Ontario Power Generation

SPECIAL COMMITTEE OF THE BOARD ***OPG Confidential Exclusive***

Minutes of a meeting of the Special Committee of the Board of Directors of Ontario Power Generation, held by teleconference call, on June 26, 2017, at 7:00 a.m.

Present

George Lewis	Committee Chair
Bill Coley	Member
Lisa DeMarco	Member
Peggy Mulligan	Member
Yezdi Pavri	Member

being a quorum of the Directors of the Committee, and

Jeffrey Lyash	President and Chief Executive Officer
Catriona King	Vice President, Corporate Secretary
Carlton Mathias	Assistant Corporate Secretary

Regrets

Bernard Lord	Member

The following individuals were in attendance:

Ken Hartwick	Chief Financial Officer and SVP - Finance
Chris Ginther	Chief Administrative Officer
Carlo Crozzoli	SVP Corporate Business Development & Strategy
John Lee	Vice President, Treasurer
Jennifer Rowe	Senior Vice President, Corporate Affairs
Les Wong	Senior Counsel, OPG Law Division
William Orr	Fasken Martineau
Aaron Atkinson	Fasken Martineau

1. Constitution of Meeting/Approval of Agenda

Notice of the meeting having been given to all the members of the Special Committee and a quorum of the members being present, the Committee Chair declared the meeting regularly constituted for the transaction of business on June 26, 2017 at 7:00 am.

a) Approval of Agenda

Upon a motion duly made, seconded and unanimously agreed to, it was RESOLVED THAT:

- The agenda for the June 26, 2017 meeting of the Special Committee was approved.

b) Declaration of Conflicts of Interest

The Committee Chair asked if there were any real, potential, or perceived conflicts of interest to disclose and none were declared.

2. Minutes of Meeting/Actions Arising from the Minutes

Upon a motion duly made, seconded and unanimously agreed to, it was RESOLVED THAT:

- The minutes of the June 2, 2017 meeting of the Special Committee were approved.

There were no outstanding actions.

3. Update from Ministry Rate Mitigation Working Group Meeting

Mr. Hartwick gave a verbal update on the meetings of this Working Group. He noted that of importance to OPG, the primary focus was on four topic areas:

1. Timing for issuing the Regulations:
   - the majority of the Regulations under the Fair Hydro Plan Act (the "Legislation") are expected to be completed by June 30th. Based on what OPG has seen of these Regulations, they are consistent with OPG's expectations and provide expected detail/clarification of provisions of the Legislation
   - the remaining Regulations are expected to be completed in about the third week of July. In this second set of Regulations, OPG is carefully reviewing how the role of the Ontario Energy Board is defined in relation to its oversight of the activities of OPG to ensure that OPG is afforded the appropriate amount of independence
2. The management fee arrangements between OPG and the Financing Entity/Trust:
   - The Province is looking to reduce the fee rate as much as possible. OPG has emphasized that the management fee rate relates to the accounting criteria necessary for the debt to be consolidated to OPG's financial statements. The rate needs to be at market rate. This negotiation on the management fee rate is not unexpected
3. The dual role of the OEB: (a) opining on the IESO commitment in relation to the GA financing; and (b) oversight role relating to OPG's management fees.
   - In relation to (a), the OEB's role has been largely defined and is consistent with OPG expectations.
   - In relation to (b), the OEB appears to be pushing for more than just an accountant-type role, and towards having a prudence review role. However, OPG is asserting the need for the fees to be at market and that OEB oversight has to be limited to that which OPG set out at the beginning of this process. OPG has stated that this limited level of oversight is critical to the credit rating of the Financing Entity/Trust and the desired accounting.
4. The role of the Provincial Auditor:
   - OPG has met with the Provincial Auditor on two occasions: once with Ernst & Young, and once with just Mr. Hartwick and Mr. Mauti. The Provincial Auditor does not object to OPG's proposed accounting for the GA financing
   - The Provincial Auditor is concerned with the proposed accounting treatment by the IESO and whether it has the ability to set up a regulatory assest in respect of the GA financing. This may lead the Provincial Auditor to qualify her opinion on the Province's accounts when she gives her opinion
   - The Provincial Auditor recognizes the Government's jurisdiction in being able to set policy
   - Mr. Hartwick and Mr. Lyash are scheduled to meet with the Provincial Auditor on June 27th

