

We agree with you that all drafts drawn under, and in compliance with the terms of this Credit will be duly honoured, if presented at the counters of **[insert the financial institution and financial institution's address, which must be located in Toronto, Ontario]** at or before 5:00 pm (EST) on **[insert the expiry date]**.

This irrevocable standby letter of credit is subject to the International Standby Practices ISP 98, International Chamber of Commerce publication No. 590 and, as to matters not addressed by the ISP 98, shall be governed by the laws of the Province of Ontario and applicable Canadian federal law, and the parties hereby irrevocably agree to attorn to the non-exclusive jurisdiction of the courts of the Province of Ontario.

— END —

[Insert name of Financial Institution]

By: _____
Authorized Signatory

Draft

EXHIBIT B
FULL AND FINAL MUTUAL RELEASE

1. In consideration of the payment of the sum of TEN MILLION DOLLARS (\$10,000,000.00) to Eastern Power Limited, the covenants contained in this Full and Final Mutual Release, and other consideration, the receipt and sufficiency of which is hereby acknowledged,

EASTERN POWER LIMITED ("Eastern Power")

hereby releases and discharges

ONTARIO ELECTRICITY FINANCIAL CORPORATION ("OEFC"), and

each of its affiliated corporations, trusts, partnerships and other entities, and each of the respective past, present and future directors, trustees, officers, employees and agents of **OEFC** or any such affiliate (collectively the "**Additional OEFC Releasees**")

and

OEFC

hereby releases and discharges

Eastern Power, and

each of its affiliated corporations, trusts, partnerships and other entities, and each of the respective past, present and future directors, trustees, officers, employees and agents of **Eastern Power** or any such affiliate (collectively the "**Additional Eastern Power Releasees**")

of and from all claims and demands whatsoever, presently known or unknown, which **Eastern Power** or **OEFC**, as the case may be, ever had, now has or may hereafter have, arising from or in connection with or in consequence of any cause, matter or thing existing up to the date of this Full and Final Mutual Release, including, without limiting the generality of the foregoing, all claims and demands arising from or in connection with a power purchase agreement between **Eastern Power** and **OEFC** for the purchase of electricity generated from **Eastern Power's** site in the Keele Valley including all claims and demands which are or could have been asserted in a proceeding in the Ontario Superior Court bearing Court File No. 98-CV-152604 and a proceeding in the Court of Appeal for Ontario bearing Docket No. C49598. [NTD: There is another court proceeding between Eastern and the OEFC to be added.]

2. And for the said consideration,
- (a) **Eastern Power** further covenants and agrees that it will not take or continue, and will not permit any entity which it now or hereafter controls to take or continue, proceedings of any kind against any person who might claim contribution, indemnity or other relief over against **OEFC** or any of the **Additional OEFC**

Releasees in respect of any matter falling within the scope of the matters described in paragraph 1. **Eastern Power** agrees that this Full and Final Mutual Release constitutes sufficient grounds to enjoin the taking or continuation of any such proceedings. **Eastern Power** further agrees to indemnify **OEFC** and the **Additional OEFC Releasees** against any loss or damages, including legal fees on a full indemnity basis, incurred by any of them in consequence of proceedings taken or continued in breach of this covenant; and

- (b) **OEFC** further covenants and agrees that it will not take or continue, and will not permit any entity which it now or hereafter controls to take or continue, proceedings of any kind against any person who might claim contribution, indemnity or other relief over against **Eastern Power** or any of the **Additional Eastern Power Releasees** in respect of any matter falling within the scope of the matters described in paragraph 1. **OEFC** agrees that this Full and Final Mutual Release constitutes sufficient grounds to enjoin the taking or continuation of any such proceedings. **OEFC** further agrees to indemnify **Eastern Power** and the **Additional Eastern Power Releasees** against any loss or damages, including legal fees on a full indemnity basis, incurred by any of them in consequence of proceedings taken or continued in breach of this covenant.
3. Each of **Eastern Power** and **OEFC** represents and warrants to the other that it has not assigned or otherwise disposed of any of the claims or demands which are the subject of this Full and Final Mutual Release.
4. (a) **Eastern Power** agrees that the **Additional OEFC Releasees** are third-party beneficiaries of this Full and Final Mutual Release and that it intends to confer a benefit upon each of them which is enforceable by each of them.
- (b) **OEFC** agrees that the **Additional Eastern Power Releasees** are third-party beneficiaries of this Full and Final Mutual Release and that it intends to confer a benefit upon each of them which is enforceable by each of them.
5. **Eastern Power** and **OEFC** agree that neither of them, and none of the **Additional Eastern Power Releasees** or the **Additional OEFC Releasees**, admit liability in respect of the matters which are the subject of this Full and Final Mutual Release, and that such liability is expressly denied by each of them.
6. **Eastern Power** and **OEFC** undertake and agree to maintain confidential both the fact of the settlement, in connection with which this Full and Final Mutual Release is delivered, and the terms of such settlement, except to the extent that disclosure is required by law, provided that they may disclose the settlement and its terms to their respective professional advisers for the purpose of receiving their professional advice.
7. This Full and Final Mutual Release shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. **Eastern Power** and **OEFC** attorn to the non-exclusive jurisdiction of the courts of the Province of Ontario in respect of any dispute arising from or in connection with or in consequence of this Full and Final Mutual Release.

8. Each of **Eastern Power** and **OEFC** acknowledges and agrees that it fully understands the terms of this Full and Final Mutual Release and has delivered same voluntarily, after receiving independent legal advice, for the purpose of making full and final compromise and settlement of the claims and demands which are the subject of this Full and Final Mutual Release.
9. This Full and Final Mutual Release may be executed in any number of counterparts with the same effect as if all parties had executed the same document. All counterparts shall be construed together and shall constitute one and the same Full and Final Mutual Release. Each counterpart of this Full and Final Mutual Release may be executed in either original or faxed form.

Executed as of _____, 2011.

EASTERN POWER LIMITED

Per:

I have authority to bind the corporation

Name:

Title:

**ONTARIO ELECTRICITY FINANCIAL
CORPORATION**

Per:

I have authority to bind the corporation

Name:

Title:

EXHIBIT C
COPY OF ENVIRONMENTAL COMPLIANCE APPROVAL NUMBER 2023-7HUMVW

Urat

EXHIBIT D
COPY OF ELECTRICITY GENERATION LICENCE EG-2009-0023

Draft

Input:	
Document 1 ID	file:///JUS00ADC0568/Drafting/macnauc/Energy and Infrastructure/greenfield south power project/gov2011.046 (Greenfield South Power Project).e01.doc
Description	gov2011.046 (Greenfield South Power Project).e01
Document 2 ID	file:///JUS00ADC0568/Drafting/macnauc/Energy and Infrastructure/greenfield south power project/gov2011.046 (Greenfield South Power Project).e02PW.doc
Description	gov2011.046 (Greenfield South Power Project).e02PW
Rendering set	olc standard

Legend:	
Insertion	
Deletion	
<Moved from>	
>Moved to <	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	152
Deletions	95
Moved from	2
Moved to	2
Style change	0
Format changed	0
Total changes	251

Rehob, James (ENERGY)

From: Rehob, James (ENERGY)
Sent: Friday, November 18, 2011 12:02 PM
To: Letourneau, Amanda (ENERGY)
Cc: Linington, Brenda (ENERGY)
Subject: RE: Greenfield South Matters - Municipal and Legal Description

Privileged & Confidential Legal Advice / Solicitor & Client Privileged

November 18, 2011

Hi, Amanda. Your instincts are excellent on this point, and I appreciate your raising the issue in the way you have. I do not want you disclose any of the background on the file at all to Ralph. Rather, please only give Ralph the municipal address and ask him for all information he has on the land – we'll put a legal description of the land together from the information Ralph provides. (Brenda, if I've missed anything, please let me know.)

Kind regards,

James

From: Letourneau, Amanda (ENERGY)
Sent: November 18, 2011 11:39 AM
To: Rehob, James (ENERGY)
Subject: RE: Greenfield South Matters - Municipal and Legal Description

Hi James,

Sorry I didn't contact Ralph, but it wasn't clear to me that you wanted me to contact him. I just want to clarify with you what I can disclose to him and exactly what information you're looking for from him (is it just access to the land titles registry we need?). Please let me know, I can come by to discuss before I contact him.

Thanks!

Amanda

From: Rehob, James (ENERGY)
Sent: November 18, 2011 11:29 AM
To: Letourneau, Amanda (ENERGY)
Cc: Linington, Brenda (ENERGY)
Subject: Greenfield South Matters - Municipal and Legal Description

Hi, Amanda – please do remember to touch base with Ralph Eades, on the MOI side, in order to get some assistance with developing language for a "legal description" of the land(s). I think I'd better include that language along with Brenda's good suggestion about whether a map of the property could be included as a schedule, and present both the legal description and the idea / question from Brenda with my next set of instructions.

