



Canadian Nuclear  
Safety Commission

Commission canadienne  
de sûreté nucléaire

# Record of Proceedings, Including Reasons for Decision

In the Matter of

Applicant Ontario Power Generation Inc.

Subject Application to Amend the Nuclear Power  
Reactor Operating Licence for the Pickering  
Nuclear Generating Station B to Adopt a New  
Licence Format and Licence Conditions  
Handbook

Hearing Date June 22, 2012

## **RECORD OF PROCEEDINGS**

Applicant: Ontario Power Generation Inc.

Address/Location: 889 Brock Road, P82-6E2, Pickering, Ontario L1W 3J2

Purpose: Application to amend the Nuclear Power Reactor Operating Licence for the Pickering B Nuclear Generating Station to adopt a new licence format and Licence Conditions Handbook

Application received: January 27, 2012

Date of hearing: June 22, 2012

Location: Canadian Nuclear Safety Commission (CNSC) 280 Slater St., Ottawa, Ontario

Members present: M. Binder, Chair

Secretary: K. McGee

Recording Secretary: M. Young

**Licence: Amended**

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## **Introduction**

1. Ontario Power Generation Inc. (OPG) has applied to the Canadian Nuclear Safety Commission<sup>1</sup> (CNSC) for an amendment to the Nuclear Power Reactor Operating Licence for its Pickering Nuclear Generating Station B (NGS-B) located in Pickering, Ontario. The current licence, PROL 08.19/2013, expires on June 30, 2013.
2. OPG requested a licence amendment to adopt the new licence format currently in use for the Pickering NGS-A, which was approved by the Commission during the last licence renewal in 2010. The licence reform aims to provide a simpler licence with less administrative burden for the Commission and greater clarity of requirements which are being captured in the associated Licence Conditions Handbook (LCH).
3. This amendment is considered a step towards fulfilling the Commission's request to consolidate the Pickering NGS-A and NGS-B licences. Having the two licences under the same format would significantly simplify the next licence renewal and consolidation in 2013, allowing members of the public and the Commission to focus on particular matters of interest in a consistent manner such as: assessments and conclusions related to each Safety and Control Area (SCA), the continued operations of units 5 to 8, aging management of the nuclear facility and the proposed decommissioning strategy.

## Issue

4. In considering the application, the Commission was required to decide, pursuant to subsection 24(4) of the *Nuclear Safety and Control Act*<sup>2</sup> (NSCA):
  - a) if OPG is qualified to carry on the activity that the amended licences would authorize; and
  - b) if in carrying on that activity, OPG would make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed.

## Hearing

5. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission to review the application. The Commission, in making its decision, considered information presented for a hearing held on June 22, 2012 in Ottawa, Ontario. During the hearing, the Commission considered written submissions

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<sup>1</sup> The *Canadian Nuclear Safety Commission* is referred to as the "CNSC" when referring to the organization and its staff in general, and as the "Commission" when referring to the tribunal component.

<sup>2</sup> Statutes of Canada (S.C.) 1997, chapter (c.) 9.

from CNSC staff (CMD 12-H113 and CMD 12-H113.A) and OPG (CMD 12-H113.1). Written interventions from the public were permitted, but no interventions were received.

## **Decision**

6. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Proceedings*, the Commission concludes that OPG has met the conditions of subsection 24(4) of the NSCA. Therefore,

the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, amends the Nuclear Power Reactor Operating Licence, PROL 08.19/2013 issued to Ontario Power Generation Inc. for its Pickering Nuclear Generating Station B located in Pickering, Ontario. The amended licence, PROL 08.20/2013, remains valid until June 30, 2013.

7. The Commission includes in the licence the conditions as recommended by CNSC staff in CMD 12-H113. The Commission also accepts CNSC staff's recommendation regarding the delegation of authority in the LCH. The Commission notes that CNSC staff can bring any matter to the Commission as applicable. The Commission directs CNSC staff to inform the Commission on an annual basis, as part of the annual report on power reactors, of any changes made to the LCH.