The Committee asked a number of questions and sought several clarifications to which Mr. Hartwick responded. Responses given by Mr. Hartwick to questions asked included that:

- While it appears that the OEB doesn't want to be put in a position of role that is only "regulatory light", and OPG is sensitive to this, the accounting criteria are clear in respect of the need for market rates for OPG's fees
- The financial advisors, RBC, CIBC and Goldman Sachs are OPG's financial advisors and are conducting themselves as such in relation to their partipaction in discussions with the Province about management fees and the subordinated debt. They are also being helpful in connection with providing data sets needed

5. Update on the Fair Allocation Amount

Mr. Crozzoli gave a verbal update on the Province's requirement to calculate the Fair Allocation Amount (FAA). Mr. Crozzoli began by re-capping the Province's obligations under the Legislation. In addition, Mr. Crozzoli noted that OPG has all along understood that supporting the calculation of the FAA would be an independent study conducted on behalf of the Province, commissioned by the Province's legal counsel.

Mr. Crozzoli advised that in respect of calculating the FAA, OPG has been told by the Province that it is considering three options:

(i) *Complete and provide an independent report by Navigant Consulting.* This is OPG's first preference. However, the Province has indicated that it has concerns in relation to losing solicitor-client privileges in respect of this option

(ii) *The Province will rely on its own internal resource to do the calculations.* OPG's view is that this is feasible but it will not carry the same persuasive weight as a report by Navigant Consulting. The calculation may also require an attestation or certification from the Minister.

(iii) *Taking a shorter view of the FAA in that the FAA be established for only two-year time periods.* OPG does not believe that this will not be effective for the GA refinancing objectives of the Province. Rating agencies will focus on the Provincial Guarantee and much less on the remainder of the structure. Additionally, this will negatively impact the overall rating, market interest, the cost of debt and the desired accounting treatment.

Mr. Crozzoli stated that OPG has made its views as summarized above very clear to the Province. He said that the Province seems inclinded to proceeding with option (ii).

The Committee asked a number of questions and sought several clarifications to which Mr. Crozzoli, Mr. Lyash, Mr. Hartwick and Mr. Ginther responded. Responses given by Messrs. Crozzoli, Lyash, Hartwick and Ginther to questions asked included that:

- It is possible for OPG to speculate on the costs of options (ii) and (iii) but it is not something that OPG has done
- OPG believes it is possible for the Province to proceed with option (ii) since the Province has all the necessary data, it has reasonable modeling capabilities and it can lean on the work already done by Navigant Consulting
- If the Province seriously considers proceeding with option (iii), OPG has advised that because of the major impacts to the program of this option, it would be less expensive for the Province to finance the program through the Ontario Financing Authority rather than OPG

- In respect of the work that OPG management continues to do in respect of the GA refinancing, other than increased work load for those individuals working on the initiative, there are no impacts to OPG's business
- OPG continues its work on staffing for the operating structure for the Financing Entity/Trust. OPG management will provide an update on the operating structure to the Committee at the next meeting (*)
- Very little of any meaningful substance in relation to the GA refinancing was raised in OEB Staff or in Intervenor legal arguments in OPG's rate case currently before the OEB

The Committee was clear in indicating its view, from OPG's perspective, against the Province proceeding with option (iii), for all of the same reasons that OPG management has set out. The Committee Chair confirmed that Mr. Hartwick and the management team has kept him apprised of the FAA issue between Committee meetings.

The Committee is comforted that the Financial Advisors are indeed acting as OPG's advisors. The Committee also expressed that it takes a lot of comfort from the fact that OPG is taking an active and proactive role as a principal in the discussions with the Province.

6. <u>Next Meeting – July 7th: 7:00 – 8:00 a.m.</u>

7. <u>Termination</u>

The meeting terminated at 7:30 a.m.

Special Committee Chair

Vice President, Corporate Secretary

Asterisk (*) denotes action to be taken