From:

Michael Killeavy

Sent:

December 13, 2010 5:14 PM

To:

Susan Kennedy; 'RSebastiano@osler.com'; 'ESmith@osler.com'

Cc:

Deborah Langelaan

Subject: Attachments: Fw: TransCanada - MPS Letter Agreement #2

6519-Letter Agreement-Signed.pdf

Attached please find the second TCE-MPS letter agreement.

Tomorrow, if the stars align as we predict, we will have the s. 25.13 designation letter signed for the redacted Equipment Supply Agreement between TCE and MPS

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Monday, December 13, 2010 05:08 PM

To: Michael Killeavy

Cc: Terri Steeves <terri steeves@transcanada.com>; Terry Bennett <terry bennett@transcanada.com>

Subject: TransCanada - MPS Letter Agreement #2

Michael,

Further to our meeting on Friday, please find a copy of the second letter agreement between TransCanada and MPS Canada.

Best regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102
Fax:416.869.2056

Cell:416.559.1664

We have moved! Please note the new address above

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

November 19, 2010



MPS Canada, Inc. Royal Bank Plaza, South Tower 200 Bay Street, Suite 3220 Toronto, ON Canada M5J 2J1

Attention: Shinichi Ueki

Subject:

Equipment Supply Contract #6519 dated July 7, 2009 between TransCanada Energy Ltd. and MPS Canada; Inc. (the "Contract") and the Letter Agreement

dated October 29, 2010 (the "Original Letter Agreement")

Dear Mr. Ueki,

This letter (this "Letter Agreement") is intended to set forth certain agreements, understandings and commitments between TransCanada Energy Ltd. ("Purchaser") and MPS Canada, Inc. (the "Supplier") regarding the Contract and the Original Letter Agreement.

- Background. Purchaser has been informed by the Ontario Power Authority (the "OPA") that the Project will not proceed forward based on the current site location designated in the Contract. OPA has requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. Attachment 1 contains a revised list of the potential alternative projects and potential configurations that TransCanada is pursuing with OPA. In the Original Letter Agreement, Purchaser suspended Supplier's Work effective October 29, 2010 until November 30, 2010. As the OPA has indicated its interest in one or more of the potential alternative projects and configurations, the Supplier and Purchaser hereby agree to continue to suspend Supplier's Work until December 31, 2010. As a result of such suspension, the Scheduled Delivery Dates will be redefined and any amounts determined in accordance with Article 14 will be paid.
- 2. <u>Commitment</u>. The Parties agree to amend the amount of the termination payment included in the Cancellation Schedule in Appendix VI, "Payment and Cancellation Schedule" for the date that corresponds to "Month 16" or December 2010 from "60%" to "55%." The Parties agree to cooperate with each other and use all reasonable good faith efforts to identify a viable alternative project(s). The Parties shall provide updated information to each other regarding the progress of selecting an alternative project(s) and meet as may be required to further discuss the ongoing status of an alternative project(s). Supplier agrees to provide information to Purchaser to support its efforts to identify an alternative project(s) with the configuration as listed in Attachment 1. Upon identifying an alternative project(s) and site(s), the Parties shall meet on a regular basis to identify and agree upon the changes to the Contract based upon the alternative project(s), including without limitation changes to the equipment delivery schedules and

performance guarantees based upon the configuration of the alternative project(s). Furthermore, the Parties acknowledge that the agreement to work exclusively and to cooperate for furnishing the heat recovery steam generators and steam turbine generators, if such equipment is required by such alternative project(s) set out in the Original Letter Agreement continues to be in effect. The Parties acknowledge that such obligations shall terminate if the Contract is terminated.

- 3. No Termination by Supplier. For greater clarity, Supplier acknowledges that it has agreed to the suspension contemplated in the Original Letter Agreement and continued in this Letter Agreement and to extend the Delivery Dates by more than twelve (12) months. Supplier therefore is not entitled to the right set out in Article 15.1(d) of the Contract only as such right relates to the suspension in the Original Letter Agreement and this Letter Agreement.
- 4. <u>Defined Terms</u>. Capitalized terms used but not defined herein shall have the meaning given them in the Contract.
- 5. Other Terms and Conditions. Except as expressly set forth herein, this Letter Agreement shall not by implication or otherwise limit, impair, constitute a waiver of, or otherwise affect the rights and remedies of either party to the Contract, nor alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Contract, all of which shall continue and remain in full force and effect.
- 6. Governing Law. This Letter Agreement shall be, for all purposes, governed by and construed in accordance with the laws of the Province of Ontario, excluding its rules governing conflicts of law.
- 7. <u>Entire Agreement</u>. This Letter Agreement represents the entire agreement and understanding of the Parties with respect to the amendment and modification of the Contract or Original Letter Agreement on the subject hereof, and supersedes all prior or contemporaneous discussions, understandings and agreements between the Parties with respect thereto.
- 8. <u>Amendments in Writing</u>. No change, amendment or modification of this Letter Agreement shall be valid or binding upon the Parties unless such change, amendment or modification shall be in writing and duly executed by both Parties.
- 9. <u>Counterparts</u>; <u>Signatures</u>. This Letter Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument. Any signature page of any such counterpart, or any electronic facsimile thereof, may be attached or appended to any other counterpart to complete a fully executed counterpart of this Letter Agreement. Any electronic facsimile transmission of any signature of a Party shall be deemed an original and shall bind such Party.
- 10. <u>Confidentiality</u>. The Parties agree that neither Party shall disclose the contents of this Letter Agreement to any third party without the prior written consent of the other Party; provided that Purchaser may disclose the contents of this Letter Agreement to the OPA.

If the foregoing accurately reflects the understanding and agreements of Supplier and Purchaser with respect to the subject matter hereof, please indicate your assent by having a duly authorized representative of Supplier countersign below and return one duplicate original of this Letter Agreement to Purchaser.

TransCanada Energy Ltd.

Name: Terry Bennett

Title: Vice President

Name: John Cashin

Title: Assistant Corporate Secretary

Accepted this 19th day of November, 2010.

MPS Canada, Inc

Name: Shinichi Ueki

Title: President

Attachment 1 Revised Project Options

Options	Configuration	GT	Output(MW)	COD	GT Delivery	Emission s	Remarks
S/C (Fast Start) C/C (no Fast Start)	2on1 C/C . (with Duct Firing)	GAC Fast	475 MW - 900 MW	S/C May/Jun- 2015 C/C Jun-2017	Jan-14	15ppm	GAC Fast information is required within 20days. CC Fast is not required.
сс	2on1 C/C (with Duct Firing)	GAC	900 MW	May/Jun -2015	Jun-13	SCR	Original Specification
S/C (Fast Start)	2 x S/C	GAÇ Fast	475 MW	May/Jun -2015	Jan-14	15ppm	

^{*}Note: All information provided herein is preliminary and subject to change.

From:

Michael Killeavy

Sent:

December 13, 2010 8:32 PM

To:

'RSebastiano@osler.com'; Susan Kennedy; 'ESmith@osler.com'

Cc:

Deborah Langelaan; 'Plvanoff@osler.com'

Subject: Re: TransCanada - MPS Letter Agreement #2

I know. I am really hoping we can get TCE the s. 25.13 letter tomorrow so that we can dig into the master agreement.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Monday, December 13, 2010 08:22 PM

To: Michael Killeavy; Susan Kennedy; Smith, Elliot < ESmith@osler.com >

Cc: Deborah Langeiaan; Ivanoff, Paul < <u>PIvanoff@osler.com</u>> **Subject:** RE: TransCanada - MPS Letter Agreement #2

Interestingly, this amending letter agreement has a new clause which was not in the Oct 29 Original Letter Agreement. Section 3 – No termination by Supplier states that "Supplier acknowledges that it has agreed... to extend the Delivery Dates by more than twelve (12) months. Supplier therefore is not entitled to the right set out in Article 15.1(d) of the contract only as such right relates to the suspension in the Original Letter Agreement and this Letter Agreement." Without seeing what right is contained in Article 15.1(d) of the Contract, one can only speculate as to what this clause means.

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Monday, December 13, 2010 5:14 PM

To: Susan Kennedy; Sebastiano, Rocco; Smith, Elliot

Cc: Deborah Langelaan

Subject: Fw: TransCanada - MPS Letter Agreement #2

Attached please find the second TCE-MPS letter agreement.

Tomorrow, if the stars align as we predict, we will have the s. 25.13 designation letter signed for the redacted Equipment Supply Agreement between TCE and MPS

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Monday, December 13, 2010 05:08 PM

To: Michael Killeavy

Cc: Terri Steeves < terri steeves@transcanada.com >; Terry Bennett < terry bennett@transcanada.com >

Subject: TransCanada - MPS Letter Agreement #2

Michael,

Further to our meeting on Friday, please find a copy of the second letter agreement between TransCanada and MPS Canada.

Best regards.

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102
Fax:416.869.2056
Cell:416.559.1664

We have moved! Please note the new address above

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

Le contenu du présent courriel est privilégié, confidentiel el
soumis à des droits d'auteur. Il est interdit de l'utiliser ou
de le divulguer sans autorisation.

			•				
·							
	-						
·				-			
		,					
		,					
					٠		

From:

Michael Killeavy

Sent:

December 14, 2010 1:08 PM

To:

'RSebastiano@osler.com'; Susan Kennedy

Cc:

'ESmith@osler.com'

Subject:

Re: TransCanada - Description for OPA for Electricity Act Designation as Confidential

I'm sure there will be someone acting in Colin's role while he's absent.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Tuesday, December 14, 2010 01:06 PM

To: Michael Killeavy; Susan Kennedy **Cc:** Smith, Elliot <ESmith@osler.com>

Subject: Re: TransCanada - Description for OPA for Electricity Act Designation as Confidential

At some point, we'll need to see a copy of the Ford land documents as it represents a significant cost.

Also, regarding the MPS documents, TCE told us that they have entered into several agreements with MPS, including the LTSA (Long Term Services Agreement under which TCE said they prepaid \$3.5 million in spare parts) and the performance guarantees. There is also the US dollar hedge for the MPS ESA which TCE claims to have paid \$13 million or so. We may need to see these at some point also.

For purposes of the short letter of intent for TCE's treasury that we discussed last week, I don't think we need to see these additional documents, but for the more detailed MOU or an "implementation agreement" (in the form of something like we did for PEC), we may need to see some of these other documents. Hard to say right now because presumably, it will be TCE driving the amount of detail that they need to have in this other MOU.

If Colin is away the first two weeks of January, would JoAnne or another VP be authorized to sign similar designations if need be in early January?

Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Tuesday, December 14, 2010 12:47 PM

To: Susan Kennedy <Susan.Kennedy@powerauthority.on.ca>

Cc: Sebastiano, Rocco

Subject: Re: TransCanada - Description for OPA for Electricity Act Designation as Confidential

I think we're good until then. Rocco, are you aware of anything else?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Susan Kennedy

Sent: Tuesday, December 14, 2010 12:46 PM

To: Michael Killeavy

Cc: 'RSebastiano@osler.com' <RSebastiano@osler.com>

Subject: RE: TransCanada - Description for OPA for Electricity Act Designation as Confidential

Are we expecting anything else, I'd like to not have to repeatedly bug Colin over the next few days/weeks (also note he is away first two weeks of January)?

Susan H. Kennedy

Director, Corporate/Commercial Law Group

From: Michael Killeavy

Sent: December 14, 2010 12:34 PM

To: Susan Kennedy

Cc: 'RSebastiano@osler.com'

Subject: Re: TransCanada - Description for OPA for Electricity Act Designation as Confidential

No worries. This looks fine to me. Thank you.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Susan Kennedy

Sent: Tuesday, December 14, 2010 12:32 PM

To: Michael Killeavy

Cc: 'RSebastiano@osler.com' <RSebastiano@osler.com>

Subject: RE: TransCanada - Description for OPA for Electricity Act Designation as Confidential

Yeah, sorry - didn't get through all of yesterday's emails or I would have had Colin sign both up today. Draft attached.

Susan H. Kennedy

Director, Corporate/Commercial Law Group

From: Michael Killeavy

Sent: December 14, 2010 12:29 PM

To: Susan Kennedy

Cc: 'RSebastiano@osler.com'

Subject: Fw: TransCanada - Description for OPA for Electricity Act Designation as Confidential

I think I sent this to you yesterday. Could we please get another letter from Colin designating this material under s.

25.13, too?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Monday, December 13, 2010 10:57 AM

To: Michael Killeavy

Cc: John Cashin <john_cashin@transcanada.com>; Terry Bennett <terry_bennett@transcanada.com>; Terri Steeves

<terri steeves@transcanada.com>; David Lever <DLEVER@MCCARTHY.CA>

Subject: TransCanada - Description for OPA for Electricity Act Designation as Confidential

Dear Michael,

On Friday I committed to getting you a description of our financial model for designation under the electricity act as confidential

I think we can describe what we are planning to send to the OPA later this week as the TransCanada Base Oakville Generation Station Unlevered Economics in the form of a Microsoft Excel spreadsheet named "Base Oakville Generation Station Unlevered Economics_OPA.xls". We will also be including the project economic assumptions and a declaration regarding the purpose and intended use of the spreadsheet in a word document. I am not certain these need to be covered as well.

Please let me know if this is sufficient for the purpose.

Thank you for meeting with us Friday. I look forward to catching up with you later today.

Best Regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development **Trans**Canada Royal Bank Plaza 200 Bay Street 24th Floor, South Tower Toronto, Ontario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 14, 2010 4:25 PM

To: Cc: 'RSebastiano@osler.com'

Cubines

Susan Kennedy; Deborah Langelaan; 'ESmith@osler.com'

Subject:

Re: TCE Letter of Intent

I expressly asked David and he said he would do it. I'll follow up.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Tuesday, December 14, 2010 04:18 PM

To: Michael Killeavy

Cc: Susan Kennedy; Deborah Langelaan; Smith, Elliot < ESmith@osler.com >

Subject: TCE Letter of Intent

Michael,

Just wanted to clarify whether TCE/McCarthys is revising the draft LOI that we discussed on Friday or it TCE waiting for us to send them over a revised draft. I went back to check my notes and I wasn't sure who was going to revise the document as agreed. Did you want to follow-up with John Mikkelson?

Thanks, Rocco

OSLER

Rocco Sebastiano Partner

416.862.5859 DIRECT 416.862.6666 FACSIMILE rsebastiano@osler.com

Osler, Hoskin & Harcourt LLP Box 50, 1 First Canadian Place Toronto, Ontario, Canada M5X 1B8

osler.com

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.
Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 14, 2010 6:26 PM Sebastiano, Rocco; Smith, Elliot

Subject:

RE: TCE Letter of Intent

Great. Thanks

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

----Original Message----

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Tue 12/14/2010 6:25 PM

To: Smith, Elliot; Michael Killeavy Subject: Re: TCE Letter of Intent

Spoke to Lever. They are finalizing the cover letter from MPS and expect to send over the agreement tomorrow morning.

From: Smith, Elliot

Sent: Tuesday, December 14, 2010 05:45 PM

To: Michael Killeavy < Michael.Killeavy@powerauthority.on.ca>

Cc: Sebastiano, Rocco

Subject: RE: TCE Letter of Intent

Michael,

Further to your voice message, I have not received the equipment supply contract from TCE. I've copied Rocco so he can advise if he's seen anything as yet.