Kindly,

James

James P. H. Rebob
Senior Counsel
Ministry of Energy and
Ministry of Infrastructure
Legal Services Branch
777 Bay Street, 4th Floor, Suite 425
Toronto, ON M5G 2E5
Tel: 416-325-6676
Fax: 416-325-1781
james.rebob@ontario.ca

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Rehob, James (ENERGY)

From: Rehob, James (ENERGY)
Sent: Tuesday, November 22, 2011 9:38 AM
To: Miceli, Martina (ENERGY)
Subject: FW: Media Coverage: Greenfield South Gas Generating Facility Relocation, November 21, 2011
Attachments: Mississauga Gas Plant Coverage November 21.pdf; Nov. 21 - Minister Bentley on Gas Plant Construction Halt.doc

Hi, Martina! Would you mind printing these off and placing in a folder when you have time? Thanks so much!
Kindly,
James

From: Energy In The News (ENERGY)
Sent: November 21, 2011 6:13 PM
To: Bacci, Gloria (ENERGY); Biggs, Megan (ENERGY); Botond, Erika (ENERGY); Brown, Nzinga (ENERGY); Calwell, Carolyn (ENERGY); Carson, Cheryl (ENERGY); Cayley, Daniel (ENERGY); Cheung, Cathy (ENERGY); Collins, Jason R. (ENERGY); Dier, Kirby (ENERGY); Dreyfuss, Eric (ENERGY); Dunn, Ryan (ENERGY); Dunning, Rebecca (ENERGY); England, Michael (ENERGY); Gemmiti, Paola (ENERGY); George, Shemain (ENERGY); Gerard, Paul (ENERGY); Gibbs, Diana (ENERGY); Gordon, Robert (ENERGY); Johnson, Paul (ENERGY); Kacaba, Jennifer (ENERGY); Kett, Jennifer (ENERGY); King, Ryan (ENERGY); Kourakos, Georgina (ENERGY); Kovesfalvi, Sylvia (ENERGY); Krstev, Viki (ENERGY); Kulendran, Jesse (ENERGY); Landmann, Peter (ENERGY); Lindsay, Ken (ENERGY); Linington, Brenda (ENERGY); Malcolm, Pauline (ENERGY); Mieto, Erika (ENERGY); Mitchell, Andrew (ENERGY); Morton, Robert (ENERGY); Nutter, George (ENERGY); O'Donnell, Cheryl (ENERGY); Oxford, Kelly (ENERGY); Perry, Ann (ENERGY); Perun, Halyna N. (ENERGY); Pitkeathly, Doreen (ENERGY); Pletsch, Adam (ENERGY); Prithipal, Shantie (ENERGY); Rehob, James (ENERGY); Renwick, Meredith (ENERGY); Sharkawi, Rula (ENERGY); Shear, Dan (ENERGY); Silva, Joseph (ENERGY); Sluiman, Harmony (ENERGY); Smith, Mark (ENERGY); Springman, Hartley (ENERGY); Stefanac, Rosalind (ENERGY); Sylvis, Laura (ENERGY); Thompson, Erin (ENERGY); Todd, Brian (ENERGY); Wismer, Jennifer (ENERGY); Wolgelerenter, Debbie (ENERGY); Zoladek, Marta (ENERGY)
Subject: Media Coverage: Greenfield South Gas Generating Facility Relocation, November 21, 2011

Good evening,

Attached is a package of media coverage of today's announcement that construction had been halted at the Greenfield South gas generating site in Mississauga. 13 articles appear in total.

Coverage has been neutral in tone, but raises the question of how much relocating the site will cost, especially given that construction continued on the site for weeks after the original promise was made to relocate it.

Some stakeholders have shown appreciation of the decision. InsideToronto reports that Coalition of Homeowners for Intelligent Power (CHIP) interim chair Greg Rohn said, "We're ecstatic."

Also attached is Cabinet Office's media report of Minister Bentley's scrum following the announcement this morning, and scrums by opposition critics Vic Fedeli and Peter Tabuns. Full transcripts of those scrums are included in the report. Fedeli and Tabuns both pointed to the issue of cost to relocate the plant. Fedeli said the government should look for communities willing to host gas plants. Tabuns said the government should have made the decision years ago to cancel the plant, when the decision would have cost less.

All coverage will be included in tomorrow's clippings package. Social media will be included in tomorrow's Twitter report.

Rehob, James (ENERGY)

From: Rehob, James (ENERGY)
Sent: Tuesday, November 22, 2011 10:50 AM
To: Linington, Brenda (ENERGY)
Cc: Letourneau, Amanda (ENERGY)
Subject: FW:Greenfield South - Scanned document is attached
Attachments: Map.pdf

Hi, Brenda – FYI: Scanned document includes the research that Ralph Eades had kindly pulled together at Amanda's request.

Kindly,

James

From: Montano, Teresita (ENERGY)
Sent: November 22, 2011 10:34 AM
To: Letourneau, Amanda (ENERGY); Rehob, James (ENERGY)
Subject: Scanned document is attached

Teresita Montano

Legal Services Branch
Ministry of Energy
Ministry of Infrastructure
777 Bay St., 4th Floor
Toronto, ON M5G 2E5

Tel: 416-325-6840; Fax: 416-325-1781

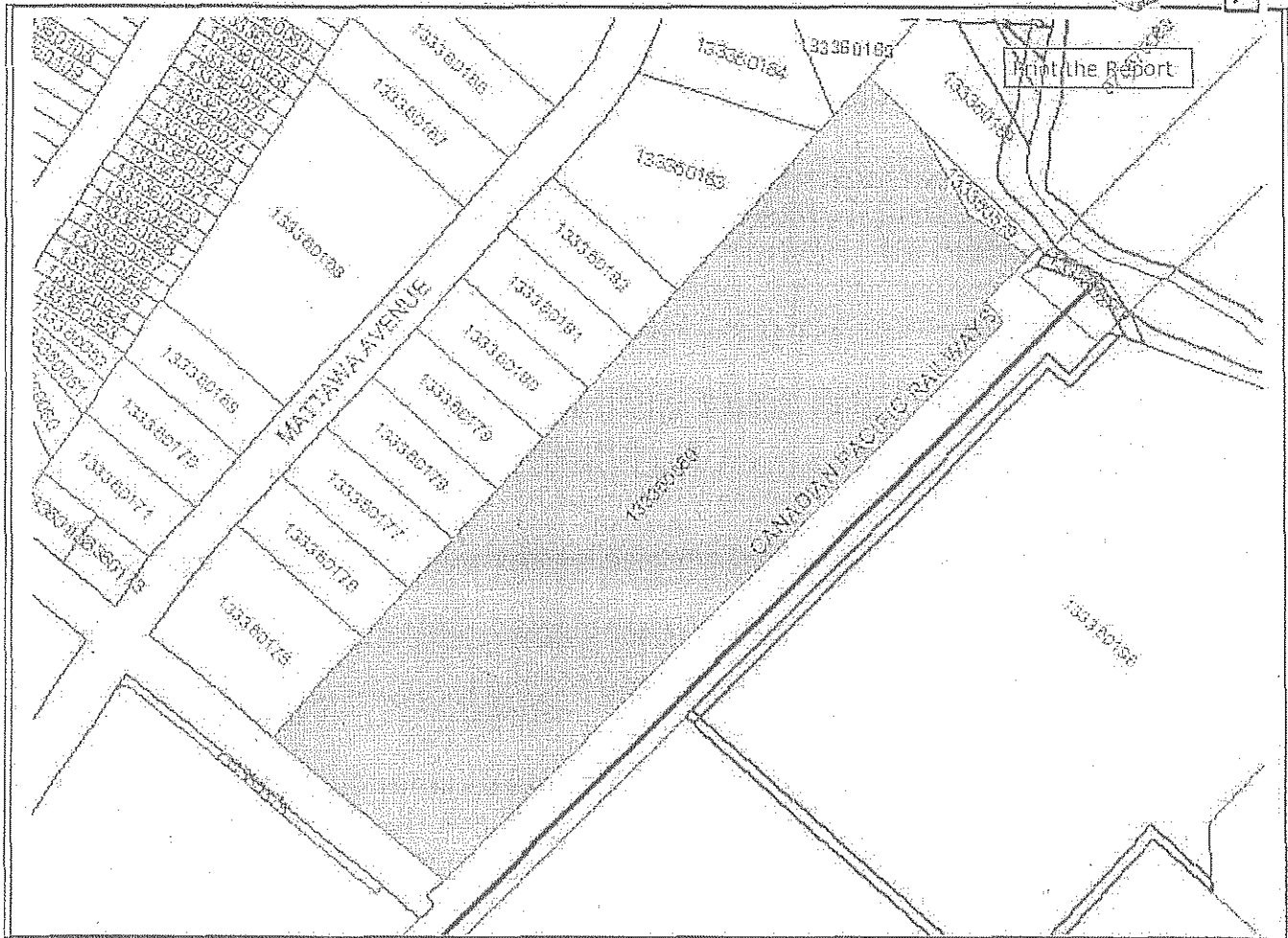
E-mail: teresita.montano@ontario.ca

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TERANET SALES HISTORY REPORT

Prepared: Friday, November 18, 2011 12:45:01 PM
For: WEB02\EadesRa



<input checked="" type="checkbox"/>	Subject Property Polygon
<input type="checkbox"/>	Parcel Polygons
<input type="checkbox"/>	Roads
<input checked="" type="checkbox"/>	Railways
<input checked="" type="checkbox"/>	Water Limits
<input checked="" type="checkbox"/>	Easement Limits

0 87 m

This map was compiled using plans and documents recorded in the Land Registry System and has been prepared for property indexing purposes only. This is not a Plan of Survey. For actual dimensions of property boundaries, see recorded plans and documents. Only major easements are shown.

SUBJECT PROPERTY IDENTIFICATION INFORMATION

LRO	43
PIN	133360580
ASSESSMENT ROLL NUMBER	N/A
REGISTRATION TYPE	LT
LAND REGISTRY STATUS	ACTIVE
MUNICIPALITY	MISSISSAUGA
ADDRESS	N/A N/A

AREA	43415 m2
PERIMETER	1018 m
DESCRIPTION	PT LTS 2 & 3 CON 1 SDS DES PT 1 PL 43R7398, EXCEPT PT 1 PL 43R24263 & PT 2 PL 43R32622; MISSISSAUGA; T/W AS IN R0543198.
PARTY TO	GREENFIELD SOUTH POWER CORPORATION

SALES HISTORY

INSTRUMENT NUMBER	REGISTRATION DATE	CONSIDERATION VALUE	INSTRUMENT TYPE	PARTY TO
N/A	2006-03-30	2547400	T	GREENFIELD SOUTH POWER CORPORATION

DISCLAIMER

**Reports Not the Official
Record**

Reports other than the Parcel Register, obtained through Purview "TM" Risk Management Services are not the official government record and will not necessarily reflect the current status of interests in land.

