation of these hydroelectric facilities will close Ontario's energy market.	This decision does not diminish the importance of Ontario's electricity market. Regulated and unregulated generators must compete in this market.
Opposition	This rate increase is another way to generate revenue for the government.	OPG's regulated rate for its hydroelectric facilities will ensure they are able to continue to operate efficiently and provide clean electricity for Ontario.
Energy industry associations	Rate regulation will negatively impact Ontario's large energy customers.	Ontario offers incentive programs for large electricity consumers to help improve operation efficiency while helping to conserve electricity.