Elliot

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Tuesday, December 14, 2010 4:25 PM

To: Sebastiano, Rocco

Cc: Susan Kennedy; Deborah Langelaan; Smith, Elliot

Subject: Re: TCE Letter of Intent

I expressly asked David and he said he would do it. I'll follow up.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Tuesday, December 14, 2010 04:18 PM

To: Michael Killeavy

Cc: Susan Kennedy; Deborah Langelaan; Smith, Elliot <ESmith@osler.com>

Subject: TCE Letter of Intent

Michael,

Just wanted to clarify whether TCE/McCarthys is revising the draft LOI that we discussed on Friday or it TCE waiting for us to send them over a revised draft. I went back to check my notes and I wasn't sure who was going to revise the document as agreed. Did you want to follow-up with John Mikkelson?

Thanks, Rocco

http://www.osler.com/img/email logo.gif http://www.osler.com/img/email logo.gif

Rocco Sebastiano Partner

416.862.5859

DIRECT

416.862.6666

FACSIMILE

rsebastiano@osler.com

Osler, Hoskin & Harcourt LLP Box 50, 1 First Canadian Place Toronto, Ontario, Canada M5X 1B8

http://www.osler.com/img/email website.gif <http://www.osler.com/>

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

. •		
		·

From:

Michael Killeavy

Sent:

December 14, 2010 6:26 PM Sebastiano, Rocco; Smith, Elliot

To: Subject:

FW: OPA- TCE - Revised MOU - December 14 2010

Attachments:

MOU_-_TransCanada_OPA December 14 2010.DOC

FYI ...

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

----Original Message----

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Tue 12/14/2010 6:18 PM

To: Michael Killeavy

Cc: Terry Bennett; John Cashin; Terri Steeves; Chris Breen

Subject: OPA- TCE - Revised MOU - December 14 2010

Michael,

Further to our conversation this evening, attached please find a revised MOU based on the discussions from last Friday. As discussed today we have left the language as written with respect to the recovery of costs in the "NRR" however it may be advantageous to consider distributing the costs over other more appropriate parameters once we determine what those costs are.

Also the MOU is silent on project development costs associated with a Potential Project. As discussed on Friday we would expect that these costs would be recoverable under the new agreement for the Potential Project to be developed early in the New Year.

Looking forward to further discussing this agreement with you on Friday.

Best regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

Royal Bank Plaza 200 Bay Street 24th Floor, South Tower Toronto, Ontario M5J 2J1

Tel: 416.869.2102

Fax:416.869.2056

Cell:416.559.1664

We have moved! Please note the new address above

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

Draft: December ●, 2010

[TCE Letterhead]

[WITH PREJUDICE]

Ontario Power Authority Suite 1600 120 Adelaide Street West Toronto, ON M5H 1T1

Attention: •

Dear Sirs:

Re: Potential Development of a Simple Cycle Natural Gas-Fired Power Generation Project

This letter ("MOU") sets forth the understanding between TransCanada Energy Ltd. ("TCE") and the Ontario Power Authority ("OPA") regarding the potential development of a simple cycle natural gas-fired power generation project in the Kitchener-Waterloo-Cambridge area having an approximate [season 3 degraded] capacity of 450MW (the "Potential Project") and entering into a peaking generation agreement with respect thereto.

 Background. TCE was notified by the OPA that it was the selected proponent under the Southwest GTA Request for Proposals procurement process on September 30, 2009. TCE executed the Southwest GTA Clean Energy Supply (CES) Contract (the 'Contract') with the OPA on October 9, 2009.

TCE entered into contracts and expended funds to develop the Facility (as defined in the Contract).

On October 7, 2010, TCE received a letter from Colin Andersen of the OPA Re: Southwest GTA Clean Energy Supply Contract between TransCanada Energy Ltd. and the OPA dated October 9, 2009 (the "October 7 Letter").

In accordance with the October 7 Letter, TCE and the OPA have been working cooperatively to identify other generation projects that meet Ontario's electricity system needs including those needs identified subsequently in Ontario's Long Term Energy Plan and the IESO's 18-Month Outlook Update (December 3, 2010). TCE and the OPA have identified a site in Cambridge, Ontario as a potential location for the Potential Project. It is anticipated that the Potential Project will use the gas turbines sourced under an equipment supply agreement originally entered into by TCE and MPS Canada, Inc. with respect to the Facility.

2. Good Faith Negotiations. The OPA and TCE agree to work together in good faith to negotiate the definitive form of an agreement (the "Definitive Agreement") in respect of the Potential Project, or an alternative project agreed to by the OPA and TCE. The Definitive Agreement shall be based on the form of the Northern York Region Peaking Generation Contract except that the "NRR" thereunder shall include all gas delivery and management services costs, which agreement shall be satisfactory to TCE and the OPA in their sole discretion. The "NRR" under the Definitive Agreement shall also include an

amount to account for all costs reasonably incurred by TCE with respect to the Facility as well as TCE's anticipated financial value of the Contract. The target date for execution of the Definitive Agreement shall be June 30, 2011.

3. Legal Effect. The parties hereto acknowledge that sections 2, 3 and 4 of this MOU constitute a legally binding agreement regarding the matters contemplated herein. Each party hereby represents and warrants to the other that such party has full power and authority to execute and deliver this MOU, and that the execution and delivery of this MOU by such party has been authorized by all requisite corporate action on the part of such party. The remaining provisions of this MOU do not create any legally binding obligations.

4. General.

- (a) This MOU and its application and interpretation will be governed exclusively by the laws of the Province of Ontario and the federal laws of Canada applicable therein regardless of the laws that might otherwise govern under applicable conflict of law principles.
- (b) The parties' relationship to each other under this MOU is that of independent contractors. Nothing contained in this MOU is intended to place the parties in the relationship of partners, joint venturers, principal-agent, or employer-employee, and neither party shall have any right to obligate or bind the other party in any manner whatsoever.
- (c) This MOU may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of executed counterparts hereof may be made electronically.
- (d) The parties acknowledge that this MOU is confidential, in accordance with the terms of the Confidentiality Agreement between the parties dated as of October 8, 2010.
- (e) Neither party will assign this agreement without the prior written consent of the other party.

If the foregoing correctly sets forth our mutual understanding and intentions, please sign the enclosed counterpart originals of this MOU and return one of the counterparts to the attention of the undersigned on or before December •, 2010. Provided that this letter is executed by the OPA by such date, this MOU shall become effective as of such date of acceptance otherwise it will be null and void.

Yours very truly,

TRANSCANADA ENERGY LTD.

Per:	
	Name: ● Title: ●
Per:	
	Name: • Title: •
ACCEPTE	ED AND AGREED to this day of ●, 2010.
ONTARIO	POWER AUTHORITY
Per:	
	Name: ● Title: ●
Per:	
	Name: • Title: •

	•		
		,	

From:

Michael Killeavy

Sent:

December 14, 2010 7:48 PM

To:

Susan Kennedy

Subject:

FW: OPA-TCE - Revised MOU - December 14 2010

Attachments:

MOU_-_TransCanada_OPA December 14 2010,DOC

Importance:

High.

Susan,

Here is the TCE revised MOU, which is based on our meeting last Friday. I have also just sent a copy to Rocco and Elliot. I think it accurately reflects our discussions.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority
120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

----Original Message----

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Tue 12/14/2010 6:18 PM

To: Michael Killeavy

Cc: Terry Bennett; John Cashin; Terri Steeves; Chris Breen

Subject: OPA- TCE - Revised MOU - December 14 2010

Michael,

Further to our conversation this evening, attached please find a revised MOU based on the discussions from last Friday. As discussed today we have left the language as written with respect to the recovery of costs in the "NRR" however it may be advantageous to consider distributing the costs over other more appropriate parameters once we determine what those costs are.

Also the MOU is silent on project development costs associated with a Potential Project. As discussed on Friday we would expect that these costs would be recoverable under the new agreement for the Potential Project to be developed early in the New Year.

Looking forward to further discussing this agreement with you on Friday.

Best regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

Royal Bank Plaza 200 Bay Street 24th Floor, South Tower Toronto, Ontario M5J 2J1

Tel: 416.869.2102

Fax:416.869.2056

Cell:416.559.1664

We have moved! Please note the new address above

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

Draft: December ●, 2010

[TCE Letterhead]

[WITH PREJUDICE]

Ontario Power Authority Suite 1600 120 Adelaide Street West Toronto, ON M5H 1T1

Attention: •

Dear Sirs:

Re: Potential Development of a Simple Cycle Natural Gas-Fired Power Generation Project

This letter ("MOU") sets forth the understanding between TransCanada Energy Ltd. ("TCE") and the Ontario Power Authority ("OPA") regarding the potential development of a simple cycle natural gas-fired power generation project in the Kitchener-Waterloo-Cambridge area having an approximate [season 3 degraded] capacity of 450MW (the "Potential Project") and entering into a peaking generation agreement with respect thereto.

1. **Background**. TCE was notified by the OPA that it was the selected proponent under the Southwest GTA Request for Proposals procurement process on September 30, 2009. TCE executed the Southwest GTA Clean Energy Supply (CES) Contract (the 'Contract") with the OPA on October 9, 2009.

TCE entered into contracts and expended funds to develop the Facility (as defined in the Contract).

On October 7, 2010, TCE received a letter from Colin Andersen of the OPA Re: Southwest GTA Clean Energy Supply Contract between TransCanada Energy Ltd. and the OPA dated October 9, 2009 (the "October 7 Letter").

In accordance with the October 7 Letter, TCE and the OPA have been working cooperatively to identify other generation projects that meet Ontario's electricity system needs including those needs identified subsequently in Ontario's Long Term Energy Plan and the IESO's 18-Month Outlook Update (December 3, 2010). TCE and the OPA have identified a site in Cambridge, Ontario as a potential location for the Potential Project. It is anticipated that the Potential Project will use the gas turbines sourced under an equipment supply agreement originally entered into by TCE and MPS Canada, Inc. with respect to the Facility.

2. Good Faith Negotiations. The OPA and TCE agree to work together in good faith to negotiate the definitive form of an agreement (the "Definitive Agreement") in respect of the Potential Project, or an alternative project agreed to by the OPA and TCE. The Definitive Agreement shall be based on the form of the Northern York Region Peaking Generation Contract except that the "NRR" thereunder shall include all gas delivery and management services costs, which agreement shall be satisfactory to TCE and the OPA in their sole discretion. The "NRR" under the Definitive Agreement shall also include an

amount to account for all costs reasonably incurred by TCE with respect to the Facility as well as TCE's anticipated financial value of the Contract. The target date for execution of the Definitive Agreement shall be June 30, 2011.

3. Legal Effect. The parties hereto acknowledge that sections 2, 3 and 4 of this MOU constitute a legally binding agreement regarding the matters contemplated herein. Each party hereby represents and warrants to the other that such party has full power and authority to execute and deliver this MOU, and that the execution and delivery of this MOU by such party has been authorized by all requisite corporate action on the part of such party. The remaining provisions of this MOU do not create any legally binding obligations.

4. General.

- (a) This MOU and its application and interpretation will be governed exclusively by the laws of the Province of Ontario and the federal laws of Canada applicable therein regardless of the laws that might otherwise govern under applicable conflict of law principles.
- (b) The parties' relationship to each other under this MOU is that of independent contractors. Nothing contained in this MOU is intended to place the parties in the relationship of partners, joint venturers, principal-agent, or employer-employee, and neither party shall have any right to obligate or bind the other party in any manner whatsoever.
- (c) This MOU may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of executed counterparts hereof may be made electronically.
- (d) The parties acknowledge that this MOU is confidential, in accordance with the terms of the Confidentiality Agreement between the parties dated as of October 8, 2010.
- (e) Neither party will assign this agreement without the prior written consent of the other party.

If the foregoing correctly sets forth our mutual understanding and intentions, please sign the enclosed counterpart originals of this MOU and return one of the counterparts to the attention of the undersigned on or before December •, 2010. Provided that this letter is executed by the OPA by such date, this MOU shall become effective as of such date of acceptance otherwise it will be null and void.

Yours very truly,

TRANSCANADA ENERGY LTD.

Per:				
	Name: • Title: •			_
Per:		-		
	Name: ● Title: ●			_
ACCEP	TED AND AG	REED to this	day of	•, 2010.
ONTAR	O POWER A	UTHORITY		
Per:				
	Name: ● Title: ●			
Per:				
	Name: ● Title: ●			

				1
·				1
·				
			·	

From:

Michael Killeavy

Sent: To: December 15, 2010 12:27 PM

Cc:

'Sebastiano, Rocco'; Susan Kennedy Deborah Langelaan; 'Smith, Elliot'; 'Ivanoff, Paul'

Subject:

RE: OPA - TCE Revised MOU

Rocco,

I agree with you on point #1, i.e., the MOU should be without prejudice. I think you explained clearly the distinction between binding effect of the memorandum and its status as a "with prejudice" document in the context of the overall dispute between the parties. I defer to Susan on this, though.

As for point #2, PSP has confirmed that we are talking about "season 3 degraded" capacity for the plant, so I'm fine with the change proposed. We might wish to clarify that season three means the summer (I don't see it defined anywhere in the MOU).

John Mikkelsen raised the NRR issue with me last night, and I said what you said – if a cost isn't recovered in NRR then it's in the O&M charge or start-up charge. I don't understand what he's referring to, again, because I don't have the model to which he has access. I simply stated that we'd need to know more before we could land on a position either way. I think that's a safe answer.

My take is that he's just stating an expectation about project development costs, which he may well have. I think we were clear last week that we need a very detailed budget, along the lines of what was provided for PEC, to review before we could agree to any reimbursement.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 15, 2010 11:35 AM **To:** Michael Killeavy; Susan Kennedy

Cc: Deborah Langelaan; Smith, Elliot; Ivanoff, Paul

Subject: OPA - TCE Revised MOU

Please find enclosed a blackline for your records of the revised MOU that TCE sent us last night to the version that we sent them last Friday.

There are two points which remain to be resolved:

- 1. TCE has re-inserted the words "With Prejudice" in square brackets at the top of the MOU after we expressly told them that it was not acceptable to us for the reasons we explained to them during our meeting on Friday. I don't think that our position on this should be negotiable.
- 2. The words "season 3 degraded" has been re-inserted in square brackets. Based on the response we received from Amir over the weekend, it would appear that the OPA is ok with those words being re-inserted into the MOU.

John Mikkelson raised two other points in his cover email to the revised MOU which I would like to comment on.

First of all, he says "it may be advantageous to consider distributing the costs over other more appropriate parameters once we determine what those costs are." Under any CES style contract, the only payment made by the OPA to a Supplier is a CSP. Under the Peaking generation Contract for YEC, there is also a Monthly GD&M Payment but we have said that the form of peaking generation contract which the OPA intends to use on the Potential Project will require all GD&M Costs to be included in the NRR. The only other place to effectively bury costs is to increase the Stat-Up Maintenance Cost and the O&M Costs, the effect of which would be to lower Imputed Net Revenue by decreasing the number of Imputed Production Intervals. However, this would be counter to the arguments raised by TCE's Chris Martin when we were discussing the issue of GCG's under the GTA West and PEC CES Contracts. Chris' argument is that we should be trying to better align the CES contract parameters relating to Imputed Production to actual market conditions so as to help reduce the mismatch between INR and ANR. In conclusion, I don't know what John is getting at with this comment, but it does raise some concerns.