**Currency of
Information**

Data contained in the Purview reports are not maintained real-time. Data contained in reports, other than the Parcel Register, may be out of date ten business days or more from data contained in POLARIS.

Coverage

Data, information and other products and services accessed through the Purview Risk Management Services are limited to certain land registry offices in the areas identified on the coverage map.

**Completeness of the
Sales History Report**

Some Sales History Reports may be incomplete due to the amount of data collected during POLARIS title automation. Subject properties may also show nominal consideration or sales price (e.g. \$2) in cases such as transfers between spouses or in tax exempt transfers.

Rehob, James (ENERGY)

From: Rehob, James (ENERGY)
Sent: Wednesday, November 30, 2011 12:32 PM
To: Johnson, Paul (ENERGY); Perun, Halyna N. (ENERGY); Calwell, Carolyn (ENERGY)
Subject: RE: FOI Request - ENERGY-11-33 (Greenfield South Power Plant)

Hi, Paul – I have a good number of documents – would it be possible to sit down with you and with Carolyn to discuss the best way to proceed – some of the documents I have would be drafts of documents that Carolyn or Halyna may have further developed. In other cases, they would documents received (via Carolyn) from the OPA. Anyway, I just want to find an efficient way to respond to you.

Thanks!

James

From: Johnson, Paul (ENERGY)
Sent: November 30, 2011 12:27 PM
To: Perun, Halyna N. (ENERGY); Calwell, Carolyn (ENERGY); Carson, Cheryl (ENERGY); Kacaba, Jennifer (ENERGY); Landmann, Peter (ENERGY); Linington, Brenda (ENERGY); Ranalli, David (ENERGY); Rehob, James (ENERGY); Shear, Dan (ENERGY); Todd, Brian (ENERGY); Zoladek, Marta (ENERGY); Letourneau, Amanda (ENERGY); George, Shemain (ENERGY); Khatri, Anupa (ENERGY); Petersen, Shannon (ENERGY); Miceli, Martina (ENERGY); Montano, Teresita (ENERGY)
Subject: FOI Request - ENERGY-11-33 (Greenfield South Power Plant)

We have received a new FOI request for:

Records from September 1, 2011 to the present concerning the November 21, 2011 decision to halt construction of the Greenfield South Power Plant in Mississauga, Ontario, including but not limited to briefing notes. I am not, however, interested in emails. Specifically, I'm interested in records that indicate the potential cost of cancelling construction on the power plant. I am also not interested in anything that is obviously a cabinet confidence. As this request is in the public interest, I ask that all fees please be waived.

Please let me know as soon as possible whether you have any responsive records and we can work to coordinate a response to the FOI Unit. Given that the requester is not looking for emails, this can likely be trimmed down by considering documents that were circulating as attachments. They will be looking for copies of LSB records by December 8, 2011.

Paul

Paul Johnson | Counsel | Legal Services | Ministry of Energy | Ministry of Infrastructure
4th Floor, 777 Bay Street, Toronto ON M5G 2E5 | Tel: 416-325-1834 | Fax: 416-325-1781
This communication is subject to solicitor-client privilege.

Rehob, James (ENERGY)

From: Calwell, Carolyn (ENERGY)
Sent: Wednesday, November 30, 2011 12:47 PM
To: Rehob, James (ENERGY); Johnson, Paul (ENERGY); Perun, Halyna N. (ENERGY)
Subject: RE: FOI Request - ENERGY-11-33 (Greenfield South Power Plant)

I also have records related to Greenfield, although I believe that those that related specifically to the cost of cancelling construction of the plant are few - I'm happy to discuss.

Carolyn

From: Rehob, James (ENERGY)
Sent: November 30, 2011 12:32 PM
To: Johnson, Paul (ENERGY); Perun, Halyna N. (ENERGY); Calwell, Carolyn (ENERGY)
Subject: RE: FOI Request - ENERGY-11-33 (Greenfield South Power Plant)

Hi, Paul – I have a good number of documents – would it be possible to sit down with you and with Carolyn to discuss the best way to proceed – some of the documents I have would be drafts of documents that Carolyn or Halyna may have further developed. In other cases, they would documents received (via Carolyn) from the OPA. Anyway, I just want to find an efficient way to respond to you.

Thanks!

James

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Sent: November 30, 2011 12:27 PM
To: Perun, Halyna N. (ENERGY); Calwell, Carolyn (ENERGY); Carson, Cheryl (ENERGY); Kacaba, Jennifer (ENERGY); Landmann, Peter (ENERGY); Linington, Brenda (ENERGY); Ranalli, David (ENERGY); Rehob, James (ENERGY); Shear, Dan (ENERGY); Todd, Brian (ENERGY); Zoladek, Marta (ENERGY); Letourneau, Amanda (ENERGY); George, Shemain (ENERGY); Khatri, Anupa (ENERGY); Petersen, Shannon (ENERGY); Miceli, Martina (ENERGY); Montano, Teresita (ENERGY)
Subject: FOI Request - ENERGY-11-33 (Greenfield South Power Plant)

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Paul

Paul Johnson | Counsel | Legal Services | Ministry of Energy | Ministry of Infrastructure
4th Floor, 777 Bay Street, Toronto ON M5G 2E5 | Tel: 416-325-1834 | Fax: 416-325-1781
This communication is subject to solicitor-client privilege.

Rehob, James (ENERGY)

From: Calwell, Carolyn (ENERGY)
Sent: Thursday, December 22, 2011 2:57 PM
To: Rehob, James (ENERGY)
Subject: FW: Mississauga Gas Plant

fyi

From: Calwell, Carolyn (ENERGY)
Sent: December 22, 2011 2:54 PM
To: Lung, Ken (JUS)
Subject: FW: Mississauga Gas Plant

Ken – below is the latest thinking on a potential approach to the Mississauga gas plant. I don't expect anything to happen until January, but as this message may travel to ensure coverage just in case, I wanted you to be aware. I also advised Jim Sinclair as his shop may have expertise on creditor-related issues.

Carolyn

From: Calwell, Carolyn (ENERGY)
Sent: December 22, 2011 12:32 PM
To: Marsello, Leonard (JUS); Compton, Shona (JUS)
Subject: Mississauga Gas Plant

Hi – I have an update. As I think you are aware, one of Greenfield's secured creditors (and the large break fees it requires) is posing a challenge to concluding the Facility Relocation and Settlement Agreement (as it was called when I last saw it).

The Ontario Power Authority is currently developing a proposal around forcing Greenfield into CCAA protection. Ontario Power Generation would then have some sort of a joint venture with a new Greenfield entity to purchase the assets of the original Greenfield company. These assets would then be used to develop a new project at a new site.

Deputy Lindsay has asked us to think about this proposal (we've seen nothing in writing) and loop you in. At this point, I think we're just trying to get our heads around the structures and the advantages and disadvantages of proceeding in this way – to the extent they can be determined with the little information that we have.

I will let you know more as this unfolds. I understand that the OPA and OPG will meet in early January to explore this option thoroughly. I am certainly happy to try to answer any questions you might have in the meantime. I welcome any preliminary views that you might have.

Carolyn

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Rehob, James (ENERGY)

From: Calwell, Carolyn (ENERGY)
Sent: Thursday, December 22, 2011 3:18 PM
To: Rehob, James (ENERGY)
Subject: OPA Proposal
Attachments: 22431262_1 (2).doc

James,

Further to the message that I forwarded to you, the attached is an outline of the OPA's proposal.

Carolyn

**Step Plan for Potential Acquisition of the Assets
Greenfield South Power Corporation ("Greenfield")**

1. Approach OPG to determine if OPG willing to enter into a joint venture ("NewCo") with Eastern Power (a parent company of Greenfield) to develop a new facility (on an OPG site) with a capacity greater than 300 MW (perhaps 500 MW to 600 MW) ("New Facility"). Newco would be owned and controlled 50/50 by OPG and Eastern Power.
2. OPA would provide OPG with funds to capitalize NewCo. A partnership/joint venture agreement will be entered into with OPG and Eastern Power to govern the relationship (the unpaid Equity Sunk Costs of Eastern to be addressed in this agreement). The OPA, OPG and Eastern Power would enter into an implementation agreement ("IA") to negotiate the commercial and financial details of the New Facility for a period of [60-90] days.
3. NewCo would make a bid to acquire the assets of Greenfield in CCAA proceeding – NewCo would agree to assume all trade debt and existing equipment supply contracts (for Relocated Equipment to be used for the new facility (including the GE contract for the gas turbine)) of Greenfield under the bid and pay fair market value for Greenfield's assets. The debt of EIG would not be assumed. If agreement is reached under the IA for a New Facility, the costs incurred by NewCo in taking out the claims of Greenfield and the unpaid Equity Sunk Costs of Eastern would be factored into the NRR or capacity payment under the CES Contract for the New Facility. If there is no agreement on the New Facility, the OPA would indemnify OPG for its capitalization of NewCo and would agree to pay the balance of the unpaid Equity Sunk Costs to Eastern Power.
4. Financing would need to be made available to Greenfield in its CCAA proceedings. The lender entity (i.e., OPG) would need to be identified.
5. Osler and McMillan to identify a licensed firm to act as the purported monitor and its counsel of Greenfield in its CCAA proceeding (the "Monitor"). Greenfield files for protection under the CCAA with bid in hand from NewCo – able to tell court that it is a going concern outcome and preservation of jobs, supply chain etc – easier to manage CCAA process.
6. Sales process for the assets of Greenfield would need to occur under CCAA (30 to 60 day process).
7. If NewCo wins, the assets of Greenfield would be transferred to NewCo by court order free of the claims of EIG.

[NTD: We have not yet resolved what should happen with the OPA indemnity in favour of Greenfield South relating to Secured Lender claims proven in court and whether the Certificate of Air would be released by Greenfield as part of this process. This requires further discussion with Greenfield's counsel.]