## **Issues and Commission Findings**

### *Proposed New Licence*

8. CNSC staff stated that the proposed licence amendments are administrative in nature and that all licence conditions have been reorganized and reworded to align with the new licensing formant. CNSC staff explained that it is primarily a change to the format of the licence and noted that no physical change would be done to the nuclear facility and that there were no changes to the licensed activities. CNSC staff stated that, as the licence amendment was administrative in nature, CNSC staff did not perform any assessment of the licensee's performance or the licensee's governing documents for the purpose of its review of the request. CNSC staff noted that OPG has been operating with the same governing documents, as currently required under the Pickering NGS-A and NGS-B licences, and that OPG's performance has been reported to the Commission on a yearly basis in public meetings of the Commission.
9. CNSC staff stated that the proposed Pickering NGS-B PROL strictly follows the Pickering NGS-A PROL and contains clear and concise licence conditions, grouped by SCA, which:
  - identify programs that shall be implemented and maintained by the licensee;

- make reference to applicable Canadian Standards Association (CSA) standards or CNSC regulatory documents; and
  - summarize tables of operational limits for various aspects of the operation of the nuclear facility.
10. CNSC staff outlined the format and licence conditions of the new licence and explained the changes compared to the existing licence. CNSC staff described the sections of the licence, including Licensed Activities, Explanatory Notes, Nuclear Facility – Specific, and the Licence Appendix, as well as the safety and control areas. CNSC staff stated that the following 14 safety and control areas are covered in the new licence:
- Management System;
  - Human Performance Management;
  - Operating Performance;
  - Safety Analysis;
  - Physical Design;
  - Fitness for Service;
  - Radiation Protection;
  - Conventional Health and Safety;
  - Environmental Protection;
  - Emergency Management and Fire Protection;
  - Waste Management;
  - Security;
  - Safeguards; and
  - Packaging and Transport.
11. CNSC staff further stated that the associated Pickering NSG-B LCH strictly follows the Pickering NGS-A LCH and provides, for each licence condition:
- a preamble explaining the regulatory context;
  - compliance verification criteria;
  - appropriate delegation of authority to staff (consent), when applicable;
  - reference to licensee’s documentation with version control;
  - reference to codes and standards with version control;
  - reference to CNSC regulatory documents with version control;
  - implementation dates with transition measures when introducing new codes, standards, or regulatory documents; and
  - specific commitments made by the licensee in their application for licence renewal.
12. CNSC staff stated that the proposed licence requirements under the new licence format and its associated LCH were equivalent to, and in some instances even more stringent than, the requirements under the current Pickering NGS-B licence. CNSC staff noted that there is a greater level of clarity and detail under the LCH, and that the Commission earlier approved this new format for Pickering NGS-A.

13. CNSC staff presented information regarding the delegation of authority in the proposed licence. CNSC staff recommended that, where the licence contains a condition that permits or constrains a particular activity by means of a phrase such as “or a person authorized by the Commission”, the Commission delegate the authority to staff. CNSC staff noted that the LCH explicitly stipulates which CNSC staff positions are regarded as the delegated authority. CNSC staff further noted that the “person authorized by the Commission” would only give approvals to the extent that the basis upon which the licence was issued by the Commission remains valid. CNSC staff explained that any change of a magnitude where it is not clear that the licensing basis is maintained would require the approval of the Commission.
14. CNSC staff stated that the delegation of authority would be unchanged from the existing licence.
15. CNSC staff recommended that the incumbents of the following positions be regarded as a “person authorized by the Commission”, as set out in the LCH:
  - Director, Pickering Regulatory Program Division;
  - Director General, Directorate of Power Reactor Regulation; and
  - Executive Vice-President and Chief Regulatory Operations Officer.