Secondly, he raised the point about recovery of project development costs associated with a Potential Project. As you will have noticed in the Implementation Agreement that we executed for the negotiation of the CES contract for PEC, we received a fairly detailed budget for costs that PEC needed to incur to maintain the schedule during the negotiations. Again, this was driven by the OPA's need to get that facility built under a tight schedule. If TCE is not prepared to agree to a more aggressive time schedule than a COD of December 2014 then we need to question what costs actually need to be incurred during the negotiations, other than those which will help firm up the NRR.

Regards, Rocco						

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.						
Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.						

From:

Michael Killeavy

Sent:

December 15, 2010 12:50 PM

To: Cc: Susan Kennedy Michael Lyle

Subject:

RE: Call with David Lever

Ok. Please let me know what you want to do. I didn't know anything about this 2pm teleconference until Rocco emailed me and presume you didn't know either. I don't want them agreeing for us over the teleconference if we aren't comfortable.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

----Original Message----

From: Susan Kennedy

Sent: December 15, 2010 12:42 PM

To: Michael Killeavy Cc: Michael Lyle

Subject: RE: Call with David Lever

Ideally, I'd like to get a consult with Mike Lyle first. I've attached a mark-up which I think can/could get me to "hold your nose" okay with signing the LOI pre-directive (and which still might be acceptable to TCE).

Susan H. Kennedy Director, Corporate/Commercial Law Group

----Original Message-----From: Michael Killeavy

Sent: December 15, 2010 12:37 PM

To: Susan Kennedy Cc: Michael Lyle

Subject: RE: Call with David Lever

I understand. Shall we instruct Rocco to cancel the call scheduled for this afternoon?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

----Original Message----

From: Susan Kennedy

Sent: December 15, 2010 12:34 PM

To: 'Sebastiano, Rocco'; Michael Killeavy Cc: Smith, Elliot; Ivanoff, Paul; Michael Lyle

Subject: RE: Call with David Lever

I am uncomfortable agreeing to negotiate in good faith without a directive, so we may have a timing issue.

We know we have no authority to do this without a directive and right now we don't have one.

I have a draft directive circulating internally and gave a "best efforts" undertaking to get the draft out the door to the Ministry today for review.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

----Original Message----

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 15, 2010 12:07 PM
To: Michael Killeavy; Susan Kennedy
Cc: Smith, Elliot; Ivanoff, Paul
Subject: Call with David Lever

At David's request, we have set up a call this afternoon to see if the lawyers can finalize the MOU and Acknowledgement. As a result, it would be good if we could go over the points raised on my two emails this morning on the MOU and Acknowledgement before that call. I am available between now and 2 pm to discuss if need be.

Thanks, Rocco

----Original Message----

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Wednesday, December 15, 2010 11:57 AM

To: Sebastiano, Rocco Cc: Huber, Harold R.

Subject: Re:

Perfect. We will call you at 330. Thanks

---- Original Message -----

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Wednesday, December 15, 2010 11:45 AM

To: Lever, David A.N.

Cc: Huber, Harold R.

Subject: RE:

David,

I should be available after 3:30 pm today to discuss the MOU and Acknowledgement and hopefully we can get these two documents finalized today. Not sure that I'll be in a position to say much more today about the Indemnity Agreement.

Thanks, Rocco

----Original Message----

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Wednesday, December 15, 2010 10:19 AM

To: Sebastiano, Rocco Cc: Huber, Harold R.

Subject:

Rocco, is there a time that you would be free to chat late this afternoon on the MOU, Acknowledgment, and the Indemnity.

David

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).

Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this e-mail. Our privacy policy is available at www.mccarthy.ca.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 15, 2010 1:46 PM

To: Subject: 'Sebastiano, Rocco' FW: Call with David Lever

Attachments:

MOU - TransCanada_OPA December 14 2010 shk.DOC

Susan's markup.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

----Original Message----

From: Susan Kennedy

Sent: December 15, 2010 12:42 PM

To: Michael Killeavy Cc: Michael Lyle

Subject: RE: Call with David Lever

Ideally, I'd like to get a consult with Mike Lyle first. I've attached a mark-up which I think can/could get me to "hold your nose" okay with signing the LOI pre-directive (and which still might be acceptable to TCE).

Susan H. Kennedy
Director, Corporate/Commercial Law Group

----Original Message-----From: Michael Killeavy

Sent: December 15, 2010 12:37 PM

To: Susan Kennedy Cc: Michael Lyle

Subject: RE: Call with David Lever

I understand. Shall we instruct Rocco to cancel the call scheduled for this afternoon?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

----Original Message-----

From: Susan Kennedy

Sent: December 15, 2010 12:34 PM

To: 'Sebastiano, Rocco'; Michael Killeavy

Cc: Smith, Elliot; Ivanoff, Paul; Michael Lyle

Subject: RE: Call with David Lever

I am uncomfortable agreeing to negotiate in good faith without a directive, so we may have a timing issue.

We know we have no authority to do this without a directive and right now we don't have one.

I have a draft directive circulating internally and gave a "best efforts" undertaking to get the draft out the door to the Ministry today for review.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

----Original Message----

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 15, 2010 12:07 PM To: Michael Killeavy; Susan Kennedy Cc: Smith, Elliot; Ivanoff, Paul Subject: Call with David Lever

At David's request, we have set up a call this afternoon to see if the lawyers can finalize the MOU and Acknowledgement. As a result, it would be good if we could go over the points raised on my two emails this morning on the MOU and Acknowledgement before that call. I am available between now and 2 pm to discuss if need be.

Thanks, Rocco

----Original Message----

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Wednesday, December 15, 2010 11:57 AM

To: Sebastiano, Rocco Cc: Huber, Harold R.

Subject: Re:

Perfect. We will call you at 330. Thanks

---- Original Message -----

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Wednesday, December 15, 2010 11:45 AM

To: Lever, David A.N. Cc: Huber, Harold R.

Subject: RE:

David,

I should be available after 3:30 pm today to discuss the MOU and Acknowledgement and hopefully we can get these two documents finalized today. Not sure that I'll be in a position to say much more today about the Indemnity Agreement.

Thanks, Rocco

----Original Message----

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Wednesday, December 15, 2010 10:19 AM

To: Sebastiano, Rocco Cc: Huber, Harold R.

Subject:

Rocco, is there a time that you would be free to chat late this afternoon on the MOU, Acknowledgment, and the Indemnity.

David

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).

Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this e-mail. Our privacy policy is available at www.mccarthy.ca .

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.



Draft: December ●, 2010

[TCE Letterhead]

[WITH PREJUDICE]

Ontario Power Authority Suite 1600 120 Adelaide Street West Toronto, ON M5H 1T1

Attention: •

Dear Sirs:

Re: Potential Development of a Simple Cycle Natural Gas-Fired Power Generation Project

This letter ("MOU") sets forth the understanding between TransCanada Energy Ltd. ("TCE") and the Ontario Power Authority ("OPA") regarding the potential development of a simple cycle natural gas-fired power generation project in the Kitchener-Waterloo-Cambridge area having an approximate [season 3 degraded] capacity of 450MW (the "Potential Project") and entering into a peaking generation agreement with respect thereto.

 Background. TCE was notified by the OPA that it was the selected proponent under the Southwest GTA Request for Proposals procurement process on September 30, 2009. TCE executed the Southwest GTA Clean Energy Supply (CES) Contract (the 'Contract") with the OPA on October 9, 2009.

TCE entered into contracts and expended funds to develop the Facility (as defined in the Contract).

On October 7, 2010, the Minister of Energy announced that the Southwest GTA plant would not proceed and, on that date, TCE received a letter from Colin Andersen of the OPA Re: Southwest GTA Clean Energy Supply Contract between TransCanada Energy Ltd. and the OPA dated October 9, 2009 (the "October 7 Letter").

In anticipation of receipt by the OPA of a direction pursuant to section 25.35 of the Electricity Act, 1998 and In accordance with the October 7 Letter, TCE and the OPA have been working cooperatively to identify other generation projects that meet Ontario's electricity system needs including those needs identified subsequently in Ontario's Long Term Energy Plan and the IESO's 18-Month Outlook Update (December 3, 2010). TCE and the OPA have identified a site in Cambridge, Ontario as a potential location for the Potential Project. It is anticipated that the Potential Project will use the gas turbines sourced under an equipment supply agreement originally entered into by TCE and MPS Canada, Inc. with respect to the Facility.

2. Good Faith Negotiations. The OPA and TCE agree to work together in good faith to negotiate the definitive form of an agreement (the "Definitive Agreement") in respect of the Potential Project, or an alternative project agreed to by the OPA and TCE. The Definitive Agreement shall be based on the form of the Northern York Region Peaking Generation Contract except that the "NRR" thereunder shall include all gas delivery and

management services costs, which agreement shall be satisfactory to TCE and the OPA in their sole discretion. The "NRR" under the Definitive Agreement shall also include an amount to account for all costs reasonably incurred by TCE with respect to the Facility as well as TCE's anticipated financial value of the Contract. The target date for execution of the Definitive Agreement shall be June 30, 2011.

3. Legal Effect. The parties hereto acknowledge that sections 2, 3 and 4 of this MOU constitute a legally binding agreement regarding the matters contemplated herein. Each party hereby represents and warrants to the other that such party has full power and authority to execute and deliver this MOU, and that the execution and delivery of this MOU by such party has been authorized by all requisite corporate action on the part of such party. The remaining provisions of this MOU do not create any legally binding obligations.

4. General.

- (a) This MOU and its application and interpretation will be governed exclusively by the laws of the Province of Ontario and the federal laws of Canada applicable therein regardless of the laws that might otherwise govern under applicable conflict of law principles.
- (b) The parties' relationship to each other under this MOU is that of independent contractors. Nothing contained in this MOU is intended to place the parties in the relationship of partners, joint venturers, principal-agent, or employer-employee, and neither party shall have any right to obligate or bind the other party in any manner whatsoever.
- (c) This MOU may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of executed counterparts hereof may be made electronically.
- (d) The parties acknowledge that this MOU is confidential, in accordance with the terms of the Confidentiality Agreement between the parties dated as of October 8, 2010.
- (e) Neither party will assign this agreement without the prior written consent of the other party.

If the foregoing correctly sets forth our mutual understanding and intentions, please sign the enclosed counterpart originals of this MOU and return one of the counterparts to the attention of the undersigned on or before December •, 2010. Provided that this letter is executed by the OPA by such date, this MOU shall become effective as of such date of acceptance otherwise it will be null and void.

Yours very truly,

TRANS	CANADA ENERGY LTD.	
Per:		
	Name: ● Title: ●	
Per:		
	Name: ● Title: ●	
ACCEP	TED AND AGREED to this day of ●, 20	010.
ONTARI	IO POWER AUTHORITY	
Per:		
	Name: ● Title: ●	
Per:		
;	Name: ● Title: ●	

		·			
				•	
			·		

From:

Michael Killeavy

Sent:

December 15, 2010 4:07 PM

To:

Susan Kennedy; JoAnne Butler; Michael Lyle

Subject:

RE: Revised Draft Directive

Could we put an "out" option in the Directive that states that if we can't negotiate an agreement with TCE that is in the best interests of the ratepayer, we don't need to conclude an agreement at any cost? I know that this might be tough considering that we need to build in sunk costs for OGC plus the financial value of the OGS contract, but I am concerned that this Directive ties our hands. The later we actually get the directive, the less the risk is, I suppose.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Susan Kennedy

Sent: December 15, 2010 3:51 PM

To: JoAnne Butler; Michael Lyle; Michael Killeavy

Subject: RE: Revised Draft Directive

Sorry. Attached this time. BL and clean.

Susan H. Kennedy

Director, Corporate/Commercial Law Group

From: JoAnne Butler

Sent: December 15, 2010 3:48 PM

To: Susan Kennedy; Michael Lyle; Michael Killeavy

Subject: RE: Revised Draft Directive

Nothing attached...

JoAnne C. Butler Vice President, Electricity Resources Ontario Power Authority

120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1

416-969-6005 Tel. 416-969-6071 Fax. joanne.butler@powerauthority.on.ca From: Susan Kennedy

Sent: Miércoles, 15 de Diciembre de 2010 03:48 p.m.

To: Michael Lyle; Michael Killeavy

Cc: JoAnne Butler

Subject: Revised Draft Directive

Attached. Incorporating Mike's comments. Ideally, I'd like to get the draft to the Ministry today, or tomorrow noon (at the latest).

Thanks,

Susan H. Kennedy Director, Corporate/Commercial Law Group Ontario Power Authority

T: 416-969-6054 F: 416-969-6383

E: susan.kennedy@powerauthority.on.ca

From:

Michael Killeavy

Sent:

December 15, 2010 4:46 PM

To:

Susan Kennedy; JoAnne Butler; Michael Lyle

Subject:

Re: Revised Draft Directive

Thanks. This looks fine to me.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Susan Kennedy

Sent: Wednesday, December 15, 2010 04:35 PM **To:** Michael Killeavy; JoAnne Butler; Michael Lyle

Subject: RE: Revised Draft Directive

Revised per below suggestion.

Susan H. Kennedy

Director, Corporate/Commercial Law Group

From: Michael Killeavy

Sent: December 15, 2010 4:07 PM

To: Susan Kennedy; JoAnne Butler; Michael Lyle

Subject: RE: Revised Draft Directive

Could we put an "out" option in the Directive that states that if we can't negotiate an agreement with TCE that is in the best interests of the ratepayer, we don't need to conclude an agreement at any cost? I know that this might be tough considering that we need to build in sunk costs for OGC plus the financial value of the OGS contract, but I am concerned that this Directive ties our hands. The later we actually get the directive, the less the risk is, I suppose.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX) From: Susan Kennedy

Sent: December 15, 2010 3:51 PM

To: JoAnne Butler; Michael Lyle; Michael Killeavy

Subject: RE: Revised Draft Directive

Sorry. Attached this time. BL and clean.

Susan H. Kennedy Director, Corporate/Commercial Law Group

From: JoAnne Butler

Sent: December 15, 2010 3:48 PM

To: Susan Kennedy; Michael Lyle; Michael Killeavy

Subject: RE: Revised Draft Directive

Nothing attached...

JoAnne C. Butler Vice President, Electricity Resources Ontario Power Authority

120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1

416-969-6005 Tel. 416-969-6071 Fax. joanne.butler@powerauthority.on.ca

From: Susan Kennedy

Sent: Miércoles, 15 de Diciembre de 2010 03:48 p.m.

To: Michael Lyle; Michael Killeavy

Cc: JoAnne Butler

Subject: Revised Draft Directive

Attached. Incorporating Mike's comments. Ideally, I'd like to get the draft to the Ministry today, or tomorrow noon (at the latest).