Rehob, James (ENERGY)

From: Rehob, James (ENERGY)
Sent: Friday, December 23, 2011 9:33 AM
To: Calwell, Carolyn (ENERGY)
Subject: RE: Greenfield

Yes, I will begin preparing a note now - thanks! James

-----Original Message-----

From: Calwell, Carolyn (ENERGY)
Sent: December 23, 2011 9:21 AM
To: Rehob, James (ENERGY)
Subject: FW: Greenfield

Fyi - CLOC is tracking down the PACA notice. When we get it, I will ask you to do a note that can go up to the MO. I would also ask you to call Shona C. and let her know about this. I've been in touch with James Kendik who is acting for Craig Slater (and copied Ken), but I'm not sure how things are filtering around.

Carolyn

-----Original Message-----

From: Lindsay, David (ENERGY)
Sent: December 23, 2011 5:33 AM
To: Calwell, Carolyn (ENERGY); Jennings, Rick (ENERGY)
Cc: Silva, Joseph (ENERGY)
Subject: Re: Greenfield

Thanks Carolyn.

For the purposes of this file, our colleagues in Finance and the Ontario Finance Authority and appropriate folks in the AG and Cabinet office will want to be kept in the loop.

I will probably have to re-institute the system of periodic conference calls to keep everyone informed.

It doesn't sound like this development creates a sense of particular urgency over the Christmas Holiday but in the interests of 'no surprises' I guess we need to make sure finance and cabinet office are in the loop. Once you have a bit more understanding of what this is and any implications for our going forward strategy let me know.

I'm not in the office, but on my Blackberry.

Cheers
David

----- Original Message -----

From: Calwell, Carolyn (ENERGY)
To: Lindsay, David (ENERGY); Jennings, Rick (ENERGY)
Cc: Silva, Joseph (ENERGY)
Sent: Thu Dec 22 18:25:53 2011
Subject: Greenfield

Confidential/Solicitor-Client Privileged

I just heard from the OPA that one of Greenfield's secured lenders filed a Proceedings Against the Crown notice yesterday. I am trying to track it down. If so, this is the first step in litigation, although a Statement of Claim must wait at least 60 days.

Carolyn

Re: hob, James (ENERGY)

From: Calwell, Carolyn (ENERGY)
Sent: Friday, December 23, 2011 9:48 AM
To: Marsello, Leonard (JUS); Compton, Shona (JUS)
Cc: Rehob, James (ENERGY)
Subject: RE: Mississauga Gas Plant
Attachments: 22431262_1 (2).doc

Further to my message yesterday, we have now the attached one page summary of the OPA's proposal. It was described to me as a work in progress and you will see it is a concept, rather than a detailed procedure. Again, I don't expect much on this before the first week in January, but I wanted to keep you in the loop.

Carolyn

From: Calwell, Carolyn (ENERGY)
Sent: December 22, 2011 12:32 PM
To: Marsello, Leonard (JUS); Compton, Shona (JUS)
Subject: Mississauga Gas Plant

Hi – I have an update. As I think you are aware, one of Greenfield's secured creditors (and the large break fees it requires) is posing a challenge to concluding the Facility Relocation and Settlement Agreement (as it was called when I last saw it).

The Ontario Power Authority is currently developing a proposal around forcing Greenfield into CCAA protection. Ontario Power Generation would then have some sort of a joint venture with a new Greenfield entity to purchase the assets of the original Greenfield company. These assets would then be used to develop a new project at a new site.

Deputy Lindsay has asked us to think about this proposal (we've seen nothing in writing) and loop you in. At this point, I think we're just trying to get our heads around the structures and the advantages and disadvantages of proceeding in this way – to the extent they can be determined with the little information that we have.

I will let you know more as this unfolds. I understand that the OPA and OPG will meet in early January to explore this option thoroughly. I am certainly happy to try to answer any questions you might have in the meantime. I welcome any preliminary views that you might have.

Carolyn

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**Step Plan for Potential Acquisition of the Assets
Greenfield South Power Corporation ("Greenfield")**

1. Approach OPG to determine if OPG willing to enter into a joint venture ("NewCo") with Eastern Power (a parent company of Greenfield) to develop a new facility (on an OPG site) with a capacity greater than 300 MW (perhaps 500 MW to 600 MW) ("New Facility"). Newco would be owned and controlled 50/50 by OPG and Eastern Power.
2. OPA would provide OPG with funds to capitalize NewCo. A partnership/joint venture agreement will be entered into with OPG and Eastern Power to govern the relationship (the unpaid Equity Sunk Costs of Eastern to be addressed in this agreement). The OPA, OPG and Eastern Power would enter into an implementation agreement ("IA") to negotiate the commercial and financial details of the New Facility for a period of [60-90] days.
3. NewCo would make a bid to acquire the assets of Greenfield in CCAA proceeding – NewCo would agree to assume all trade debt and existing equipment supply contracts (for Relocated Equipment to be used for the new facility (including the GE contract for the gas turbine)) of Greenfield under the bid and pay fair market value for Greenfield's assets. The debt of EIG would not be assumed. If agreement is reached under the IA for a New Facility, the costs incurred by NewCo in taking out the claims of Greenfield and the unpaid Equity Sunk Costs of Eastern would be factored into the NRR or capacity payment under the CES Contract for the New Facility. If there is no agreement on the New Facility, the OPA would indemnify OPG for its capitalization of NewCo and would agree to pay the balance of the unpaid Equity Sunk Costs to Eastern Power.
4. Financing would need to be made available to Greenfield in its CCAA proceedings. The lender entity (i.e., OPG) would need to be identified.
5. Osler and McMillan to identify a licensed firm to act as the purported monitor and its counsel of Greenfield in its CCAA proceeding (the "Monitor"). Greenfield files for protection under the CCAA with bid in hand from NewCo – able to tell court that it is a going concern outcome and preservation of jobs, supply chain etc – easier to manage CCAA process.
6. Sales process for the assets of Greenfield would need to occur under CCAA (30 to 60 day process).
7. If NewCo wins, the assets of Greenfield would be transferred to NewCo by court order free of the claims of EIG.

[NTD: We have not yet resolved what should happen with the OPA indemnity in favour of Greenfield South relating to Secured Lender claims proven in court and whether the Certificate of Air would be released by Greenfield as part of this process. This requires further discussion with Greenfield's counsel.]

Rehob, James (ENERGY)

From: Calwell, Carolyn (ENERGY)
Sent: Friday, December 23, 2011 9:59 AM
To: Compton, Shona (JUS); Marsello, Leonard (JUS)
Cc: Rehob, James (ENERGY)
Subject: RE: Mississauga Gas Plant

Will do – thanks, Shona.

Carolyn

From: Compton, Shona (JUS)
Sent: December 23, 2011 9:59 AM
To: Calwell, Carolyn (ENERGY); Marsello, Leonard (JUS)
Cc: Rehob, James (ENERGY)
Subject: RE: Mississauga Gas Plant

Thanks Carolyn. I have also spoken to James Rehob this morning and understand that a PACA notice either has been or will shortly be received from the secured lender. As I mentioned to James, both Len and I are away next week so if anything urgent arises and you require CLOC assistance, please contact James Kendik who is acting CLOC Director next week.

Best,
Shona

From: Calwell, Carolyn (ENERGY)
Sent: December 23, 2011 9:48 AM
To: Marsello, Leonard (JUS); Compton, Shona (JUS)
Cc: Rehob, James (ENERGY)
Subject: RE: Mississauga Gas Plant

Further to my message yesterday, we have now the attached one page summary of the OPA's proposal. It was described to me as a work in progress and you will see it is a concept, rather than a detailed procedure. Again, I don't expect much on this before the first week in January, but I wanted to keep you in the loop.

Carolyn

From: Calwell, Carolyn (ENERGY)
Sent: December 22, 2011 12:32 PM
To: Marsello, Leonard (JUS); Compton, Shona (JUS)
Subject: Mississauga Gas Plant

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The Ontario Power Authority is currently developing a proposal around forcing Greenfield into CCAA protection. Ontario Power Generation would then have some sort of a joint venture with a new Greenfield entity to purchase the assets of the original Greenfield company. These assets would then be used to develop a new project at a new site.

Deputy Lindsay has asked us to think about this proposal (we've seen nothing in writing) and loop you in. At this point, I think we're just trying to get our heads around the structures and the advantages and disadvantages of proceeding in this way – to the extent they can be determined with the little information that we have.

I will let you know more as this unfolds. I understand that the OPA and OPG will meet in early January to explore this option thoroughly. I am certainly happy to try to answer any questions you might have in the meantime. I welcome any preliminary views that you might have.

Carolyn

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Rehob, James (ENERGY)

From: Rehob, James (ENERGY)
Sent: Friday, December 23, 2011 3:12 PM
To: Calwell, Carolyn (ENERGY)
Subject: Greenfield South Update Note - PACA
Attachments: Greenfield South BN LSB (Dec-23-11 a) (Draft 1).doc

Privileged & Confidential Legal Advice / Solicitor & Client Privileged

....is attached for your review and comment. Thanks!

James

James P. H. Rehob
Senior Counsel
Ministry of Energy and
Ministry of Infrastructure
Legal Services Branch
777 Bay Street, 4th Floor, Suite 425
Toronto, ON M5G 2E5
Tel: 416-325-6676
Fax: 416-325-1781
james.rehob@ontario.ca

Notice

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ISSUE:

- Greenfield South Gas Generating Plant in Mississauga – Secured Lender opposing Companies Creditor's Arrangement Act (CCAA) Proposal, Relocation Plan – Secured Lender serves *Proceedings Against the Crown Act* (PACA) Notice.

