



## **Oral presentation**

**Written submission from the  
Pickering Harbour Company  
Limited, Frenchman's Bay  
Harbour & Marine Service  
Company Limited**

In the Matter of the

**Ontario Power Generation Inc.**

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Application to extend the operation of  
Pickering Nuclear Generating Station  
Units 5 to 8 until December 31, 2026

**Commission Public Hearing**

**June 2024**

## **Exposé oral**

**Mémoire de  
Pickering Harbour Company  
Limited, Frenchman's Bay  
Harbour & Marine Service  
Company Limited**

À l'égard d'

**Ontario Power Generation Inc.**

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Demande visant à prolonger l'exploitation  
des tranches 5 à 8 de la centrale nucléaire de  
Pickering jusqu'au 31 décembre 2026

**Audience publique de la Commission**

**Juin 2024**

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April 29, 2024

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Canadian Nuclear Safety Commission  
280 Slater Street,  
P.O. Box 1046, Station B  
Ottawa, Ontario  
K1P 5S9

Dear Sirs:

Re: Pickering Harbour Company Limited ("**PHC**"), Frenchman's Bay Harbour & Marine Service Company Limited ("**FBHMSC**") and Ontario Power Generation ("**OPG**") application for licence renewal to the Canadian Nuclear Safety Commission ("**CNSC**") for the Pickering Nuclear Power Generating Station ("**PNPG**") for Reactors 5 to 8 ("**R5/8**")  
Our File No.: 31403

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Further to our request for intervenor status as set out in our letter of April 26, 2024, this will confirm that we represent the Frenchman's Bay Harbour & Marine Service Company Limited and its subsidiary company, Pickering Harbour Company Limited. PHC is the owner of the following lands:

- a. 591 Liverpool Road Pickering, comprised of approximately 5.8 acres of lands with a boatyard, parking and administrative offices (the "**591 Lands**");
- b. 600 Liverpool Road, Pickering, comprised of approximately 1 acre of lands with a harbourmaster building and event centre together with a marina/waterlot containing with approximately 250 boatslips;
- c. the majority of the waterlot (including waterbed) comprising Frenchman's Bay in Pickering Ontario;
- d. approximately 2.5 acres of lands on the spit at the east harbour entrance to Frenchman's Bay;
- e. approximately 34 acres of waterlot and lakebed in Lake Ontario at the harbour entrance to Frenchman's Bay.

\*Services provided through a Professional Corporation

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As advised in our request for intervenor status, our clients would like to advise the CNSC that in principle, they support the extension of the Power Reactor Operating Licences (“**PROL**”) and the re-furbishment plans for Reactors 5 to 8. However, our clients feel that there should be some conditions imposed on OPG with respect to the licence renewal.

PHC was originally incorporated by an act of parliament in 1843 and was granted the patent to Frenchman’s Bay and portions of Lake Ontario, including the waterbed, for the purposes of developing and operating a harbour and ancillary operations. Over time the business of PHC devolved to more modern marina and boatyard operations.

In 2001, as part of a re-development of part of its landholdings as a residential townhouse site, PHC purchased the lands at 591 Liverpool Road for its administrative offices, boatyard and winter boat storage business and for future development purposes. Currently almost all these lands are subject to an exclusion zone in favour of the Pickering Station which zone restricts the construction of any “permanent dwelling” on the 591 Liverpool Road lands.

Class I Nuclear Facilities Regulations, SOR/2000-204, defines exclusion zones as:

*“a parcel of land within or surrounding a nuclear facility on which there is no permanent dwelling and **over which a licensee has the legal authority to exercise control.**”*  
**(emphasis added)**

Ontario Power Generations licence at PROL LC 1.4 for the PNPG provides that:

*“the Licencee shall control the use and occupation of **any land within the exclusion zone**”*  
**(emphasis added)**

We note that OPG’s “Preliminary Decommissioning Plan – Pickering Generating Stations A & B, Document P-Plan 00960-0001 at page 21, states as follows:

*“seventeen small parcels of lands, **which have not been acquired by OPG,** (emphasis added) lie within the 914 metre, 3000 foot exclusion zone”.*

Our clients’ lands at 591 Liverpool Road are in excess of 5 acres and therefore this land is not a small parcel. However more importantly the above noted statement in the Preliminary Decommissioning Plan is a de facto acknowledgment by OPG that it is not in compliance with the requirements of the regulation SOR/2000-204 and the terms of its Power Reactors Operating Licence.

When our client acquired title to the lands at 591 Liverpool Road there was nothing on title that provided any notice of the exclusion zone and nothing regarding the exclusion zone was available to our clients’ solicitors in undertaking the standard due diligence in the acquisition of the lands. In fact, our clients did not become aware of this restriction until almost 2015, when PHC seriously began preparations for the development of the lands at 591 Liverpool Road and started undertaking informal discussions with City staff about such development.