Thanks,

Susan H. Kennedy Director, Corporate/Commercial Law Group Ontario Power Authority

T: 416-969-6054 F: 416-969-6383

E: susan.kennedy@powerauthority.on.ca

From:

Michael Killeavy

Sent:

December 15, 2010 5:01 PM

To:

'RSebastiano@osler.com'; Susan Kennedy

Cc:

Deborah Langelaan; 'ESmith@osler.com'; 'Plyanoff@osler.com'

Subject:

Re: Revised TCE and OPA MOU

This looks alright to me. Thanks.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Wednesday, December 15, 2010 04:56 PM

To: Michael Killeavy; Susan Kennedy

Cc: Deborah Langelaan; Smith, Elliot < ESmith@osler.com >; Ivanoff, Paul < PIvanoff@osler.com >

Subject: Revised TCE and OPA MOU

Michael and Susan,

Further to our discussion this afternoon, please find enclosed a revised draft of the MOU with TCE. Please let me know whether you have any further comments or concerns on this revised draft, particularly as it relates to the OPA's authority to enter into this MOU without a directive from the Minister.

Thanks, Rocco

OSLER

Rocco Sebastiano Partner

416.862.5859 DIRECT 416.862.6666 FACSIMILE rsebastiano@osler.com

Osler, Hoskin & Harcourt LLP Box 50, 1 First Canadian Place Toronto, Ontario, Canada M5X 1B8

osler.com

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 15, 2010 5:56 PM

To:

'RSebastiano@osler.com'; Susan Kennedy

Cc:

Deborah Langelaan; 'ESmith@osler.com'; 'Plvanoff@osler.com'

Subject:

Re: Revised TCE and OPA MOU

Yes. Please do so.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Wednesday, December 15, 2010 05:49 PM

To: Susan Kennedy; Michael Killeavy

Cc: Deborah Langelaan; Smith, Elliot < ESmith@osler.com >; Ivanoff, Paul < PIvanoff@osler.com >

Subject: RE: Revised TCE and OPA MOU

I take it then that I can send over this revised draft to David Lever. Thanks, Rocco

From: Susan Kennedy [mailto:Susan.Kennedy@powerauthority.on.ca]

Sent: Wednesday, December 15, 2010 5:04 PM

To: Michael Killeavy; Sebastiano, Rocco

Cc: Deborah Langelaan; Smith, Elliot; Ivanoff, Paul

Subject: RE: Revised TCE and OPA MOU

I'm good too.

Susan H. Kennedy Director, Corporate/Commercial Law Group

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From: Michael Killeavy

Sent: December 15, 2010 5:01 PM

To: 'RSebastiano@osler.com'; Susan Kennedy

Cc: Deborah Langelaan; 'ESmith@osler.com'; 'PIvanoff@osler.com'

Subject: Re: Revised TCE and OPA MOU

This looks alright to me. Thanks.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Wednesday, December 15, 2010 04:56 PM

To: Michael Killeavy; Susan Kennedy

Cc: Deborah Langelaan; Smith, Elliot < ESmith@osler.com >; Ivanoff, Paul < PIvanoff@osler.com >

Subject: Revised TCE and OPA MOU

Michael and Susan,

Further to our discussion this afternoon, please find enclosed a revised draft of the MOU with TCE. Please let me know whether you have any further comments or concerns on this revised draft, particularly as it relates to the OPA's authority to enter into this MOU without a directive from the Minister.

Thanks, Rocco

OSLER

Rocco Sebastiano Partner

416.862.5859 DIRECT 416.862.6666 FACSIMILE rsebastiano@osler.com

Osler, Hoskin & Harcourt LLP Box 50, 1 First Canadian Place Toronto, Ontario, Canada M5X 1B8

osler.com

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriet est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

. .

From:

Michael Killeavy

Sent:

December 15, 2010 6:13 PM

To:

Sebastiano, Rocco; Susan Kennedy

Cc: Subject: Deborah Langelaan; Smith, Elliot; Ivanoff, Paul RE: Revised MPS Contract Acknowledgement

This looks fine to me. As Susan has no comments, please send this to TCE counsel.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

----Original Message----

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Wed 12/15/2010 5:45 PM

To: Michael Killeavy; Susan Kennedy

Cc: Deborah Langelaan; Smith, Elliot; Ivanoff, Paul

Subject: Revised MPS Contract Acknowledgement

Further to my email of earlier today, please find enclosed a revised draft of the MPS Contract Acknowledgement. Please let me know whether you have any further comments on it. If possible, I would like to get this over to David Lever this evening.

Thanks, Rocco

http://www.osler.com/img/email logo.gif http://www.osler.com/img/email logo.gif

Rocco Sebastiano Partner

416.862.5859

DIRECT

416.862.6666

FACSIMILE

rsebastiano@osler.com

Osler, Hoskin & Harcourt LLP Box 50, 1 First Canadian Place Toronto, Ontario, Canada M5X 1B8

http://www.osler.com/img/email_website.gif <http://www.osler.com/>

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 16, 2010 4:56 AM

To:

'RSebastiano@osler.com'; Susan Kennedy

Cc:

Deborah Langelaan; 'ESmith@osler.com'; 'Plvanoff@osler.com'

Subject:

Re: TransCanada Acknowledgement and MOU

Yes. I'll contact Safouh this morning.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Wednesday, December 15, 2010 09:33 PM

To: Michael Killeavy; Susan Kennedy

Cc: Deborah Langelaan; Smith, Elliot < ESmith@osler.com >; Ivanoff, Paul < PIvanoff@osler.com >

Subject: Fw: TransCanada Acknowledgement and MOU

Here are further revised drafts from McCarthys.

There are only a couple of remaining outstanding points:

On the MPS acknowledgment, addition of clause that SMS will provide a similar acknowledgment should not be an issue but we'll need to get Safouh's concurrence before we can agree to that change.

On the MOU, it looks like McCarthys is not prepared to drop the "with prejudice" designation at the top of the document. They re-inserted it again in square brackets. I will discuss this with David Lever tomorrow.

Michael, did you want to get Safouh's input on the MPS acknowledgment?

Thanks, Rocco

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Wednesday, December 15, 2010 08:25 PM

To: Sebastiano, Rocco

Cc: Terry Bennett < terry bennett@transcanada.com >; Terri Steeves < terri steeves@transcanada.com >; John Mikkelsen

<john mikkelsen@transcanada.com>; John Cashin <john cashin@transcanada.com>; Huber, Harold R.

< HHUBER@MCCARTHY.CA >

Subject: TransCanada Acknowledgement and MOU

Rocco,

Many thanks for sending your comments on the two documents.

Please find attached a revised draft of each of the MOU and the Acknowledgement. I would appreciate if we could discuss the attached tomorrow morning in order that I can explain the changes. Please note that we have not had an opportunity to review the Acknowledgement with MPS and, accordingly, it remains subject to any comments that they may have thereon and we have not had an opportunity to fully review the MOU and the Acknowledgement with TCE and it remains subject to any additional comments that they may have thereon.

David.

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).

Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify

the sender and destroy all copies of this e-mail. Our privacy policy is available at www.mccarthy.ca .

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 16, 2010 8:18 AM

To:

safouh@smsenergy-engineering.com

Cc:

Susan Kennedy, Deborah Langelaan

Subject:

MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Attachments:

9923817v2 - acknowledgement to mps re equipment supply agr.doc

Safouh,

As you will recall, we are trying to get a look at the MPS-TCE Equipment Supply Agreement ("ESA"). MPS has agreed to produce a redacted copy of the ESA for Osler and the OPA to review. In order to do so, we will need enter into the attached undertaking, where we acknowledge that the material is confidential and agree to keep it confidential.

Depending on what we see, we'd perhaps need to have you review the ESA, too. MPS and TCE are fine with this, provided that you also provide an undertaking that is substantially in the form of the one that we and Osler provide, which is attached. Could you please review the attached and let me know as soon as you can whether SMS is prepared to provide such an undertaking to MPS and TCE? Time is really of the essence here because we are trying to get a look at the ESA today in preparation for tomorrow's meeting.

Thanks, Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management **Ontario Power Authority** 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

	·		1
			! ! !
		,	
		:	

ACKNOWLEDGEMENT

TO:

MPS Canada, Inc. ("MPS")

AND TO:

TransCanada Energy Inc. ("TCE")

RE:

Equipment Supply Agreement NO. 6519 dated July 7, 2009 between MPS and

TCE as amended by letter agreements dated October 29, 2010 and

November 19, 2010, and as may be further amended form time to time, and any other proposal, information and technical specifications relating or ancillary

thereto (the "Contract")

Whereas the Ontario Power Authority (the "OPA") has requested that it be permitted to review the Contract;

And Whereas MPS and TCE regard the Contract as containing highly confidential and proprietary information;

And Whereas the OPA has, effective December 14, 2010, designated the Contract pursuant to Section 25.13(3) of the *Electricity Act*, 1998 as confidential or highly confidential for the purposes of Section 17 of the *Freedom of Information and Protection of Privacy Act*;

Now Therefore, the undersigned acknowledge and agree as follows:

- 1. TCE shall deliver a copy of the redacted Contract to the OPA's outside counsel, Osler, Hoskin & Harcourt LLP ("Osler"), attention Mr. Rocco Sebastiano;
- 2. Except as contemplated herein, Osler shall keep the Contract confidential and shall protect the Contract against disclosure;
- 3. Osler and the OPA agree that no copy of the Contract shall be given, transmitted or otherwise provided to the OPA or any third party, except as expressly set forth below;
- 4. Osler shall ensure that each person who reviews or otherwise has access to the Contract complies with the terms of this Acknowledgement;
- 5. The OPA may only review the Contract at Osler's office, but shall not take, transmit or otherwise remove the Contract or any copy thereof from Osler's office;
- 6. Except as provided in paragraph 7 hereof, without the prior written consent of TCE and MPS, Osler and/or the OPA shall not disclose the Contract, any confidential information contained in the Contract or any report, summaries or any other work product derived from or containing information from the Contract, to any third party;
- 7. Provided that SMS Energy Engineering Inc. ("SMS") has provided an acknowledgement substantially in the form hereof to MPS and TCE, Osler may disclose the Contract, any confidential information contained in the Contract or any report, summaries or any other work product derived from or containing information from the Contract to SMS for the

CONFIDENTIAL

purpose of providing consulting engineering services to the OPA on matters relating to the Contract;

8. All reports, summaries or any other work product derived from or containing confidential information from the Contract and prepared by or on behalf of the OPA must be clearly marked on its face with the following statement:

"Highly Confidential: This record contains information provided to or obtained by the OPA and that is designated by the OPA as highly confidential and intended, for the purpose of section 17 of the Freedom of Information and Protection of Privacy Act, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization."

9. When and if requested by TCE or MPS, all copies of the Contract shall be returned to TCE or MPS or destroyed by Osler and shall be confirmed in writing, provided that Osler shall not be required to return or destroy copies of the Contract while TCE and OPA are continuing to discuss and negotiate one or more potential alternative projects and configurations as set forth in paragraph 1 of the Letter Agreement between MPS and TCE dated November 19, 2010, and further provided that in any event Osler shall return or destroy the copies of the Contract by June 30, 2011.

Dated as of this day of December, 2010.	
ONTARIO POWER AUTHORITY	OSLER, HOSKIN & HARCOURT LLP
Per:	Per:
Per ⁻	

From:

Michael Killeavy

Sent:

December 16, 2010 9:07 AM

To: Cc: Susan Kennedy Deborah Langelaan

Subject:

Re: TransCanada Acknowledgement and MOU

Ok. Thx. Will you be able to get Colin to sign the acknowlegement this morning? I apologize for jamming you, but you know the timing pressure we have given that the meeting is tomorrow.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael killeavy@powerauthority.on.ca

From: Susan Kennedy

Sent: Thursday, December 16, 2010 09:00 AM

To: Michael Killeavy **Cc:** Deborah Langelaan

Subject: RE: TransCanada Acknowledgement and MOU

I agree.

Susan H. Kennedy

Director, Corporate/Commercial Law Group

From: Michael Killeavy

Sent: December 16, 2010 8:22 AM

To: Susan Kennedy **Cc:** Deborah Langelaan

Subject: TransCanada Acknowledgement and MOU

Susan,

The undertaking looks fine to me. I'd propose that if you are in agreement that it is alright, too, that we ask Colin to execute it, ask Osler to execute it, and then get it over to TCE as soon as possible so that we can see the MPS-TCE Equipment Supply Agreement. I don't think we need to wait for Safouh since we only need to look at the commercial terms right now, and SMS will provide a separate undertaking to TCE and MPS. Does this sound like a reasonable way forward?

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 15, 2010 9:33 PM To: Michael Killeavy; Susan Kennedy

Cc: Deborah Langelaan; Smith, Elliot; Ivanoff, Paul Subject: Fw: TransCanada Acknowledgement and MOU

Here are further revised drafts from McCarthys.

There are only a couple of remaining outstanding points:

On the MPS acknowledgment, addition of clause that SMS will provide a similar acknowledgment should not be an issue but we'll need to get Safouh's concurrence before we can agree to that change.

On the MOU, it looks like McCarthys is not prepared to drop the "with prejudice" designation at the top of the document. They re-inserted it again in square brackets. I will discuss this with David Lever tomorrow.

Michael, did you want to get Safouh's input on the MPS acknowledgment?

Thanks, Rocco

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Wednesday, December 15, 2010 08:25 PM

To: Sebastiano, Rocco

Cc: Terry Bennett < terry bennett@transcanada.com >; Terri Steeves < terri steeves@transcanada.com >; John Mikkelsen

<john mikkelsen@transcanada.com>; John Cashin <john cashin@transcanada.com>; Huber, Harold R.

<HHUBER@MCCARTHY.CA>

Subject: TransCanada Acknowledgement and MOU

Rocco.

Many thanks for sending your comments on the two documents.

Please find attached a revised draft of each of the MOU and the Acknowledgement. I would appreciate if we could discuss the attached tomorrow morning in order that I can explain the changes. Please note that we have not had an opportunity to review the Acknowledgement with MPS and, accordingly, it remains subject to any comments that they may have thereon and we have not had an opportunity to fully review the MOU and the Acknowledgement with TCE and it remains subject to any additional comments that they may have thereon.

David.

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).

Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify

the sender and destroy all copies of this e-mail. Our privacy policy is available at $\underline{www.mccarthy.ca}$.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

3

·				
		,		
	·			
			·	

From:

Michael Killeavy

Sent:

December 16, 2010 9:15 AM

To:

'Sebastiano, Rocco'

Cc:

Deborah Langelaan; Susan Kennedy; 'Smith, Elliot'

Subject:

FW: FIPPA Designation re Financial Model

Attachments:

MISC_101215_FIPPADesignation_FinancialModel.pdf

Rocco,

Attached is the signed s. 25.13 designation letter for the TCE financial model.