BACKGROUND

- Originally, the Greenfield South Generating Station was to be a 280 MW combined cycle natural gas plant recently under construction in the City of Mississauga on a 4.5 hectare property at 2315 Loreland Avenue (the "Original Greenfield project").
- The Original Greenfield project arose out of a Ministry of Energy Clean Energy Supply (CES) procurement process in 2004.
 - Original contract was executed in April, 2005 and amended and restated in March, 2009 in recognition of process delays and complexities experienced by Greenfield South Power Co ("Greenfield"), who is owned by Eastern Power Corporation Limited ("Eastern Power"). This contract was eventually assumed by the OPA.
 - In March 2011, OPA renegotiated the initial Commercial Operation Date (C.O.D.) with Greenfield Co. to Q3 2014..
- On September 24, 2011, Government announced a commitment to stop construction at the site and to relocate the plant.
- On November 21, 2011, Minister of Energy Chris Bentley issued a statement that the OPA had advised that Greenfield had agreed to stop construction immediately and that both the OPA and Greenfield Co negotiated the relocating of the plant.

PROPOSED PLAN FOR RELOCATION OF PLANT

- The OPA and Greenfield Corporation are currently negotiating a Facilities Relocation and Settlement Agreement (the "FRSA") in relation to the relocation of the plant to an alternative site.
- By side-letter Agreement dated December 14, 2011, the OPA and Greenfield Power Co. have agreed to continue to suspend contractual obligations (including construction activities beyond those necessary to conclude in-process work and secure the current site) until January 20, 2012 on consideration of a \$35,000,000 initial payment by OPA in recognition of certain of its sunk equity costs incurred to

date. The OPA is also obligated to make direct payments totalling approximately \$13.14 million on behalf of Greenfield to various suppliers. *[ntd-jpr: Carolyn, I get the strong impression that this is an initial payment only, but am unclear about how much the total liability for even this class of costs might be. -Does the \$35 M also recognize any amount associated with the Keele Valley litigation and, if so, do we want to note that?]*

- One option currently under consideration involves approaching OPG to enter into a partnership/joint venture agreement with Greenfield, financed in part by the OPA.
- According to this preliminary plan, Greenfield would first enter into an arrangement under the CCAA, in order to cleanse Greenfield of certain debt-obligations, and to allow NewCo to bid to acquire key assets and certain liabilities at fair market value.
- NewCo would then enter into a partnership or joint venture arrangement with Ontario Power Generation (OPG) to construct, and potentially to own and operate, the new plant on a 50-50 basis.
- NewCo would be capitalized, at least in part, by funds provided by the OPA to OPG, and OPA, OPG and Greenfield would negotiate an Implementation Agreement which details commercial and financial obligations.

CHALLENGE TO PLAN AND POTENTIAL LITIGATION BY SECURED LENDER

- Energy understands that a major secured lender, EIG Management Co. Ltd, ("EIG") (representing itself and certain note holders involved in the financing of the Original Greenfield project) was pressing the OPA for a very substantial "break" fee before granting its consent to any relocation strategy.
- ENERGY and MAG have now received a s.7 PACA Notice (Dated December 21, 2011) from EIG, which represents the first procedural step in bringing suit against the Crown. The PACA Notice alleges that the Crown and its Agents (including Premier McGuinty and Minister Bentley) have at least committed the tort of (i) inducing breach of contract and (ii) interfering with economic relations/rights to damages of EIS.
- Preliminary consultations with CLOC counsel involved with this file indicate a view that the suit against ENERGY, based on the tort of inducement to breach contract, would be separate and apart from any suit against the OPA for breach of contract.

Date: December 23, 2011

Prepared by: James P.H. Rehob
Senior Counsel
5-6676

Approved by: Carolyn Calwell, A/Director
Legal Services Branch
Ministry of Energy/Ministry of Infrastructure
2-5409

Rehob, James (ENERGY)

From: Rehob, James (ENERGY)
Sent: Friday, December 23, 2011 3:23 PM
To: Calwell, Carolyn (ENERGY)
Subject: FW: Mississauga Plant
Attachments: Greenfield South (14 Dec).ppt; Greenfield South BN .doc

FYI: Received these documents from Ryan King in response to a voice-mail earlier today asking for any new info on Greenfield. The second appears to be a (previous) version of a MAG Note (or the template was used) but I don't think it tracks with our final note. Thanks! James

-----Original Message-----

From: King, Ryan (ENERGY)
Sent: December 23, 2011 11:00 AM
To: Rehob, James (ENERGY)
Subject: FW: Mississauga Plant

Hi James,
Per your call, this should be useful.
Merry Christmas
Ryan

-----Original Message-----

From: King, Ryan (ENERGY)
Sent: December 14, 2011 2:17 PM
To: Imbrogno, Serge (OFA)
Subject: Fw: Mississauga Plant

Hi Serge, some greenfield materials attached.
Ryan

----- Original Message -----

From: King, Ryan (ENERGY)
To: 'Jennings, Rick (ENERGY)'
Sent: Wed Dec 14 10:14:38 2011
Subject: RE: Mississauga Plant

Rick, a few materials including background material from a recent deck, and a note that has the chronology. If you're ok with this I can send along to Serge.

-----Original Message-----

From: Jennings, Rick (ENERGY)
Sent: December 14, 2011 9:54 AM
To: Imbrogno, Serge (OFA)
Cc: King, Ryan (ENERGY)
Subject: RE: Mississauga Plant

Yes we'll send you something on this.

On a unrelated matter do you have a slide deck you were planning to use to brief your Minister on the US GAAP / IFRS decision? We have some OPG slides but it might be a good idea for us to use your material to brief our Minister.

-----Original Message-----

From: Serge Imbrogno [mailto:Serge.Imbrogno@ofina.on.ca]

Sent: December 14, 2011 6:26 AM

To: Jennings, Rick (ENERGY)

Subject: Mississauga Plant

Hi Rick,

Steve O. asked for a briefing on the Mississauga plant. Do you have any notes or presentations that you could share with me? We've mainly been involved because of Keele Valley so I don't have much on the core issue.

Serge

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Greenfield South Background

Appendix 1

Key Facts About the Greenfield South Plant

- Greenfield South Power Corporation (controlled by Eastern Power Corporation) was the successful applicant in Ministry of Energy run Clean Energy Supply (CES) RFP and signed a contract with the OPA in April 2005.
- Eastern Power, based in Ontario, has received all required provincial approvals, including Environmental Assessment and Certificates of Approval.
- Eastern Power has received all required municipal approvals, including building site approval from the City of Mississauga issued in May 2011.
- Eastern Power has secured debt financing from Credit Suisse and EIG (confirmed by the OPA).

MINISTRY OF ENERGY



Legend:

- A – Proposed Greenfield Site
- B – Closest House
- C – Closest Subdivision (North)
- D – Closest Subdivision (South)
- E – Trillium Heath Centre
- F – Sherway Gardens Mall

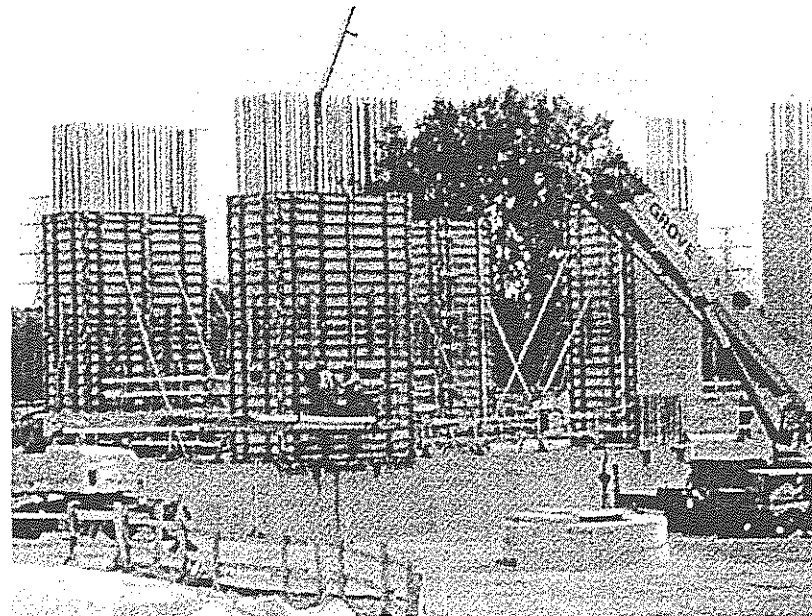
Distance:

- A to B: 220 Meters
- A to C: 270 Meters
- A to D: 500 Meters
- A to E: 740 Meters
- A to F: 910 Meters