For licence condition 14.2 only:

- Director, International Safeguards Division
  - Director General, Directorate of Security and Safeguards;
  - Vice-President, Technical Support Branch.
16. Based on the provided information and above considerations, the Commission accepts the licence format and licence conditions as recommended by CNSC staff. The Commission also accepts CNSC staff’s recommendation regarding the delegation of authority in the LCH. The Commission notes that CNSC staff can bring any matter to the Commission as applicable. The Commission directs CNSC staff to inform the Commission on an annual basis, as part of the annual report on power reactors, of any changes made to the LCH.

#### *Aboriginal Consultation*

17. The common law duty to consult with Aboriginal groups applies when the Crown contemplates actions that may adversely affect established or potential Aboriginal and treaty rights. The CNSC, as an agent of the Crown and as Canada’s nuclear regulator, recognizes and understands the importance of consulting and building relationships with Canada’s Aboriginal peoples. The CNSC ensures that all its licensing decisions under the *Nuclear Safety and Control Act* and decisions pertaining to environmental assessments under the *Canadian Environmental Assessment Act* uphold the honour of the Crown and consider Aboriginal peoples’ potential or established Aboriginal or treaty rights pursuant to section 35 of the *Constitution Act, 1982*.

18. CNSC staff provided information regarding the consultation activities it undertook as a result of the licence amendment application. Upon receipt of the licence amendment request from OPG, CNSC staff conducted research that led to a preliminary list of Aboriginal groups that may have an interest in the licensing decision. CNSC staff stated that they sent notification letters on April 2, 2012 to the identified groups, which included the following information:
  - details regarding the licence application;
  - how the public and Aboriginal groups can participate through written intervention;
  - relevant or important dates related to the hearing process; and
  - CNSC contact details for inquiries and questions.
19. CNSC staff further stated that they encouraged these groups to advise the CNSC of views they may have in relation to this licence amendment request and to participate in the Abridged Hearing through written intervention. CNSC staff noted that they followed up with phone calls to ensure the letters were received and offered to answer questions.
20. CNSC staff stated that, given that the proposed licence amendment is administrative in nature and that OPG did not request to make any physical changes to the nuclear facility, the licence amendment is not expected to cause adverse impacts to any potential or established Aboriginal or treaty rights.
21. Based on this information, the Commission acknowledges the efforts made in relation to the CNSC's obligations regarding Aboriginal consultation and the Legal Duty to Consult. The Commission is satisfied that the consultation process followed is adequate.

### ***Application of the Canadian Environmental Assessment Act***

22. Before making a licensing decision, the Commission must be satisfied that all applicable requirements of the *Canadian Environmental Assessment Act*<sup>3</sup> (CEAA) have been fulfilled.
23. CNSC staff reported that it had completed an Environmental Assessment (EA) determination. CNSC staff stated that there was no requirement for an EA pursuant to paragraph 5(1)(d) of the CEAA.

### **Conclusion**

24. The Commission has considered the information and submissions of OPG and CNSC staff and is satisfied that OPG is qualified to conduct the activities authorized by the

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<sup>3</sup> S.C. 1992, c. 37.



requested licence amendment and will, in carrying out those activities, make adequate provision for the protection of the environment and the health and safety of persons and the maintenance of national security.

25. The Commission acknowledges the efforts made in relation to the CNSC's obligations regarding Aboriginal consultation and the Legal Duty to Consult. The Commission is satisfied that the consultation process followed is adequate.
26. The Commission is satisfied that all applicable requirements of the CEAA have been fulfilled.
27. The Commission therefore amends, pursuant to section 24 of the *Nuclear Safety and Control Act*, the operating licence PROL 08.19/2013 issued to Ontario Power Generation Inc. for its Pickering Nuclear Generating Station B located in Pickering, Ontario. The amended licence, PROL 08.20/2013, remains valid until June 30, 2013.



Michael Binder  
President,  
Canadian Nuclear Safety Commission

JUN 22 2012

Date