I am arranging to have Colin execute the undertaking on the behalf of the OPA. I think that since SMS will provide a separate undertaking we can just move forward with the OPA and Osler executing the undertaking so that we can review the redacted ESA. We cannot, of course, share the contents with Safouh until SMS provides its undertaking.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Susan Kennedy

Sent: December 16, 2010 9:00 AM

To: Michael Killeavy

Subject: FIPPA Designation re Financial Model

Susan H. Kennedy Director, Corporate/Commercial Law Group Ontario Power Authority

T: 416-969-6054 F: 416-969-6383

E: susan.kennedy@powerauthority.on.ca

,



ONTARIO POWER AUTHORITY Designation Pursuant To Section 25.13(3) of the Electricity Act, 1998

Article I. Authority for Designation

Section 1.01 Section 25.13(3) of the *Electricity Act, 1998* provides that a record that is designated by the Ontario Power Authority as confidential or highly confidential shall be deemed, for the purpose of section 17 of the *Freedom of Information and Protection of Privacy Act*, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

Article II. Effect of Designation

Section 2.01 Section 17(1)(a) of the Freedom of Information and Protection of Privacy Act provides that a head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, where the disclosure could reasonably be expected to, prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

Section 2.02 The undersigned is the designated head of the Ontario Power Authority pursuant to Regulation made under the *Freedom of Information and Protection of Privacy Act* (R.R.O. 1990, Regulation 460).

Article III. Designation

The following record is hereby designated pursuant to section 25.13(3) of the *Electricity Act*, 1998:

The TransCanada Base Oakville Generation Station Unlevered Economics, in the form of a Microsoft Excel spreadsheet named "Base Oakville Generation Station Unlevered Economics_OPA.xls", including the project economic assumptions and a declaration regarding the purpose and intended use of the spreadsheet in Word document format.

DATED this _/5 th day of December, 2010.

Colin Andersen

Chief Executive Officer

	· .		
,			
		·	

From:

Michael Killeavv

Sent:

December 16, 2010 9:47 AM

To:

'safouh@smsenergy-engineering.com' Susan Kennedy; Deborah Langelaan

Cc: Subject:

RE: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

....

We will get only a redacted copy at Osler to view.

What is the issue you have please?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 16, 2010 9:44 AM

To: Michael Killeavy

Cc: Susan Kennedy; Deborah Langelaan

Subject: Re: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Micheal;

This is to see the redacted copy. Does this mean we will not see the clean copy. If so, is there an understanding between the parties what sorte and type of info will be redacted. Given that TCE and MPI are getting NDA, I find it odd that there will be redacting.

I have one issue with the confidentiality agreement or shall I discuss it with Susan or Rocco. Please let me know.

Thanks, Safouh

From: "Michael Killeavy" < Michael.Killeavy@powerauthority.on.ca>

Date: Thu, 16 Dec 2010 08:18:24 -0500 To: <safouh@smsenergy-engineering.com>

Cc: Susan Kennedy Susan. Kennedy @powerauthority.on.ca>; Deborah

Langelaan < Deborah. Langelaan @powerauthority.on.ca >

Subject: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Safouh,

As you will recall, we are trying to get a look at the MPS-TCE Equipment Supply Agreement ("ESA"). MPS has agreed to produce a redacted copy of the ESA for Osler and the OPA to review. In order to do so, we will need enter into the attached undertaking, where we acknowledge that the material is confidential and agree to keep it confidential.

Depending on what we see, we'd perhaps need to have you review the ESA, too. MPS and TCE are fine with this, provided that you also provide an undertaking that is substantially in the form of the one that we and Osler provide, which is attached. Could you please review the attached and let me know as soon as you can whether SMS is prepared to provide such an undertaking to MPS and TCE? Time is really of the essence here because we are trying to get a look at the ESA today in preparation for tomorrow's meeting.

Thanks, Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From:

Michael Killeavy

Sent:

December 16, 2010 9:57 AM

To:

'safouh@smsenergy-engineering.com'

Cc:

Susan Kennedy; Deborah Langelaan

Subject:

RE: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

....

I don't think that will work. Osler will get custody of the redacted ESA and only disclose the contents to you.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 16, 2010 9:52 AM

To: Michael Killeavy

Cc: Susan Kennedy; Deborah Langelaan

Subject: Re: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Micheal.

With regards to returning or destroying documents. There should be a statement to the effect the we keep one record for our files as required by regulatory authorities. For how can we issue the OPA with an opinion and later the evidence underlying this opinion is destroyed.

Thanks, Safouh

From: "Michael Killeavy" < Michael.Killeavy@powerauthority.on.ca>

Date: Thu, 16 Dec 2010 09:47:13 -0500 To: <safouh@smsenergy-engineering.com>

Cc: Susan Kennedy Susan. Kennedy Opowerauthority.on.ca >; Deborah

Langelaan Deborah. Langelaan Opowerauthority.on.ca>

Subject: RE: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

We will get only a redacted copy at Osler to view.

What is the issue you have please?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 16, 2010 9:44 AM

To: Michael Killeavy

Cc: Susan Kennedy; Deborah Langelaan

Subject: Re: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Micheal;

This is to see the redacted copy. Does this mean we will not see the clean copy. If so, is there an understanding between the parties what sorte and type of info will be redacted. Given that TCE and MPI are getting NDA, I find it odd that there will be redacting.

I have one issue with the confidentiality agreement or shall I discuss it with Susan or Rocco. Please let me know.

Thanks, Safouh

From: "Michael Killeavy" < Michael.Killeavy@powerauthority.on.ca>

Date: Thu, 16 Dec 2010 08:18:24 -0500 To: <safouh@smsenergy-engineering.com>

Cc: Susan Kennedy<Susan.Kennedy@powerauthority.on.ca>; Deborah

Langelaan Deborah. Langelaan Opowerauthority.on.ca>

Subject: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Safouh,

As you will recall, we are trying to get a look at the MPS-TCE Equipment Supply Agreement ("ESA"). MPS has agreed to produce a redacted copy of the ESA for Osler and the OPA to review. In order to do so, we will need enter into the attached undertaking, where we acknowledge that the material is confidential and agree to keep it confidential.

Depending on what we see, we'd perhaps need to have you review the ESA, too. MPS and TCE are fine with this, provided that you also provide an undertaking that is substantially in the form of the one that we and Osler provide, which is attached. Could you please review the attached and let me know as soon as you can whether SMS is prepared to provide such an undertaking to MPS and TCE? Time is really of the essence here because we are trying to get a look at the ESA today in preparation for tomorrow's meeting.

Thanks, Michael Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

		,		
	·			
,				
	·			
			,	

From:

Michael Killeavy

Sent:

December 16, 2010 10:01 AM

To: Cc: 'Sebastiano, Rocco' Susan Kennedy

Subject:

FW: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

••••

Rocco,

Safouh seems to want to keep a copy of the ESA. I don't think this will work, though. I have pushed back to him on this. If he refuses, we may need to engage another expert.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 16, 2010 9:52 AM

To: Michael Killeavy

Cc: Susan Kennedy; Deborah Langelaan

Subject: Re: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Micheal,

With regards to returning or destroying documents. There should be a statement to the effect the we keep one record for our files as required by regulatory authorities. For how can we issue the OPA with an opinion and later the evidence underlying this opinion is destroyed.

Thanks, Safouh

From: "Michael Killeavy" < Michael.Killeavy@powerauthority.on.ca>

Date: Thu, 16 Dec 2010 09:47:13 -0500 **To:** <safouh@smsenergy-engineering.com>

Cc: Susan Kennedy<Susan.Kennedy@powerauthority.on.ca>; Deborah

Langelaan < Deborah. Langelaan @powerauthority.on.ca>

Subject: RE: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

We will get only a redacted copy at Osler to view.

What is the issue you have please?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 16, 2010 9:44 AM

To: Michael Killeavy

Cc: Susan Kennedy; Deborah Langelaan

Subject: Re: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Micheal;

This is to see the redacted copy. Does this mean we will not see the clean copy. If so, is there an understanding between the parties what sorte and type of info will be redacted. Given that TCE and MPI are getting NDA, I find it odd that there will be redacting.

I have one issue with the confidentiality agreement or shall I discuss it with Susan or Rocco. Please let me know.

Thanks, Safouh

From: "Michael Killeavy" < Michael.Killeavy@powerauthority.on.ca>

Date: Thu, 16 Dec 2010 08:18:24 -0500 To: <safouh@smsenergy-engineering.com>

Cc: Susan Kennedy Susan Kennedy @powerauthority.on.ca>; Deborah

Langelaan Deborah. Langelaan @powerauthority.on.ca>

Subject: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Safouh,

As you will recall, we are trying to get a look at the MPS-TCE Equipment Supply Agreement ("ESA"). MPS has agreed to produce a redacted copy of the ESA for Osler and the OPA to review. In order to do so, we will need enter into the attached undertaking, where we acknowledge that the material is confidential and agree to keep it confidential.

Depending on what we see, we'd perhaps need to have you review the ESA, too. MPS and TCE are fine with this, provided that you also provide an undertaking that is substantially in the form of the one that we and Osler provide, which is attached. Could you please review the attached and let me know as soon as you can whether SMS is prepared to provide such an undertaking to MPS and TCE? Time is really of the essence here because we are trying to get a look at the ESA today in preparation for tomorrow's meeting.

Thanks, Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

. .

From:

Michael Killeavy

Sent:

December 16, 2010 10:26 AM

To:

'Safouh Soufi'

Cc:

Susan Kennedy; Deborah Langelaan

Subject:

RE: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

....

Yes. It can be disclosed to you. That means you can see it. I think Osler retains control and custody of the document(s).

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 16, 2010 10:25 AM

To: Michael Killeavy

Cc: Susan Kennedy: Deborah Langelaan

Subject: RE: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Micheal:

My read of Article 7 is that SMS will get a copy provided we provide the same acknowledgement to MPS and TCE. Here is what Article 7 says:

Provided that SMS Energy Engineering Inc. ("SMS") has provided an acknowledgement substantially in the form hereof to MPS and TCE, Osler may disclose the Contract, any confidential information contained in the Contract or any report, summaries or any other work product derived from or containing information from the Contract to SMS for the purpose of providing consulting engineering services to the OPA on matters relating to the Contract;

Thanks.

Safouh

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: December 16, 2010 9:57 AM **To:** safouh@smsenergy-engineering.com **Cc:** Susan Kennedy; Deborah Langelaan

Subject: RE: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

I don't think that will work. Osler will get custody of the redacted ESA and only disclose the contents to you.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 16, 2010 9:52 AM

To: Michael Killeavy

Cc: Susan Kennedy; Deborah Langelaan

Subject: Re: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Micheal,

With regards to returning or destroying documents. There should be a statement to the effect the we keep one record for our files as required by regulatory authorities. For how can we issue the OPA with an opinion and later the evidence underlying this opinion is destroyed.

Thanks, Safouh

From: "Michael Killeavy" < Michael.Killeavy@powerauthority.on.ca>

Date: Thu, 16 Dec 2010 09:47:13 -0500 To: <safouh@smsenergy-engineering.com>

Cc: Susan Kennedy<Susan.Kennedy@powerauthority.on.ca>; Deborah

Langelaan Deborah. Langelaan Opowerauthority.on.ca>

Subject: RE: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

We will get only a redacted copy at Osler to view.

What is the issue you have please?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX) From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 16, 2010 9:44 AM

To: Michael Killeavv

Cc: Susan Kennedy; Deborah Langelaan

Subject: Re: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Micheal;

This is to see the redacted copy. Does this mean we will not see the clean copy. If so, is there an understanding between the parties what sorte and type of info will be redacted. Given that TCE and MPI are getting NDA, I find it odd that there will be redacting.

I have one issue with the confidentiality agreement or shall I discuss it with Susan or Rocco. Please let me know.

Thanks, Safouh

From: "Michael Killeavy" < Michael.Killeavy@powerauthority.on.ca>

Date: Thu, 16 Dec 2010 08:18:24 -0500 To: <safouh@smsenergy-engineering.com>

Cc: Susan Kennedy<Susan.Kennedy@powerauthority.on.ca>; Deborah

Langelaan < Deborah. Langelaan @powerauthority.on.ca>

Subject: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Safouh,

As you will recall, we are trying to get a look at the MPS-TCE Equipment Supply Agreement ("ESA"). MPS has agreed to produce a redacted copy of the ESA for Osler and the OPA to review. In order to do so, we will need enter into the attached undertaking, where we acknowledge that the material is confidential and agree to keep it confidential.

Depending on what we see, we'd perhaps need to have you review the ESA, too. MPS and TCE are fine with this, provided that you also provide an undertaking that is substantially in the form of the one that we and Osler provide, which is attached. Could you please review the attached and let me know as soon as you can whether SMS is prepared to provide such an undertaking to MPS and TCE? Time is really of the essence here because we are trying to get a look at the ESA today in preparation for tomorrow's meeting.

Thanks, Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX) This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From:

Michael Killeavy

Sent:

December 16, 2010 11:17 AM

To: Cc:

'Sebastiano, Rocco'

Susan Kennedy

Subject:

RE: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

That's fine. Let's see how this request is received.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management **Ontario Power Authority** 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 16, 2010 10:57 AM

To: Michael Killeavy Cc: Susan Kennedy

Subject: RE: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Safouh's request is not unreasonable, nor unusual. I think that it would be fine to ask TCE and MPS to make an accommodation to let SMS and Osler keep one copy in our files for record purposes.

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 16, 2010 10:01 AM

To: Sebastiano, Rocco Cc: Susan Kennedy

Subject: FW: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Rocco,

Safouh seems to want to keep a copy of the ESA. I don't think this will work, though. I have pushed back to him on this. If he refuses, we may need to engage another expert.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1

416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 16, 2010 9:52 AM

To: Michael Killeavy

Cc: Susan Kennedy; Deborah Langelaan

Subject: Re: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Micheal,

With regards to returning or destroying documents. There should be a statement to the effect the we keep one record for our files as required by regulatory authorities. For how can we issue the OPA with an opinion and later the evidence underlying this opinion is destroyed.

Thanks, Safouh

From: "Michael Killeavy" < Michael.Killeavy@powerauthority.on.ca>

Date: Thu, 16 Dec 2010 09:47:13 -0500 To: <safouh@smsenergy-engineering.com>

Cc: Susan Kennedy<Susan.Kennedy@powerauthority.on.ca>; Deborah

Langelaan < Deborah Langelaan @powerauthority.on.ca>

Subject: RE: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the

ESA

We will get only a redacted copy at Osler to view.

What is the issue you have please?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 16, 2010 9:44 AM

To: Michael Killeavy

Cc: Susan Kennedy; Deborah Langelaan

Subject: Re: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Micheal;

This is to see the redacted copy. Does this mean we will not see the clean copy. If so, is there an understanding between the parties what sorte and type of info will be redacted. Given that TCE and MPI are getting NDA, I find it odd that there will be redacting.

I have one issue with the confidentiality agreement or shall I discuss it with Susan or Rocco. Please let me know.

Thanks, Safouh

From: "Michael Killeavy" < Michael.Killeavy@powerauthority.on.ca>

Date: Thu, 16 Dec 2010 08:18:24 -0500 To: <safouh@smsenergy-engineering.com>

Cc: Susan Kennedy<Susan.Kennedy@powerauthority.on.ca>; Deborah

Langelaan (2) powerauthority.on.ca>

Subject: MPS-TCE Equipment Supply Agreement (ESA) - Confidentiality Undertaking for the ESA

Safouh,

As you will recall, we are trying to get a look at the MPS-TCE Equipment Supply Agreement ("ESA"). MPS has agreed to produce a redacted copy of the ESA for Osler and the OPA to review. In order to do so, we will need enter into the attached undertaking, where we acknowledge that the material is confidential and agree to keep it confidential.