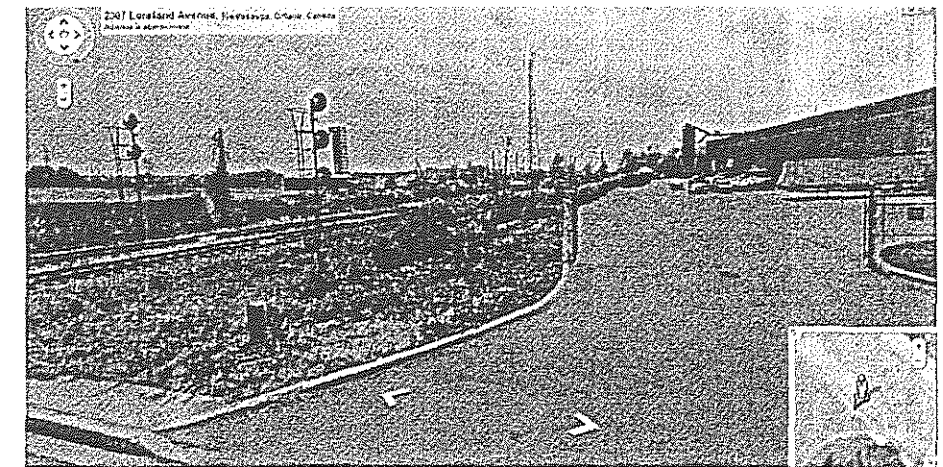
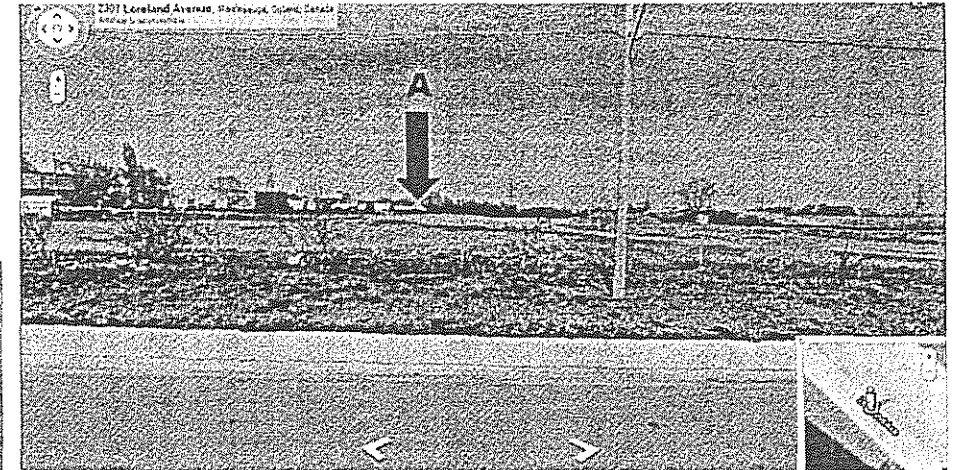
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MINISTRY OF ENERGY



*Plant construction as of 28 September 2011



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PRIVILEGED



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Ministry of the Attorney General
Briefing Note
Legal Services Division
Legal Services Branch – ENE/MOI

ISSUE:

- Greenfield South Gas Generating Plant in Mississauga
- It is proposed that the Ministry of Energy work with the Ontario Power Authority (OPA) to enter into discussions with Greenfield South Power Corporation (controlled by Eastern Power Corporation, referred to as "Eastern Power") towards a satisfactory resolution of the Mississauga site

BACKGROUND

- Eastern Power is developing the Greenfield South Generating Station, a 280 MW combined cycle natural gas plant under construction in the City of Mississauga on a 4.5 hectare property at 2315 Loreland Avenue.
- The project arose out of a Ministry of Energy Clean Energy Supply (CES) procurement process in 2004. This contract was eventually assumed by the OPA.
- The project was undertaken to meet local reliability needs for the Southwest and Western GTA and has been positioned as part of the coal closure strategy.
- The plant is 200 metres from the nearest residence, 700 metres from the nearest hospital and 1.1 km from the nearest school.
- The project is strongly opposed by local residents. On October 12, 2011, the Mississauga Council passed a motion requesting that the government and the Premier take immediate action to cancel the contract, stop construction and return the site to pre-construction condition.
- In 2007, the Ontario Municipal Board reviewed and approved of the zoning of the project site after a lengthy and protracted process.
- In 2008, Ministry of Environment (MOE) granted all necessary environmental approvals.
- In March 2011, OPA renegotiated the initial Commercial Operation Date (C.O.D.) with Eastern Power, in recognition of lengthy regulatory approvals and financing delays experienced by Eastern Power. The new Milestone Date for Commercial Operation, when the plant is required to be fully operational, is September 1, 2014.
- In May 2011, Eastern Power finalized its financing arrangements with Credit Suisse and EIG. Around that time, the City of Mississauga issued building permits for the construction at the site.

- In June 2011, MOE announced that it will conduct an updated review of the approval for the gas plant to assess recent developments. No end-date was set for this process.
- In July 2011, Eastern Power reported that it had laid foundations for the steam and gas turbine halls and placed orders for the major equipment (generators, turbines, etc.).
- On June 16, the Minister of the Environment John Wilkinson announced that the Ministry of the Environment would conduct an updated review of the approval for the Greenfield South facility to assess recent developments. The review was to take as long as the ministry needed to confirm that the project can proceed in a manner that is fully protective of public health and the environment.
- The Environmental Approval for the generating plant is specific to the site, and is not transferable.
- On September 24th, several media outlets reported on the Liberal party's campaign commitment to relocate the proposed Greenfield South generating station to a location outside Mississauga and Oakville.
- In a news release, Ontario Liberal candidates Charles Sousa, Donna Cansfield, Laurel Broten and Dipika Damerla said the party would work with the developer to find a new location for the plant.
- On October 24, 2011, as the result of a release from the leader of the Opposition, several media reported on the continuing construction at the site, including delivery of a generator.
- On November 21, 2011, Minister of Energy Chris Bentley issued a statement that the OPA had advised that Greenfield had agreed to stop construction immediately. Discussions between OPA and GS on relocation continue.
- Construction continues at the site. Eastern Power has informed the OPA that it will not "down-tools" until it receives formal notification of next steps.
- Next steps would require the OPA to be asked to approach Eastern Power to initiate discussions:
 - The discussion would likely include potential treatment of costs incurred to date (sunk costs—including equipment costs), treatment of construction and equipment related contracts, estimates and treatment of foregone revenue, and options and Eastern's interest with respect to relocating to an alternative site.

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Rehob, James (ENERGY)

From: Rehob, James (ENERGY)
Sent: Friday, December 23, 2011 4:22 PM
To: Calwell, Carolyn (ENERGY)
Subject: RE: Greenfield South Update Note - PACA
Attachments: Greenfield South BN 23 12 2011 (jpr edits).doc

Privileged & Confidential Legal Advice / Solicitor & Client Privileged

Hi, please see attached which includes my suggested edits for your consideration – thanks!
James

From: Calwell, Carolyn (ENERGY)
Sent: December 23, 2011 4:06 PM
To: Rehob, James (ENERGY)
Subject: RE: Greenfield South Update Note - PACA

Privileged & Confidential Legal Advice / Solicitor & Client Privileged

Hi James - Please review the attached.

Carolyn

From: Rehob, James (ENERGY)
Sent: December 23, 2011 3:12 PM
To: Calwell, Carolyn (ENERGY)
Subject: Greenfield South Update Note - PACA

....is attached for your review and comment. Thanks!

James

James P. H. Rehob
Senior Counsel
Ministry of Energy and
Ministry of Infrastructure
Legal Services Branch
777 Bay Street, 4th Floor, Suite 425
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Ministry of the Attorney General

Briefing Note

Legal Services Division

Legal Services Branch – ENE/MOI

ISSUE:

- Greenfield South Gas Generating Plant in Mississauga (the Greenfield South project)

CURRENT STATUS

- On December 21, 2011, EIG Management Company, LLC, a secured creditor of Greenfield South project, served a notice of claim under the *Proceedings Against the Crown Act*.
- The Ontario Power Authority is developing a proposal to have Greenfield South Power Corporation (Greenfield) seek *Companies' Creditors Arrangement Act* protection and to have Ontario Power Generation enter into a joint venture to make a bid for Greenfield's assets and trade debt and existing supply contracts.

Notice Under *Proceedings Against the Crown Act*

- On December 21, 2011, EIG Management Company, LLC ("EIG") (representing itself and certain note holders involved in the financing of the Greenfield South project) served a notice of claim under the *Proceedings Against the Crown Act*.
- This notice of claim represents the first procedural step in bringing a law suit against the Crown.
- The notice of claim alleges that, in committing to terminate construction of the Greenfield South project, the Crown and its agents, including Premier McGuinty and Minister Bentley, have committed the torts of (i) inducing breach of contract and (ii) interfering with economic relations/rights to damages of EIG.
- EIG may serve a statement of claim on the Province any time after February 20, 2011.

Negotiations between the OPA and Greenfield

- The OPA and Greenfield have been attempting to negotiate an agreement to allow development of the Greenfield South Project to cease, to determine the amount of Greenfield's sunk costs and to enter into negotiations to develop a gas plant at

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another site. Greenfield's secured creditors, including EIG, are involved in the negotiations.

- On December 14, 2011, the OPA and Greenfield agreed to continue negotiations and to continue to suspend obligations under the Amended and Restated Clean Energy Supply (ARCES) Contract, including suspension of construction activities until January 20, 2012.
 - The OPA agreed to pay \$35,000,000 to Greenfield in recognition of Greenfield's sunk costs incurred to date. In addition, the OPA will make direct payments to Greenfield's suppliers in the amount of approximately \$13.14 million on behalf of Greenfield.
- The OPA has advised ENERGY that EIG has noted Greenfield in default of its credit obligations.
- The OPA is developing a proposal that may assist in resolving negotiations, particularly with respect to secured creditors.
 - Greenfield would seek protection under the *Companies' Creditors Arrangement Act*.
 - Ontario Power Generation would enter into a joint venture with an entity related to the Greenfield parent company, Eastern Power, to acquire Greenfield's assets, trade debt and equipment supply costs.
 - The OPA would assist OPG in financing this entity. The assets would then be used by the joint venture to pursue a new gas plant at a different location.

NEXT STEPS

- The OPA and OPG plan to meet to discuss the OPA's proposal in early January, 2012.
- Nothing is expected to happen with respect to EIG's notice of claim until at least February 20th, 2012.

BACKGROUND

- Originally, the Greenfield South project was to be a 280 MW combined cycle natural gas plant in the City of Mississauga on a 4.5 hectare property at 2315 Loreland Avenue.
- The Greenfield South project arose out of a Ministry of Energy Clean Energy Supply (CES) procurement process in 2004.