The City of Pickering’s Chief Administrative Officer at that time, Tony Prevedel, wrote the Power Reactor Site Supervisor at the Commission on November 8, 2016, and requested that the exclusion radius be reduced to exclude the 591 Lands and in the letter stated the following:

*“ These lands hold significant opportunity for residential and commercial growth, currently underutilized due to the restraints inherent in the Exclusion Zone boundary..”*

The Directorate of Power Reactor Regulation responded in July 2017 and advised that the City would have to make the request to reduce the exclusion zone directly to OPG, which Mr. Prevedel did in a December 19<sup>th</sup>, 2018 letter to senior staff at OPG. As far as we are aware no formal response from OPG was ever forthcoming from that request.

Our client's major re-zoning application for the 591 Lands was rejected by the City in 2020 due to concerns with density and height of the proposed development, but one of its rationales for the refusal was that the application was “premature” in any event due to the exclusion zone encumbering the lands. Our client has appealed the City's decision and our client and the City have agreed to defer the hearing of the appeal while they continue to review their positions on the size and scope of re-development and future of Frenchman's Bay at large.

We note that the 3000 foot exclusion zone limit has not been applied uniformly in Ontario. The exclusion zone limit at the Darlington Nuclear Generating Station is 500 meters due in part to the fact that OPG did not own or control certain lands outside the 500 meter radius. Regulation RD 337 provides criteria, including subjective criteria, for OPG to consider when determining an exclusion zone, including land usage needs.

The current exclusion zone was created when the PNPG first commenced operation in the 1970s and was based on a scientific calculation and consideration of the criteria for the calculation of the zone, and this initial calculation was based on the proposed 8 reactors fully operating as electricity generating facilities. Reactors 1 through 4 inclusive are the closest reactors to our client's lands, and all of these four reactors will be in various stages of shutdown as of December 31, 2024. We understand from the supplementary materials provided by OPG there are 4 states in the shutdown process ending with the stage 4 de-watering and de-fueling stage.

Our client's greatest concern is that notwithstanding the changes in the power station and the reduction of the number of operational reactors by 50%, including the 4 closest to our client's lands, OPG will simply attempt to retain the existing radius of the exclusion zone until the end of the extended decommissioning periods notwithstanding any reduction in the number of operational reactors, changes in safety enhancements at the station or the status of the reactors. That is why, in our letter requesting intervenor status, we requested that OPG be required to provide the following information before CNSC provides any decision on the PROL extension for Reactors 5 to 8, namely:

1. a full and detailed explanation with data on the initial calculation of the inclusionary zone and the underlying assumptions and criteria. In addition, we would request that OPG be required to provide all historical information relating to the initial calculation in accordance with Regulation RD 337 or its predecessor regulation, and the identification of the owners affected by the exclusion zone;
2. confirmation whether the Preliminary Decommissioning Plan which we understand will be updated, includes any re-calculations of the inclusionary zone dimensions given that reactors 1 through 4 will be taken offline, and if so, what milestones will be used for such re-calculation;
3. what is the timing of the milestones referred to in 2 above as they relate to Reactors 1 to 4 and how do these relate or tie into the 4 states referred in its supplementary report;

4. what time frames are associated with each of the 4 stages or states referred to in the supplementary report; and
5. is there a mandatory review of any inclusionary zone where nuclear facilities are taken off-line and permanently shut down.

Our client is requesting that the Commission use its regulatory authority under the Nuclear Safety and Control Act to require that OPG address its non-compliance with respect to the exclusion zone affecting our client's lands as a condition of the renewal of the licence for the Pickering Station.

If CNSC, after reviewing submissions on all of the foregoing including OPG, determines that the current exclusionary zone cannot be reduced after 2024 for safety reasons, or that any reduction will take time and be tied to the four stages referred to above when reactors 1 through 4 are shutdown, then we submit that this will require an alteration to the existing or extended PROL in that OPG should be required to affirm that it does not control all the lands within the inclusionary zone as currently required by its PROL and that any affected owner is entitled to compensation for the continued imposition of the exclusionary zone on its/his/her/their lands. In addition, in such instance, the PROL should include a mandatory and expedited process for the determination of any such compensation for the affected parcels of lands.

This will confirm our clients' request for a ruling on the provision of the information set out in sections 1 to 5 above.

Our clients hereby request the opportunity to make an oral presentation at the hearings scheduled for the week of June 18, 2024.

Yours truly,  
**SCHNEIDER RUGGIERO SPENCER MILBURN LLP**

*David R. Spencer\**

Per: David R. Spencer  
Partner through David R. Spencer Professional Corporation

*\*Executed pursuant to the Electronic Commerce Act, 2000*

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