Depending on what we see, we'd perhaps need to have you review the ESA, too. MPS and TCE are fine with this, provided that you also provide an undertaking that is substantially in the form of the one that we and Osler provide, which is attached. Could you please review the attached and let me know as soon as you can whether SMS is prepared to provide such an undertaking to MPS and TCE? Time is really of the essence here because we are trying to get a look at the ESA today in preparation for tomorrow's meeting.

Thanks, Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

	This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.
-	
**************************************	il message is privileged, confidential and subject to
Le conten	Any unauthorized use or disclosure is prohibited. u du présent courriel est privilégié, confidentiel et des droits d'auteur. Il est interdit de l'utiliser ou guer sans autorisation.

From:

Sebastiano, Rocco [RSebastiano@osler.com]

Sent:

December 16, 2010 11:18 AM

To:

Michael Killeavy

Subject:

RE: FIPPA Designation re Financial Model

Have you sent this over to TCE yet?

Regarding the MPS Acknowledgement, can you just wait a few minutes before getting Colin to sign it if it hasn't already been signed. Lever and I are going to speak at 11:30 to see if we can get these two last point resolved on the MOU and MPS Acknowledgement.

Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 16, 2010 9:15 AM

To: Sebastiano, Rocco

Cc: Deborah Langelaan; Susan Kennedy; Smith, Elliot **Subject:** FW: FIPPA Designation re Financial Model

Rocco,

Attached is the signed s. 25.13 designation letter for the TCE financial model.

I am arranging to have Colin execute the undertaking on the behalf of the OPA. I think that since SMS will provide a separate undertaking we can just move forward with the OPA and Osler executing the undertaking so that we can review the redacted ESA. We cannot, of course, share the contents with Safouh until SMS provides its undertaking.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Susan Kennedy

Sent: December 16, 2010 9:00 AM

To: Michael Kilieavy

Subject: FIPPA Designation re Financial Model

Susan H. Kennedy Director, Corporate/Commercial Law Group Ontario Power Authority

T: 416-969-6054 F: 416-969-6383

E: susan.kennedy@powerauthority.on.ca

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 16, 2010 11:21 AM

To:

John Mikkelsen (john_mikkelsen@transcanada.com)

Cc:

Deborah Langelaan

Subject:

FIPPA Designation - TCE Financial Model ...

Attachments:

MISC_101215_FIPPADesignation_FinancialModel.pdf

John,

Here's the s. 25.13 Electricity Act designation for the TCE financial model.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

•		

.



ONTARIO POWER AUTHORITY Designation Pursuant To Section 25.13(3) of the Electricity Act, 1998

Article I. Authority for Designation

Section 1.01 Section 25.13(3) of the *Electricity Act, 1998* provides that a record that is designated by the Ontario Power Authority as confidential or highly confidential shall be deemed, for the purpose of section 17 of the *Freedom of Information and Protection of Privacy Act*, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

Article II. Effect of Designation

Section 2.01 Section 17(1)(a) of the Freedom of Information and Protection of Privacy Act provides that a head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, where the disclosure could reasonably be expected to, prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

Section 2.02 The undersigned is the designated head of the Ontario Power Authority pursuant to Regulation made under the *Freedom of Information and Protection of Privacy Act* (R.R.O. 1990, Regulation 460).

Article III. Designation

The following record is hereby designated pursuant to section 25.13(3) of the *Electricity Act,* 1998:

The TransCanada Base Oakville Generation Station Unlevered Economics, in the form of a Microsoft Excel spreadsheet named "Base Oakville Generation Station Unlevered Economics_OPA.xls", including the project economic assumptions and a declaration regarding the purpose and intended use of the spreadsheet in Word document format.

DATED this _/5 th day of December, 2010.

Colin Andersen

Chief Executive Officer

From:

Michael Killeavv

Sent:

December 16, 2010 11:48 AM

To: Cc: 'John Mikkelsen' Deborah Langelaan

Subject:

RE: FIPPA Designation - TCE Financial Model ...

John,

When will you send the model?

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: John Mikkelsen [mailto:john _mikkelsen@transcanada.com]

Sent: December 16, 2010 11:39 AM

To: Michael Killeavy

Cc: Terry Bennett; Chris Breen; Terri Steeves; Bruce Tanner; Lee Evans

Subject: RE: FIPPA Designation - TCE Financial Model ...

Thanks Michael!

John Mikkelsen, P.Eng. .
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street

24th Floor, South Tower Toronto, Ontario M5J 2J1 Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 16, 2010 11:21 AM

To: John Mikkelsen **Cc:** Deborah Langelaan

Subject: FIPPA Designation - TCE Financial Model ...

John,

Here's the s. 25.13 Electricity Act designation for the TCE financial model.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

From: Sebastiano, Rocco [RSebastiano@osler.com]

Sent: December 16, 2010 12:36 PM

To: Michael Killeavy

Cc: Susan Kennedy; Smith, Elliot; Ivanoff, Paul; Deborah Langelaan

Subject: RE: FIPPA Designation re Financial Model

Had a good call with David. He thinks that our request about retention of a record copy of the MPS Contract if we are able to reach a Definitive Agreement is OK, but he needs to run it by MPS. He also said that MPS had not yet signed off on the version of the Acknowledgement that he circulated last night. He is going to follow-up with MPS.

On the MOU, he asked the same question as last Friday about why the MOU should not be "with prejudice". I explained to him the same point as last Friday that although it is a binding document, it should never be introduced as evidence in any subsequent litigation on the OGS contract termination if we cannot reach agreement on a Definitive Agreement for the Potential Project. He seemed to finally get it, but we'll see.

He then asked me about the MPS indemnity and I told him that we would discuss it tomorrow, but at this stage, without a directive it is not looking like OPA can consider signing such a document. I did tell him though that we certainly would need to get the OPA to issue some sort of a reliance letter which would be with prejudice so that TCE could move forward without the need to cancel the MPS Contract this month. I will try to prepare something that perhaps we can consider during our 2 pm call today.

Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 16, 2010 11:23 AM

To: Sebastiano, Rocco **Cc:** Susan Kennedy

Subject: RE: FIPPA Designation re Financial Model

Rocco,

Yes, I did send the s. 25.13 designation letter to TCE.

Susan has asked Colin not to sign the Acknowledgment until this issue around document retention is resolved.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 16, 2010 11:18 AM

To: Michael Killeavy

Subject: RE: FIPPA Designation re Financial Model

Have you sent this over to TCE yet?

Regarding the MPS Acknowledgement, can you just wait a few minutes before getting Colin to sign it if it hasn't already been signed. Lever and I are going to speak at 11:30 to see if we can get these two last point resolved on the MOU and MPS Acknowledgement.

Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 16, 2010 9:15 AM

To: Sebastiano, Rocco

Cc: Deborah Langelaan; Susan Kennedy; Smith, Elliot **Subject:** FW: FIPPA Designation re Financial Model

Rocco,

Attached is the signed s. 25.13 designation letter for the TCE financial model.

I am arranging to have Colin execute the undertaking on the behalf of the OPA. I think that since SMS will provide a separate undertaking we can just move forward with the OPA and Osler executing the undertaking so that we can review the redacted ESA. We cannot, of course, share the contents with Safouh until SMS provides its undertaking.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Susan Kennedy

Sent: December 16, 2010 9:00 AM

To: Michael Killeavy

Subject: FIPPA Designation re Financial Model

Susan H. Kennedy Director, Corporate/Commercial Law Group Ontario Power Authority

T: 416-969-6054 F: 416-969-6383

E: susan.kennedy@powerauthority.on.ca

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

3

From:

Michael Killeavy

Sent:

December 16, 2010 12:39 PM

To:

'Sebastiano, Rocco'

Cc:

Susan Kennedy, 'Smith, Elliot'; 'Ivanoff, Paul'; Deborah Langelaan

Subject:

RE: FIPPA Designation re Financial Model

Ok. You read my mind. I was going to suggest this approach at 2pm. Since it's now likely that we'll not see the ESA before the meeting tomorrow, we'll need to be careful with this letter.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 16, 2010 12:36 PM

To: Michael Killeavy

Cc: Susan Kennedy; Smith, Elliot; Ivanoff, Paul; Deborah Langelaan

Subject: RE: FIPPA Designation re Financial Model

Had a good call with David. He thinks that our request about retention of a record copy of the MPS Contract if we are able to reach a Definitive Agreement is OK, but he needs to run it by MPS. He also said that MPS had not yet signed off on the version of the Acknowledgement that he circulated last night. He is going to follow-up with MPS.

On the MOU, he asked the same question as last Friday about why the MOU should not be "with prejudice". I explained to him the same point as last Friday that although it is a binding document, it should never be introduced as evidence in any subsequent litigation on the OGS contract termination if we cannot reach agreement on a Definitive Agreement for the Potential Project. He seemed to finally get it, but we'll see.

He then asked me about the MPS indemnity and I told him that we would discuss it tomorrow, but at this stage, without a directive it is not looking like OPA can consider signing such a document. I did tell him though that we certainly would need to get the OPA to issue some sort of a reliance letter which would be with prejudice so that TCE could move forward without the need to cancel the MPS Contract this month. I will try to prepare something that perhaps we can consider during our 2 pm call today.

Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 16, 2010 11:23 AM

To: Sebastiano, Rocco

Cc: Susan Kennedy

Subject: RE: FIPPA Designation re Financial Model

Rocco,

Yes, I did send the s. 25.13 designation letter to TCE.

Susan has asked Colin not to sign the Acknowledgment until this issue around document retention is resolved.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 16, 2010 11:18 AM

To: Michael Killeavy

Subject: RE: FIPPA Designation re Financial Model

Have you sent this over to TCE yet?

Regarding the MPS Acknowledgement, can you just wait a few minutes before getting Colin to sign it if it hasn't already been signed. Lever and I are going to speak at 11:30 to see if we can get these two last point resolved on the MOU and MPS Acknowledgement.

Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 16, 2010 9:15 AM

To: Sebastiano, Rocco

Cc: Deborah Langelaan; Susan Kennedy; Smith, Elliot **Subject:** FW: FIPPA Designation re Financial Model

Rocco,

Attached is the signed s. 25.13 designation letter for the TCE financial model.

I am arranging to have Colin execute the undertaking on the behalf of the OPA. I think that since SMS will provide a separate undertaking we can just move forward with the OPA and Osler executing the

undertaking so that we can review the redacted ESA. We cannot, of course, share the contents with Safouh until SMS provides its undertaking.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Susan Kennedy

Sent: December 16, 2010 9:00 AM

To: Michael Killeavy

Subject: FIPPA Designation re Financial Model

Susan H. Kennedy Director, Corporate/Commercial Law Group Ontario Power Authority

T: 416-969-6054 F: 416-969-6383

E: <u>susan.kennedy@powerauthority.on.ca</u>

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 16, 2010 2:22 PM

To:

'iohn mikkelsen@transcanada.com'

Cc:

Deborah Langelaan

Subject:

Re: FIPPA Designation - TCE Financial Model ...

Thank you.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management **Ontario Power Authority** 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Thursday, December 16, 2010 02:20 PM

To: Michael Killeavy Cc: Deborah Langeiaan

Subject: RE: FIPPA Designation - TCE Financial Model ...

Michael,

We expect to have the model over to you by end of day.

Best regards,

John Mikkelsen, P.Eng. Director, Eastern Canada, Power Development **Trans**Canada Royal Bank Plaza 200 Bay Street 24th Floor, South Tower Toronto, Ontario M5J 2J1 Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 16, 2010 11:21 AM

To: John Mikkelsen Cc: Deborah Langelaan

Subject: FIPPA Designation - TCE Financial Model ...

John,

Here's the s. 25.13 Electricity Act designation for the TCE financial model.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

From:

Michael Killeavv

Sent:

December 16, 2010 2:45 PM

To:

'john mikkelsen@transcanada.com'

Cc:

Deborah Langelaan

Subject:

Re: FIPPA Designation - TCE Financial Model ...

Great. Where is the pricing on the fast-start option?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management **Ontario Power Authority** 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Thursday, December 16, 2010 02:20 PM

To: Michael Killeavy Cc: Deborah Langelaan

Subject: RE: FIPPA Designation - TCE Financial Model ...

Michael,

We expect to have the model over to you by end of day.

Best regards,

John Mikkelsen, P.Eng. Director, Eastern Canada, Power Development TransCanada Royal Bank Plaza 200 Bay Street 24th Floor, South Tower Toronto, Ontario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 16, 2010 11:21 AM

To: John Mikkelsen Cc: Deborah Langelaan

Subject: FIPPA Designation - TCE Financial Model ...

John,

Here's the s. 25.13 Electricity Act designation for the TCE financial model.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

From:

Michael Killeavv

Sent:

December 16, 2010 5:01 PM

To: Subject:

Susan Kennedy Re: TCE Matter

Are you alright with this approach?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message ----

From: Susan Kennedy

Sent: Thursday, December 16, 2010 04:59 PM

To: Michael Killeavy
Subject: RE: TCE Matter

Thanks.

Susan H. Kennedy Director, Corporate/Commercial Law Group

----Original Message---From: Michael Killeavy

Sent: December 16, 2010 4:41 PM

To: Susan Kennedy

Cc: JoAnne Butler; Deborah Langelaan

Subject: TCE Matter

Susan,

Here is the plan.

We (Rocco, Paul and I) are drafting a "reliance letter" that we plan to take to the TCE meeting tomorrow. It will necessarily be very "weasely", but we feel that TCE is jamming us. We still don't have MPS sign-off on the changes to the confidentiality undertaking, so we still haven't seen the Equipment Supply Agreement ("ESA"). Any reliance letter will need to address this risk. We plan to draft it such that it is valid only for a month. By that time we ought to have seen the ESA and determined whether or not we were fully informed about the substance of the agreement.

If we don't provide something like this tomorrow our fear is that we might be forced into signing the Indemnity Agreement by others who don't know of the risks in doing that. Tuesday is the deadline for informing MPS about whether the agreement continues or is cancelled.

We'll send you a draft of the letter as soon as we can.
Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From:

Michael Killeavy

Sent:

December 16, 2010 5:32 PM 'RSebastiano@osler.com'

To: Subject:

Re: OPA Letter on MPS Contract Extension

I'm back

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 16, 2010 05:29 PM

To: Michael Killeavy

Cc: Susan Kennedy; Ivanoff, Paul < PIvanoff@osler.com>

Subject: OPA Letter on MPS Contract Extension

Michael,

Here is a first cut at a draft letter to TCE on the further extension of the MPS Contract to January 31, 2011. Let's discuss.

Susan, if you are still around, we'd certainly like to get your input on this letter.

Thanks, Rocco

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent: To: December 16, 2010 5:36 PM 'RSebastiano@osler.com'

Cc:

Susan Kennedy, 'Plvanoff@osler.com'

Subject:

Re. OPA Letter on MPS Contract Extension

I think this accomplishes what we wanted.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 16, 2010 05:29 PM

To: Michael Killeavy

Cc: Susan Kennedy; Ivanoff, Paul <PIvanoff@osler.com>

Subject: OPA Letter on MPS Contract Extension

Michael,

Here is a first cut at a draft letter to TCE on the further extension of the MPS Contract to January 31, 2011. Let's discuss.