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- The original contract was executed in April, 2005.
 - After having been assumed by the OPA, the contract was amended and restated in March, 2009 in recognition of process delays and complexities experienced by Greenfield. This contract was eventually assumed by the OPA.
 - In March 2011, the OPA renegotiated the initial Commercial Operation Date (C.O.D.) with Greenfield to Q3 2014.
- On September 24, 2011, Government announced a commitment to stop construction at the site and to relocate the plant.
 - On November 21, 2011, Minister of Energy Chris Bentley issued a statement that the OPA had advised that Greenfield had agreed to stop construction immediately and that both the OPA and Greenfield were negotiating to relocate the plant.
 - On December 14, 2011, the OPA and Greenfield enter into the side letter agreement suspending contractual rights and obligations, including new construction activities, until January 20, 2012 to allow parties time to negotiate. The side letter also provided for various payments by the OPA to Greenfield and its creditors.

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Date: December 23, 2011

Prepared by: James P.H. Rehob
Senior Counsel
5-6676

Approved by: Carolyn Calwell, Deputy Director
Legal Services Branch
Ministry of Energy/Ministry of Infrastructure
2-5409

Rehob, James (ENERGY)

From: Rehob, James (ENERGY)
Sent: Wednesday, December 28, 2011 2:36 PM
To: Calwell, Carolyn (ENERGY)
Subject: RE: Greenfield

- Carolyn, I just noticed an error I made regarding the calculation of the 60-day period – I should have also excluded the new "Family Day" that actually (yikes!) lands on February 20th this year. Mind you, the way the statement appears in the note appears to me to be (still) correct – it reads "EIG may serve a statement of claim on the Province any time after February 20, 2011." The word "after" saves it for us. Perhaps you caught it after all – at any rate, I note this error and I apologize.

Many thanks, Carolyn!

James

From: Calwell, Carolyn (ENERGY)
Sent: December 23, 2011 4:43 PM
To: Rehob, James (ENERGY)
Subject: FW: Greenfield

For your files.

From: Calwell, Carolyn (ENERGY)
Sent: December 23, 2011 4:31 PM
To: Lindsay, David (ENERGY)
Cc: Jennings, Rick (ENERGY); Silva, Joseph (ENERGY); Collins, Jason R. (ENERGY)
Subject: Greenfield

Confidential/Solicitor Client Privileged

Deputy,

Attached is the Proceedings Against the Crown Act notice, received by MAG yesterday. This puts EIG Management Company, LLC in position to issue a Statement of Claim against the Crown any time on or after February 20th. The attached note sets out claims in the PACA notice and also describes in high level terms the OPA's proposal. The PACA notice does not prevent pursuit of this proposal.

MAG, including CLOC and the ADAG's office, and MOF Legal are fully looped in. There isn't a lot more that we can do at this stage without further details of the proposal. I will follow up with Mike Lyle on January 3rd for further details.

Happy holidays!

Carolyn

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Silva, Joseph (ENERGY)

From: Jennings, Rick (ENERGY)
Sent: October-20-11 3:17 PM
To: Perun, Halyna N. (ENERGY); Silva, Joseph (ENERGY); Lindsay, David (ENERGY)
Cc: Calwell, Carolyn (ENERGY)
Subject: RE: Gas Plant- Minister of Energy Draft Letter - revised

Halyna, Carolyn,

"Our intention to relocate the plant" is problematic on several grounds:

- 1) Immediately raises the media question: "Where will the plant be relocated to" as there are a limited number of welcoming host communities this may raise more problems than it solves.
- 2) Relocate is not the right word in any event as it implies that the plant (which has foundation poured and appears to be at least one-third built based on photos) will be moved to a new location. In fact, the plant will not, of course, be relocated, the existing development would be abandoned and perhaps later demolished and possibly the developer would be awarded a contract to build a new plant at an alternate site.
- 3) Given approval risk, the precedent for blocking plants, and a limited number of developable sites, it will be very challenging to obtain a site that is acceptable to the community, acceptable to the developer and which can be connected to the grid. Some sites which could achieve this would preclude developments of other generation projects which do have local support, e.g. Northwestern Ontario sites would likely be instead of Atikokan or Thunder Bay development; a Nanticoke project would likely preclude conversion of the existing coal plant to gas.
- 4) It is quite possible that the lowest cost solution is a cash settlement, this wording may preclude reaching it.

Better wording would be:

"our intention to have development at the site cease."

From: Perun, Halyna N. (ENERGY)
Sent: October 20, 2011 2:25 PM
To: Silva, Joseph (ENERGY)
Cc: Jennings, Rick (ENERGY); Calwell, Carolyn (ENERGY)
Subject: FW: Gas Plant- Minister of Energy Draft Letter - revised

Privileged and Confidential

Hi – The below sets out the instructions from the Deputy Attorney General which reflect apparently discussions that were had earlier today. The Minister of Energy is going to be making a public statement post swearing in and the below is in accord with that statement.

The additions heighten the risks to government, but these are the instructions. Contents of approved letter:

Community opposition to the Greenfield South Generation Facility, currently under construction in Mississauga, is well documented. On October 12th, Council of the City of Mississauga passed a resolution asking the government to take immediate action to stop construction and return the site to pre-construction condition. In addition, condominium towers were recently constructed in the general area of the plant.

The government has heard the community's concerns about this plant proceeding as originally planned, prompting **our intention to relocate the plant**.

Accordingly, I am requesting that the Ontario Power Authority commence discussions **on a priority basis** with Greenfield South Power Corporation, as project proponent, that would lead to a satisfactory resolution of the Mississauga site.

Halyna

Halyna N. Perun
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Silva, Joseph (ENERGY)

From: Perun, Halyna N. (ENERGY)
Sent: November-02-11 6:27 PM
To: Lindsay, David (ENERGY)
Cc: Jennings, Rick (ENERGY); Silva, Joseph (ENERGY); Calwell, Carolyn (ENERGY)
Subject: Mississauga gas plant

Privileged and Confidential

The Deputy Attorney General advises against proceeding with a Ministerial direction under the *Electricity Act, 1998* to the OPA as this exposes the government to a likely successful lawsuit in tort for misfeasance in public office. Further, it provides Eastern Power with an avenue to get to court quicker (via an application for judicial review challenging the Minister's statutory power of decision).

Rather, he has asked that the letter be recast as a Minister's letter requesting the OPA to reconsider continuing the contract and ultimately requesting the OPA to end it, based on public policy grounds.

In order for the Minister to make a decision to send such a letter, we would put before him documents that would outline why it is not in the public interest to continue the plant. The record would contain, for example, copies of the City of Mississauga resolution; letters from the public complaining about the plant; press clippings etc.

Ultimately, should the Crown be sued or judicial review sought, the record would show that the Minister pursued a lawful act for a proper purpose.

We'll work with CLOC tomorrow to determine exactly what would be required to put before the Minister and we'll draft up a proposed letter.

CLOC is also reviewing the option of assigning the OPA contract to the Crown and wishes to have some discussion with Finance about this option before advising on it further.

We'd be happy to discuss this development further with you.

Halyna

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Silva, Joseph (ENERGY)

From: Silva, Joseph (ENERGY)
Sent: November-08-11 2:48 PM
To: Lindsay, David (ENERGY)
Subject: Fw: Mississauga Power letters
Attachments: Energy Letter to the OPA Nov 8 final(OPA comments).doc; Greenfield South Power Plant OPA letter Nov 8-11 (wOPA comments).doc

Fyi deputy

The OPA letter to our Minister is more clear in terms of asking govt to support repudiation

Sent using BlackBerry Wireless

From: Perun, Halyna N. (ENERGY)
To: Jennings, Rick (ENERGY); Silva, Joseph (ENERGY)
Cc: King, Ryan (ENERGY); Calwell, Carolyn (ENERGY)
Sent: Tue Nov 08 14:44:54 2011
Subject: Mississauga Power letters

Privileged and Confidential

We've heard back from OPA's counsel – please see attached proposed changes. These revisions have also now been sent to the MAG for review.

Halyna

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**CONFIDENTIAL DRAFT – SOLICITOR & CLIENT PRIVILEGED – DRAFT
FOR DISCUSSION**

Dear Mr. Andersen:

In response to your letter of [date] and in recognition that community opposition to the Greenfield South Generation Facility is ongoing and well documented, I am writing to confirm that the government supports OPA's decision to terminate the contract with the developer of the facility, Greenfield South Power Corporation. The government remains hopeful that the plant can be relocated and that the OPA will be able to achieve a satisfactory resolution of the Mississauga site through discussion with Greenfield SPC.

While full recognition must be given to rate-payer value and the fair treatment of contractual counterparties, as suggested in your letter, in light of the strong and persistent opposition to the plant, the government supports termination of the contract and any other appropriate commercial and other steps the OPA must take in seeking to stop construction of the gas plant at its current location. ~~with the objectives of terminating the contract and ensuring that construction of the gas plant at its current location in Mississauga ceases imminently.~~

The government is responding to unique circumstances in Mississauga. The government remains committed to a strong, stable supply of electricity for Ontario and continued support of those making investments in Ontario's electricity system.

Sincerely,

Chris Bentley,
Minister

CONFIDENTIAL & PRIVILEGED

Dear Minister

I am writing to you on behalf of the Ontario Power Authority's (OPA) Board of Directors with respect to the Greenfield South Power Plant, which the Ministry of Energy procured in 2004. The OPA was subsequently directed to enter into a contract with Greenfield and is now the sole counterparty. The Board clearly understands that the government's intention to relocate the plant as outlined in your letter to the OPA on October 24, 2011.

The OPA Board of Directors takes very seriously its responsibilities to our contract counter-parties. Like the provincial government, we would like to achieve a resolution for the Greenfield South plant that provides both fair treatment to the counterparty and Ontario ratepayers. We also think it is important that electricity developers generally continue to have confidence to invest in Ontario and that gas-fired generation continues to be accepted as an important, cost-effective and safe part of the province's electricity supply mix. At the same time, we recognize the public concern about the location of this plant and public requests that construction of the plant stop.

