



VIA EMAIL

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October 29, 2024

Kenton McMeekin
Ontario Power Generation Inc
889 Brock Road
Pickering, Ontario L1W 3J2

Erica Wheatley
Ontario Power Generation Inc
889 Brock Road
Pickering, Ontario L1W 3J2

**Re: Requests for Confidentiality in 24-H3 — Ontario Power Generation’s
Application for a Licence to Construct a BWRX-300 Reactor at the Darlington
New Nuclear Project**

Dear Kenton McMeekin and Erica Wheatley,

The Commission has considered Ontario Power Generation’s (OPG) requests^{1,2,3,4} for confidentiality over certain documents in OPG’s Application for a Licence to Construct a BWRX-300 Reactor at the Darlington New Nuclear Project. These requests were made pursuant to Rule 12 of the [Canadian Nuclear Safety Commission Rules of Procedure \(the Rules\)](#).

Fundamentally, Commission proceedings follow the open court principle as access to quasi-judicial proceedings is essential to the administration of justice.⁵ The Rules specify what the Commission must consider, including whether the protection of the information outweighs in importance the public interest in public hearings and disclosure of evidence, and whether the

¹ [Request for Confidentiality of Material Submitted in Relation to NK054-CORR-00531-10740](#), OPG, July 26, 2024.

² [Request for Confidentiality of Material Submitted in Relation to CMD #24-H3.1](#), OPG, July 26, 2024.

³ [Request to Protect Confidential Information in the Matter of OPG Confidential DNNP Submission Package #6\(b\) Construction and Commissioning Program Confidential Deliverables in Support of the Licence to Construct Application for the CNSC Review](#), OPG, March 28, 2023.

⁴ [Request for Confidentiality of Material Submitted in Relation to CMD #24-H3](#), OPG, July 26, 2024.

⁵ See *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41 at paragraph 52.

measures are designed so as not to affect the public nature of the proceeding except to the extent necessary to adequately protect information.⁶

On October 29, 2024, the Commission issued a partial Record of Decision, protecting the documents it was satisfied contained information that pertained to national or nuclear security, per subrule 12(a) of the Rules.

The Commission determined that the information OPG provided was insufficient to justify protection of the rest of the documents within the CNSC public hearing process. These documents are still under consideration by the Commission, and OPG is invited to supply additional justification for its request for these remaining documents.

The Commission recognizes that recent changes in its process for reviewing confidentiality requests supports taking extra steps to ensure fairness, and the Commission will provide a further opportunity for intervenors in the confidentiality process to review and comment on these submissions.

CNSC staff has supplied its comments on OPG's requests, which are attached in this package for your review.

Opportunity to supplement rationale

If OPG would like to continue requesting confidentiality over the relevant documents, please complete the attached form and file it with the Commission Registry by **Wednesday, November 6, 2024**. OPG may also make any change to its request at the same time.

Next steps

Should OPG provide a response by **November 6, 2024**, it will be shared with the public as part of the confidentiality process, and specifically sent to those parties who intervened in the process. Intervenors will be provided one week to submit any further comments. At that time, all submissions will be provided to the Commission for a decision.

Should the Commission determine that any of the information in question does not meet the legal requirements for protection under the confidentiality process, OPG may request to remove the document from the record. However, the Commission may determine that it requires the document to do its work and maintain it on the public record.⁷

⁶ *Canadian Nuclear Safety Commission Rules of Procedure*, section 12(2).

⁷ The Commission is not bound by the legal rules of evidence (Rules, section 4)

Please provide your response to interventions@cnsccsn.gc.ca by **Wednesday, November 6, 2024**.

Should you have any questions, please do not hesitate to contact the Commission Registry.

Sincerely,

Michael Young

on behalf of

Candace Salmon
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Legal and Commission Affairs Branch
Canadian Nuclear Safety Commission
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