Susan, if you are still around, we'd certainly like to get your input on this letter.

Thanks, Rocco

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

					•
			÷		
				•	
				,	

From:

Michael Killeavy

Sent:

December 16, 2010 5:51 PM

To:

Susan Kennedy; 'RSebastiano@osler.com'

Cc:

'Plvanoff@osler.com'

Subject:

Re: OPA Letter on MPS Contract Extension

Great. Thanks. We'll walk this in tomorrow.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Susan Kennedy

Sent: Thursday, December 16, 2010 05:49 PM

To: 'rsebastiano@osler.com' < rsebastiano@osler.com >; Michael Killeavy

Cc: 'PIvanoff@osler.com' < <u>PIvanoff@osler.com</u>> **Subject:** Re: OPA Letter on MPS Contract Extension

Think it does job. Wee typo:

"The OPA have entered into a Memorandum of . . . "

Think should be:

"The OPA and TCE have entered into a Memorandum of . . . "

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 16, 2010 05:29 PM

To: Michael Killeavy

Cc: Susan Kennedy; Ivanoff, Paul < PIvanoff@osler.com>

Subject: OPA Letter on MPS Contract Extension

Michael,

Here is a first cut at a draft letter to TCE on the further extension of the MPS Contract to January 31, 2011. Let's discuss.

Susan, if you are still around, we'd certainly like to get your input on this letter.

Thanks, Rocco

This e-mail message is prívileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavv

Sent:

December 16, 2010 6:02 PM

To:

'RSebastiano@osler.com'; Susan Kennedy

Cc:

'Plvanoff@osler.com'; 'ESmith@osler.com'; Deborah Langelaan

Subject:

Re: Revised MPS Acknowledgement

So this only allows for a copy to be retained if a Definitive Agreement is reached. Does this work for you?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West. Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 16, 2010 05:50 PM

To: Michael Killeavy; Susan Kennedy

Cc: Ivanoff, Paul <PIvanoff@osler.com>; Smith, Elliot <ESmith@osler.com>; Deborah Langelaan

Subject: Revised MPS Acknowledgement

Just arrived from David Lever...

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Thursday, December 16, 2010 5:44 PM

To: Sebastiano, Rocco

Cc: Huber, Harold R.; 'Terry Bennett'; 'Terri Steeves'; 'John Mikkelsen'; 'John Cashin'; Lever, David A.N.

Subject:

Rocco,

Please find attached a revised draft of the Acknowledgement that incorporates the point we discussed earlier today and two small comments from MPS. This has now been approved by MPS and TCE. If it is in a form acceptable to you and your client, please arrange to have it executed and circulated to the addressees of this email, in which case we will arrange for the MPS Contract to be provided to you.

If you have any questions or concerns with the attached, please call me at 416 997 7655

Best Regards,

David.

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).

Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify

the sender and destroy all copies of this e-mail. Our privacy policy is available at www.mccarthy.ca .

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent: To:

December 16, 2010 6:08 PM 'RSebastiano@osler.com'

Cc:

Subject:

'ESmith@osler.com'; Susan Kennedy

Attachments:

Fw: TransCanada Base Oakville Generation Station Unlevered Economics Oakville Unlevered Economics July 8, 2009.pdf; Base Oakville Generating Station Unlevered

Economics OPA.xis

Here's the TCE financial model.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management **Ontario Power Authority** 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Thursday, December 16, 2010 06:05 PM

To: Michael Killeavy

Cc: Deborah Langelaan; Terry Bennett < terry bennett@transcanada.com >; Chris Breen

<chris breen@transcanada.com>; Terri Steeves <terri steeves@transcanada.com>; John Cashin

<iohn cashin@transcanada.com>

Subject: TransCanada Base Oakville Generation Station Unlevered Economics

Michael.

Further to the receipt of your letter earlier today, please find attached TransCanada Base Oakville Generation Station Unlevered Economics and our letter of explanation.

We would be happy to walk you through this tomorrow and, to the best of my ability, answers your questions.

See you at 10 tomorrow.

Best regards,

John Mikkelsen, P. Eng. Director, Eastern Canada, Power Development **Trans**Canada Roval Bank Plaza 200 Bay Street 24th Floor, South Tower Toronto, Ontario M5J 2J1 Tel: 416.869.2102

Fax:416.869.2056

Cell:416.559.1664

We have moved! Please note the new address above

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.



Thursday, December 16, 2010

Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 TransCanada Energy Ltd. Royal Bank Plaza 200 Bay Street, South Tower Suite 2400, P.O. Box 43 Toronto, ON M5J 2J1

tel 416-869-2102 fax 416-869-2056 email john_mikkelsen@transcanada.com web www.transcanada.com

Attention: Michael Killeavy, Director, Contract Management

Re: TransCanada Base Oakville Generation Station Unlevered Economics

Dear Michael,

In accordance with our discussions concerning a methodology for the determination of the anticipated financial value of the Contract as such term is used in the letter of October 7, 2010 from Colin Andersen to TransCanada, please find attached a Microsoft Excel spreadsheet named "Base Oakville Generation Station Unlevered Economics_OPA.xls". This spreadsheet and the information that it contains are highly confidential and are provided to you on the basis that the OPA has designated them and any resulting work product pursuant to Section 25.13(3) of the Electricity Act, 1998 as confidential or highly confidential for the purposes of Section 17 of the Freedom of Information and Protection of Privacy Act.

This spreadsheet is a summary of the cash flow associated with the Oakville Generating Station and is an accurate representation of the cash flow that was presented to the TransCanada Board of Directors on June 17, 2009 to support Board approval of TransCanada's bid submission to the Ontario Power Authority's Southwest GTA RFP. The net present value calculation shown at the bottom of the spreadsheet uses a discount rate of 5.25% consistent with TransCanada's cost of capital.

As we have discussed, the provision of this spreadsheet is for the express purposes of determining the anticipated financial value of the Contract. The spreadsheet and information contained is not to be used for the purposes of evaluating future projects nor is it a representation of TransCanada economics on other past or future project developments.

TransCanada looks forward to continuing discussions with the Ontario Power Authority to find alternative mutually beneficial projects which can compensate us for the termination of the Oakville Generating Station project while providing value for the ratepayers of Ontario.

Yours truly,

John Mikkelsen

Director, Eastern Canada, Power Development

TransCanada

			•			
•						
					·	
						¥ 1
						ī .
						-
		l				
						•
		·				
				,		
					,	
	,					
				}		

Note: All Values in \$M CAD Pricing & Index Assumptions	•	2022 7/1/2022	2023 7/1/2023	2024 7/1/2024	2025 7/1/2025	2026 7/1/2026	2027 7/1/2027	2028 7/1/2028	2029 7/1/2029	2030 7/1/2030	2031 7/1/2031	2032 7/1/2032	2033 7/1/2033	2034 7/1/2034	2035 7/1/2035	2036 7/1/2036	2037 7/1/2037	2038 7/1/2038	2039 7/1/2039	2040 7/1/2040	2041 7/1/2041	2042 7/1/2042	2043 2044 7/1/2043 7/1/2044
				-								:										-	
(efpinespintificelesesAcosts		2022	2028	2024	652025 150	2026	2027	2028	2029	12030	2031	2032	2018	2034	2035	2036	2037	2038	2039 Mac	20.00 20.00	2011	2042	2016) 2016
Initial Capital including Land Land sale (after tax amount)		s -	s -	s .	ş -	ş -	\$ -	s -	5 -	s -	\$ - : \$ - :	\$: -			\$ - ' : \$ - :		-		\$ -	ş -	s -		
Captial Expenditure		s -	5 -	5 -	\$ -	\$ -	\$ -	\$ -	s -	•	\$ -		<u> </u>	<u> </u>	\$ -	*	-	\$ - \$ -	\$ -	\$ - \$ -	\$ -		\$ (102.2) \$ (102.2) \$ -
IDC Calculation Opening Balance		ŝ 149.0		\$ 149.0		\$ 149.0		\$ 149.0				\$ 149.0	\$ 149.0	\$ 149,0			\$ 149.0	\$ 149.0	\$ 149.0	\$ 149,0	\$ 149.0	\$ 149.0	\$ 149,0 \$ 149,0
Current Period Spending Ending Balance		\$ - \$ 149,0	\$ - \$ 149.0	\$ - \$. 149.0	\$ - \$ 149.0	-	*	-	\$ - \$ 149,0		\$ - : \$ 149.0 :	\$ - \$ 149.0	\$ - \$ 149.0	-	\$ - \$ 149,0		*	\$,149,0	<u> </u>	\$ - \$ 149,0	* -	\$ - \$ 149,0	\$ - 5 - \$ 149.0 \$ 149.0
LTSA Costs	•	\$ 22.7	\$ 19.7	\$ 23.2	\$ 20.6	\$ 21.3	\$ 22.1	\$ 24.1	\$ 24.9	\$ 25.4	\$ 25.9	\$ 26.4	\$ 26.9	\$ 27.5	\$ 28.0	\$ 28.6	\$ 29.1	\$ 29.7	S 30.3	\$ 30.9			s - s -
Galantiano (Grafi Margin	100 Z	2022	2023	2024	2025	2026	2027	20285	2029	2030	2031	2032											2043. 2014
Calculated NRR		\$ 192.7									\$ 201.2					CONTRACTOR OF THE PARTY OF THE			***************************************				
Imputed Net Revenue		\$ 49.7	\$ 35.4	\$ 44.5	\$ 29.9	\$ 37.8	\$ 47.3	\$ 55.6	\$ 66.8	\$ 59.4	\$ 60.8	\$ 57.7	\$ 63.2										s -
Contingency Support Payment		\$ 143.0	\$ 158.1	\$ 149.9	\$ 165.5	\$ 158.5	\$ 149.9	> 142.5	a 132.4	> 740.8	\$ 140.5	\$ 144.6	\$ 89.4										,
Revenues Actual Gross Market Revenues Contigency Support Payments (CSP)		\$ 302.5 \$ 143.0	\$ 253.7 \$ 158.1	\$ 312.1 \$ 149.9	\$ 250,8 \$ 165.5	\$ 268.7 \$ 158.5	\$ 305,2 \$ 149.9	\$ 355.6 \$ 142.6	\$ 379.3 \$ 132.4	\$ 358.2 \$ 140.8	\$ 365.7 \$ 140.5	\$ 373.4 \$ 144.6	\$.381.2 \$ 107.2	\$ 388.8 \$ 112.0	\$ 396.6 \$ 111.8	\$ 404.5 \$ 111.7	\$ 412.6 \$ 111.5	\$ 420,9 \$ 111.4	\$ 429.3 \$ 111.2	\$ 437.9 \$ 111.1	\$ 446.6 \$ 110.9	\$ 455,6 \$ 110.7	\$ 349.4 \$ 83.0
Revenue Sharing Payment (RSP) Total Revenues		\$ 445.5	\$ 411.8	\$ 462.0	\$ 416.3	\$ 427.2	\$ 455.1	\$ 498,3	\$ 511.7	\$ 499.0	\$ 506.2	- ?											\$ 432.4 \$ -
Expenses	•											-				•			•				
Fuel Costs		\$ 240.1			\$ 207.2			\$ 283.3	\$ 295.9	\$ 281.1	\$ 287.0	\$ 293.0	\$ 299.1	\$ 305.1	\$ 311.2	\$ 317.5	\$ 323.8						
Variable Energy Costs Fixed Costs		\$ 6,0 \$ 28.7	\$ 5.1 \$ 28.7												\$ 7.7 \$ 33.9					\$ 8.5 \$ 37.5			
Total Expenses										\$ 320.6	\$ 327.2				\$ 352.9		\$ 367.1	\$ 374.5	\$ 382.0	\$ 389.6	\$ 397.4	\$ 405.3	\$ 314.4 \$ -
EBITDA / Cash Margin		\$ 170.7	* 171.0	\$ 175.0	\$ 174.4	\$ 159.1	\$ 172.6	\$ 176.2	\$ 176.1	\$ 178.4	\$ 179.0	\$ 184.1	\$ 149.1	\$ 154.8	\$ 155.5	\$ 156.3	\$ 157.0	\$ 157.8	\$ 158.5	\$ 159.3	\$ 160.1	\$ 161.0	\$ 118.1 \$ -
Income Tax Calculations		e e e e e e e e e e e e e e e e e e e	(1881) Anna (18			Marianae Val	3027	2020	770000 E	2020		/ 1000 - E				*********						Anne erasana	2043 2044
income ac calculations		2022		NEX 2024			2021		# - JE023 4				2000	2004_65	2030	2036	2931.6	2030 4	TH2039	2040 3.4	2041	2042	2043 2044
Capital Taxes		, s -	\$.	\$ -	s -	\$ -	\$ -	\$ -	s •	\$ -	\$ -	s , -	\$ -	\$ -	\$ - :	.	5 -	\$ -	s -	s -	s	s -	s - s ·
Taxable Income Cash Margin (EBITDA)		\$ 170.72	2 5 - 171.01	\$ 175,01	\$ 174,41	\$ 159,05	\$ 172,60	\$ 176.21	\$ 176.07	\$ 178,43	\$ 179,00	S 184.13	\$ 149,14	\$ 154.82	\$ 155.53 S	\$ 156.26	S 157.01	\$ 157.77	\$ 158.54	S 159.33	S 160.13	\$ 160 96	\$ 118.05 \$ -
Ont Capital Taxes		\$ -	\$ -	\$.	\$ -	\$ -	\$ -	\$ -	\$ -*	\$ -	\$ -	\$ -	\$ -	\$ -	5 - :	\$-	5 -	\$ -	\$ -	\$ -	\$ -	\$ -	
Capitalized Interest CCA Allowance		\$ - \$ 62.38	\$ - 3 \$ 54.82	\$ - ! \$ · 54.30					\$ - \$ 42.22		\$ - : \$ 39.67 :		\$ - \$ 38.01		\$ - 5 \$ 36.97 5	5 - 5 36.64		\$ - \$ 36.29		\$ - \$ 36,29	•	\$ - : \$ 4.41	
Taxable income		\$ 108.34	\$ 116.19	\$ 120.71	\$ 126.27	\$ 113.28	\$ 128,72	\$ 132.78	\$ 133,85	\$ 137.64	\$ 139.33	\$ 145.36	\$ 111,13	\$ 117.40	\$ 118.57	119.63	120.69					\$ 156.55	
Tax Pooling	•			-	•	•						*					_			_	_		_
Opening Balance Additions		\$ -· \$ -	\$ - \$ -	, . , .	3 - 5 -	\$ - \$ -	\$ - \$ -	-	-		\$ - : \$ - :			-	\$ - : \$ - :		· ·	•	\$ - \$ -	\$ - \$ -	\$ - \$ -	\$ - :	• \$r - • • • -
Loss Realized Closing Salance	Yes	\$ <u>-</u>	\$ -	\$ - \$ -	<u> </u>	\$ - \$ -	\$ ·	\$ -	\$ -	\$ -	\$ - \$ -	<u>s -</u>	\$ -	\$ - \$	\$ - :	<u> </u>	<u> </u>	<u> </u>	5 -	s -	s -	\$ - : 5 -	<u> </u>
•		,	•	•	•	•	•		•	•	*	•			•				•	•	•	•	•
Taxable Income after Pooling Tax Rate		108.34 25.09					128.72 25.0%		133.85 25.0%	137.64 25.0%	139,33 25.0%	145.38 25.0%	111.13 25.0%	117.40 25.0%	118.57 25,0%	119.63 25.0%	120,59 25.0%	121.48 25.0%	122.29 25.0%	123.04 25.0%	123,73° 25,0%	156.55 25.0%	71_98 0.00 25.0% 25.0%
Cash Taxes	•	27.0					32.18		33.46	34,41	34.83	36.34	27.78	29.35	29.64	29,91	30.15	30,37	30.57	30.76	30.93	39.14	18.00 0.00
Unlevered Free Cash Flow		2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033 8	2034	≨2035 € 5	2036	2037	2038 -	2039	2040	2041	2042	2043 2044
Cash Margin		\$ 170.	7 \$ 171.0	\$ 175.0	\$ 174.4	\$ 159.1	\$ 172.6	\$ 176.2	\$ 176.1	\$ 178.4	\$ 179.0	\$ 184,1	\$ 149.1	\$ 154.8	\$ 155.5 \$	156,3	157.0	\$ 157.8	\$ 158.5	\$ 159,3	\$ 160.1	\$ 161,0 \$	118.1 \$ -
- Capital Expenditure - Cash Taxes + Capital Taxes	•			7 \$ 23.2 3 \$ 30.2	\$ 20,6 \$ 31.6				•													\$ - :	(102.2) \$ -
Net Cash Flow After Tax			9 \$ 122.2																				
		32									_												

Highly Confidential: This record contains information provided to the OPA that is designated by the OPA as highly confidential and it and all resulting work product is intended, for the purpose of section 17 of the Freedom of Information and Protection of Privacy Act, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization."