After receiving your October 24th letter, the OPA commenced discussions with Greenfield South. To date, the OPA's preferred approach objective has been to reach an agreement with Greenfield South to stop construction and negotiate an arrangement to relocate the plant or terminate the contract. Since then, it has become more clearer that Greenfield South may not agree to such an approach which makes termination of the contract a logical next step. The Board of Directors is therefore seeking the Government's support in taking this step.

I wish to assure you that, even after taking this step, the OPA shall sFollowing termination of the contract, we would seek to continue discussions with Greenfield South to arrive at an agreement on appropriate compensation. Given our shared interest in ratepayer value, the board would then also like to commence a dialogue with you on the most appropriate way to allocate the compensation between the OPA and the Crown.

I look forward to your reply.

Yours sincerely,

Jim Hinds
Chair

Silva, Joseph (ENERGY)

From: Perun, Halyna N. (ENERGY)
Sent: November-11-11 10:54 AM
To: Lindsay, David (ENERGY)

Confidential and Privileged – In Contemplation of Litigation – Draft for Discussion - Nov 11-

Hi Deputy – before I forward this to Malliha/Murray for comments - may I have your thoughts on this one sentence addition please?

[Note that the last sentence in the Jim Hind's letter to the Minister says: "Given our shared interest in ratepayer value, the board would then also like to commence a dialogue with you on the most appropriate way to allocate the compensation between the OPA and the Crown"]

+++++

Dear Mr. Hinds:

In response to your letter of November 10, 2011 and in recognition that community opposition to the Greenfield South Generation Facility is ongoing and well documented, I am writing to acknowledge the OPA's efforts to negotiate with the developer of the facility, Greenfield South Power Corporation, with an aim to achieving a satisfactory resolution concerning the Mississauga site. The government remains committed to having the plant relocated.

I have given careful consideration to public statements, correspondence to the government and resolutions of the Council of the City of Mississauga. While full recognition must be given to rate-payer value and the fair treatment of contractual counterparties, as suggested in your letter, in light of the strong and persistent opposition to the plant, the government supports the OPA's decision to not proceed with the contract and any other appropriate commercial and other steps that the OPA must take in seeking to stop construction of the gas plant at its current location. **I will be engaging my colleagues in any dialogue with you on the most appropriate way to allocate compensation between the OPA and the Crown.**

The circumstances in Mississauga are unique. The government remains committed to a strong, stable supply of electricity for Ontario and continued support of those making investments in Ontario's electricity system.

Halyna

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Silva, Joseph (ENERGY)

From: Perun, Halyna N. (ENERGY)
Sent: November-11-11 11:59 AM
To: Lindsay, David (ENERGY)
Subject: RE:

Privileged and Confidential

Understood - We are not in any way required to share any further version with the OPA – would be only as a courtesy and I won't be sending anything to the OPA without further instructions from you/Craig.

Re draft below – it's with Murray now and waiting to hear back from him.

Halyna

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From: Lindsay, David (ENERGY)
Sent: November 11, 2011 11:54 AM
To: Perun, Halyna N. (ENERGY)
Subject: Re:

Hi Halyna,

I did let Craig know where we are on this. He wanted to make sure we didn't share anything with OPA until we land internally (ie with our Minister) on any new wording.

I also gave a heads up to Deputy of Finance on what we are working on.

David

From: Perun, Halyna N. (ENERGY)
To: Lindsay, David (ENERGY)
Sent: Fri Nov 11 10:53:43 2011
Subject:

Confidential and Privileged – In Contemplation of Litigation – Draft for Discussion - Nov 11-

Hi Deputy – before I forward this to Malliha/Murray for comments - may I have your thoughts on this one sentence addition please?

[Note that the last sentence in the Jim Hind's letter to the Minister says: "Given our shared interest in ratepayer value, the board would then also like to commence a dialogue with you on the most appropriate way to allocate the compensation between the OPA and the Crown"]

+++++

Dear Mr. Hinds:

In response to your letter of November 10, 2011 and in recognition that community opposition to the Greenfield South Generation Facility is ongoing and well documented, I am writing to acknowledge the OPA's efforts to negotiate with the developer of the facility, Greenfield South Power Corporation, with an aim to achieving a satisfactory resolution concerning the Mississauga site. The government remains committed to having the plant relocated.

I have given careful consideration to public statements, correspondence to the government and resolutions of the Council of the City of Mississauga. While full recognition must be given to rate-payer value and the fair treatment of contractual counterparties, as suggested in your letter, in light of the strong and persistent opposition to the plant, the government supports the OPA's decision to not proceed with the contract and any other appropriate commercial and other steps that the OPA must take in seeking to stop construction of the gas plant at its current location. **I will be engaging my colleagues in any dialogue with you on the most appropriate way to allocate compensation between the OPA and the Crown.**

The circumstances in Mississauga are unique. The government remains committed to a strong, stable supply of electricity for Ontario and continued support of those making investments in Ontario's electricity system.

Halyna

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Silva, Joseph (ENERGY)

From: Perun, Halyna N. (ENERGY)
Sent: November-11-11 2:20 PM
To: 'chrisbentley@liberal.ola.org'
Cc: MacLennan, Craig (ENERGY); Lindsay, David (ENERGY)
Subject: Draft letter for review - Privileged and Confidential

Privileged and Confidential

Minister – For your consideration, please see below the text for the proposed letter to the OPA, with the additional sentence highlighted. The addition picks up on the statement about compensation in the letter the OPA sent to you. This draft text with the addition has been approved by the Deputy Attorney General:

Dear Mr. Hinds:

In response to your letter of November 10, 2011 and in recognition that community opposition to the Greenfield South Generation Facility is ongoing and well documented, I am writing to acknowledge the OPA's efforts to negotiate with the developer of the facility, Greenfield South Power Corporation, with an aim to achieving a satisfactory resolution concerning the Mississauga site. The government remains committed to having the plant relocated.

I have given careful consideration to public statements, correspondence to the government and resolutions of the Council of the City of Mississauga. While full recognition must be given to rate-payer value and the fair treatment of contractual counterparties, as suggested in your letter, in light of the strong and persistent opposition to the plant, the government supports the OPA's decision to not proceed with the contract and any other appropriate commercial and other steps that the OPA must take in seeking to stop construction of the gas plant at its current location. **I will be engaging my colleagues in any dialogue with you on the most appropriate way to allocate compensation between the OPA and the Crown.**

The circumstances in Mississauga are unique. The government remains committed to a strong, stable supply of electricity for Ontario and continued support of those making investments in Ontario's electricity system.

Sincerely,

Chris Bentley,
Minister

Halyna

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Silva, Joseph (ENERGY)

From: Calwell, Carolyn (ENERGY)
Sent: December-22-11 5:48 PM
To: Lindsay, David (ENERGY)
Cc: Jennings, Rick (ENERGY)
Subject: Mississauga Gas Plant
Attachments: 22431262_1 (2).doc

Confidential/Solicitor-Client Privileged

Deputy,

Thank you for your message about the OPA's current proposal to resolve the Greenfield site. I followed up with Mike Lyle and my Finance and CLOC colleagues and we are starting to think through the concept. Mike Lyle sent the attached description of the proposal. He described it as a work in progress.

I understand that the OPA will meet with OPG in the first week of January. We will think about the proposal and alternatives (although apart from paying the break fee, I'm not sure there are many). We will also start to get our heads around CCAA proceedings.

Carolyn

Carolyn Calwell
Deputy Director
Ministry of Energy & Ministry of Infrastructure
Legal Services Branch
Ministry of the Attorney General
416.212.5409

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**Step Plan for Potential Acquisition of the Assets
Greenfield South Power Corporation ("Greenfield")**

1. Approach OPG to determine if OPG willing to enter into a joint venture ("NewCo") with Eastern Power (a parent company of Greenfield) to develop a new facility (on an OPG site) with a capacity greater than 300 MW (perhaps 500 MW to 600 MW) ("New Facility"). Newco would be owned and controlled 50/50 by OPG and Eastern Power.
2. OPA would provide OPG with funds to capitalize NewCo. A partnership/joint venture agreement will be entered into with OPG and Eastern Power to govern the relationship (the unpaid Equity Sunk Costs of Eastern to be addressed in this agreement). The OPA, OPG and Eastern Power would enter into an implementation agreement ("IA") to negotiate the commercial and financial details of the New Facility for a period of **[60-90]** days.
3. NewCo would make a bid to acquire the assets of Greenfield in CCAA proceeding — NewCo would agree to assume all trade debt and existing equipment supply contracts (for Relocated Equipment to be used for the new facility (including the GE contract for the gas turbine)) of Greenfield under the bid and pay fair market value for Greenfield's assets. The debt of EIG would not be assumed. If agreement is reached under the IA for a New Facility, the costs incurred by NewCo in taking out the claims of Greenfield and the unpaid Equity Sunk Costs of Eastern would be factored into the NRR or capacity payment under the CES Contract for the New Facility. If there is no agreement on the New Facility, the OPA would indemnify OPG for its capitalization of NewCo and would agree to pay the balance of the unpaid Equity Sunk Costs to Eastern Power.
4. Financing would need to be made available to Greenfield in its CCAA proceedings. The lender entity (i.e., OPG) would need to be identified.
5. Osler and McMillan to identify a licensed firm to act as the purported monitor and its counsel of Greenfield in its CCAA proceeding (the "Monitor"). Greenfield files for protection under the CCAA with bid in hand from NewCo — able to tell court that it is a going concern outcome and preservation of jobs, supply chain etc — easier to manage CCAA process.
6. Sales process for the assets of Greenfield would need to occur under CCAA (30 to 60 day process).
7. If NewCo wins, the assets of Greenfield would be transferred to NewCo by court order free of the claims of EIG.

[NTD: We have not yet resolved what should happen with the OPA indemnity in favour of Greenfield South relating to Secured Lender claims proven in court and whether the Certificate of Air would be released by Greenfield as part of this process. This requires further discussion with Greenfield's counsel.]