TransCanada Oakville GS - Unlevered Economics (July 8, 2009)

-	A.\		
	(C)	TransCanada	
•	13	In business to deliver	ŧ,

Note: All Values in SM CAD Pricing & Index Assumptions			2009 200 /30/2009 12/31/		2010 7/1/2010	2010 9/30/2010	2010 12/31/2010	2011 4/1/2011		2011 /30/2011 1	2011 2/31/2011	2012 4/1/2012		2012 2 30/2012 12/3				2013 0/2013 1	2013 1/15/2013	2014 7/1/2014	2015 7/1/2015	2016 7/1/2016	2017 7/1/2017	2018 7/1/2018	2019 7/1/2019		021 /2021
Chicksching (Decembers)		2000	2000) 200 <u>0</u>	9 32010	2010	2010	3010		2001			2012 -	2012	2012 - 2	012	তাল 🕹	GE) 2	018	200E)	EUK:	±2016	-20016	5101F/	201 8	-5000)	2020 8	2
Initial Capital including Land Land sale (after tax amount)		0,0 \$	3.9 \$ - \$	29.2 \$ 26.0	\$ 99.5 \$	65.6	\$ 70,0 \$ \$ - \$	56.9 \$	80.0 \$	190,4	88.0 \$	71.0 .5	73,1 \$	69.4 \$	65,3 \$	56.1 \$	62.6 \$		22.4 \$		\$ - \$ -	\$: \$ - :	· 5 - !	-	\$ \$	- \$ - \$	-
Captial Expenditure		0.0 \$	3,9 \$	29.2 \$ 26.0	\$ 99.5 \$	65.6	\$ 70.0 \$	56.9 \$	80.0 \$	190.4		71,0 \$	73.1 \$	69.4 \$	65.3 \$	56.1 \$	62.6 \$	65.7 \$	22.4 \$	-	\$ -	\$	- :		- \$	- \$	-
IDC Calculation Opening Balance Current Period Spending Ending Balance		0.0 \$	0.0 \$	0.0 \$ 0.4 0.4 \$ 0.8 0.4 \$ 1.2	S 2.0 S	3.1	\$ 4.2 \$	5.2 s	6.3 \$	8.5 \$		12.1 \$	13.3 \$_		15,5 \$	16.6 \$	17.4 \$	18.5 \$	149.0 \$		s	\$ - <u> </u>		•		149.0 \$ - \$ 149.0 \$	
LTSA Costs		; - \$		0.4 \$ 1.2			\$ 10.4 \$ \$ \$	15.7 \$	21.9 \$	-	41.3 \$; 53.4 s	- \$	B1.0 \$ - \$	- \$		- \$		3.5 \$,		\$ 20.7			22.5 \$	
Calculation of Cashi Margins	Jan	£2009	2009 200	2010	2010	2010	£ 2010	- 2 2011	2014	2011	≱ol fi.	±2012	2012	2012	012	2013	013 2	20:13:	.2018	2014	2015	2016	2017	2018	2019	2020	021
Calculated NRR Imputed Net Revenue Contingency Support Payment		- \$ - \$	- \$ - \$	- \$ - - \$ -	\$ - \$ \$ - \$					1		_ <u> </u>	•	- \$ - \$					•	186.3 13.5	\$ 187.0	\$ 187.8 \$ 45.5	\$ 188.5 \$ 45.3	\$ 189.3 \$ 44.4_	\$ 190.2 \$ \$ 51.9 \$	191,0 \$ 54.4 \$ 136,6 \$	191.8 38.6
Revenues Actual Gross Market Revenues Contigency Support Payments (CSP)		- \$ - S		- \$ - - \$ -	\$ - \$ \$ - \$		\$ - \$ \$ - \$		\$, \$ \$ \$		\$ - \$			- \$ - S	- \$	- \$ - \$	- \$ - \$		17.9 \$ 45.0 \$				\$ 281.6 \$ 143.2			332.9 \$	
Revenue Sharing Payment (RSP) Total Revenues			- 2	- \$ -	s - s	-	5 - 5	· - ş	*				· - \$	<u> </u>	- 3	- \$		- \$								469.5 \$	
Expenses	•	•	- , 🗸	•	• - •		•	•		· - ,			•		•	. •	- \ •		05.0	2,5,,	• • • • • • • • • • • • • • • • • • • •	•		• • • • • • • • • • • • • • • • • • • •		•	*
Fuel Costs Variable Energy Costs Fixed Costs Total Expenses	 s	- \$ - \$ - \$	•		\$ - \$ \$ - \$ 5 - \$		\$ - \$ \$ - \$ \$ - \$				- S - S					- \$ - \$			13.8 \$ 0.4 \$ 7.7 \$	2.0	\$ 3.5	\$ 5.4	\$ 5.6	\$ 5.3	\$ 5.8 \$	264.3 \$ 6.7 \$ 28.3 \$	5,9
Total Expenses	\$	- \$	- \$	- \$ -	\$ - \$		\$ - \$	- \$	- \$	-	- \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	21.8 \$	106.2	\$ 168,3	\$ 244.7	\$ 255.5	\$ 245.4	\$ 267.3 \$	299.3 \$	270.5
EBITDA / Cash Margin	\$	- \$	- \$	- \$ -	s - s	:	\$ · - \$	- \$	i - \$	- :	s - \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	41.2 \$	167.5	\$ 167.8	\$ 168.6	\$ 169.4	\$ 167.8	\$ 167.1 \$	170,3 \$	173.5
Income viax Calculations		3200 0 4	2009) - 2009	2010	2010	92010	2010	2011	2011	2011	2010	2012	2012	2012.	012	2018	013	2019	2013	2010	± 2015	2016	2017	£01B	=2019	32020 · · · · ·	021
Capital Taxes	ş	- \$. \$	- \$ 0,07	s - s	• •	s - s	0.25 \$.	. 1	\$	- \$	- \$	- \$	- \$	- \$	- \$	- \$. s	-	\$ -	\$ -	s -	s	s - s	\$	•
Taxable Income Cash Margin (EBITDA) Ont Capital Taxes Capitalized Interest CCA Allowance	\$ \$ \$ \$	- \$ - \$. 0.00 \$	- \$ 0.01 \$ 0	- \$ - \$ - \$ 0.07 \$!41 \$ 0.77 \$	- 5	3,05	\$ 4.18 \$	0.25 \$ 5.22 \$		8.54 S	10.81 \$	- \$ 12.10 \$	- \$	- \$ - \$ 14.42 \$	- \$ - \$ 15.53 \$		- \$ - \$ 17.41 \$		41.18 \$ \$ \$ 107.09 \$	•	\$ - \$ -	\$ -	s -	\$ - \$ -	\$ - \$ \$ - \$		· -
Taxable Income		(0.00) \$.32) \$ (0.85) \$	(2.00) \$		\$ (10.40) \$		(22.77) \$					(14.42) \$	(15.53) \$	(16.55) \$	(17.41) \$	(18.48) \$	(65,91) \$			\$ 62.65					
Tax Pooling Opening Balance Additions Loss Resilzed Closing Balance	\$ \$ \$ \$ \$ \$ \$	0.00 S 0.00 S	- \$ 0.01 \$ 1 0.01 \$ 1	- \$. \$. 3.32 \$ 0.85 \$.32 \$ 0.85 \$	2.00 \$	- \$ 3.06 \$ 3.06 \$	\$ - \$ \$ 10,40 \$ \$ 10,40 \$.	- \$ 5.47 \$ 5.47 \$	- \$ 22.77 \$ 22.77 \$	- \$ 8.54 \$ 8.54 \$	- \$ 10.81 \$ 10.81 \$	- \$ 12.10 \$ 12.10 \$	- \$ 55.74 \$ 55.74 \$	\$ 14.42 \$ 14.42 \$	- \$ 15.53 \$ 15.53 \$	- \$ 16,55 \$ 16.55 \$	- \$ 17.41 \$ 17.41 \$	- \$ 18.48 \$ 18.48 \$	65.91 \$ 65.91 \$		\$. \$ -	\$ - \$ -	\$ \$	-		- \$ - \$	- - -
Taxable Income after Pooling	s			- \$ - \$				•			•		•	- \$	- \$		· \$. \$	40.07	5 - 53.36	\$ - 62,65	73.30	\$ - 81.08	5 - 3 87.54	96,67	106.55
Tax Rate Cash Taxes		(0.00) 31,0% (0.00)	31.0% 31	.32) (0.85) .0% 29,0% .41) (0.25)	(2.00) 29.0% (0.58)	(3.06) 29.0% (0.89)	(10.40) 29.0% (3.02)	(5.47) 26.5% (1.45)	(22.77) 26.5% (6.03)	(8.54) 26.5% (2.26)	(10.81) 26,5% (2.86)	(12.10) 25.0% (3.03)	(55.74) 25.0% (13.93)		(15.53) 25.0% (3.88)	(16.55) 25.0% (4.14)	(17.41) 25.0% (4.35)	(18.48) 25.0% (4.62)	(55.91) 25.0% (16.48)	25.0% 10.02	25.0% 13.34	25.0% 15.66	73.30 25.0% 18.33	25.0% 20.27	25.0% 21.91	25.0% 24.17	25,0% 26.64
Unlevered Free Cash Flow Cash Margin - Capital Expenditure		- \$ 0,0 \$	- \$	72010 - \$ - \$ 92 \$ 26.0 \$	- \$	#2010 - \$ 65,6 \$	- \$	- \$	- \$	- \$	- \$	- \$	- \$	2012 <u>2</u> 1 - \$ 69.4 \$	- \$	2013 \$ \$ 56.1 \$	0133 6 2 - \$ 62.6 \$	- \$	2013 41.2 \$ 25.9 \$	167.5	\$ 167.8	\$ 168,6	\$ 169.4	\$ 167.8	\$ 167.1 \$	170.3 \$	173.5
- Cash Taxes + Capital Taxes Net Cash Flow After Tax	<u> </u>	(0.0) \$ (0.0) \$	(0.0) \$ (0.4) \$ (0.1) \$ 8.8) \$ (25.9) \$	(0.3) \$	(0.5) \$	(2.5) \$	(0.6) \$	(5.4) \$	(1.4) \$	(1.7) \$	(1.8) \$	(12.6) \$	(2.2) \$	(2.3) \$ (62.9) \$	(2.5) \$	(2.6) \$	(2.8) \$	(16.5) \$ 31.7 \$	10.0	\$ 13.3	\$ 15.7	\$ 18,3_	\$ 20,3	\$ 21.9	24.2 \$	26.6 124.9

XNEV)
DiscountRate 9923

Highly Confidential: This record contains information provided to the OPA that is designated by the OPA as highly confidential and it and all resulting work product is intended, for the purpose of section 17 of the Freedom of Information and Protection of Privacy Act, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization."

From:

Michael Killeavy

Sent:

December 8, 2010 12:04 PM

To:

Deborah Langelaan

Subject:

Re: Nov. 26 Meeting Minutes - OPA comments

Sorry.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Deborah Langelaan

Sent: Wednesday, December 08, 2010 11:29 AM

To: Michael Killeavy

Subject: FW: Nov. 26 Meeting Minutes - OPA comments

Michael;

Please cc me on TCE correspondence so we don't duplicate efforts.

Thanks, Deb

Deborah Langelaan | Manager, Natural Gas Projects | OPA | Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 | T: 416.969.6052 | F: 416.967.1947 | | deborah.langelaan@powerauthority.on.ca |

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: December 8, 2010 11:28 AM

To: Deborah Langelaan

Subject: RE: Nov. 26 Meeting Minutes - OPA comments

Deborah.

I saw a-note from Michael asking about the LOI and the GT Indemnity Agreement. We are targeting getting you drafts by end of business today.

Thanks for the response on the minutes - I will also plan on getting you last Friday's by end of today.

Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **TransCanada**Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Wednesday, December 08, 2010 10:56 AM

To: John Mikkelsen

Subject: Nov. 26 Meeting Minutes - OPA comments

John:

Please find attached a blackline of the minutes from Nov. 26th.

Deb

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

From:

Michael Killeavv

Sent:

December 10, 2010 9:49 PM

To:

Amir Shalaby

Cc:

JoAnne Butler; Deborah Langelaan; Susan Kennedy; Bob Chow

Subject:

Re: Cambridge Peaking Generation Plant Capacity

Thank you. This is what we suspected, but I wanted to be sure.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Amir Shalaby

Sent: Friday, December 10, 2010 09:31 PM

To: Michael Killeavy

Cc: JoAnne Butler; Deborah Langelaan; Susan Kennedy; Bob Chow
Subject: Re: Cambridge Peaking Generation Plant Capacity

Acknowledging your request. We deliberately left the size out of LTEP to avoid constraints. The size quoted in system plans is typically rating at summer peak conditions, so consistent with what you are suggesting. This creates added capacity in winter (this must be common to all our fleet, is it not?) I suggest we contract for the capacity of the TWO G units (we are ordering fresh, let the contract follow the equipment) Let us talk some more on Monday. Copying BoB C to get his perspective Amir My instincts

---- Original Message -----

From: Michael Killeavy

Sent: Friday, December 10, 2010 08:10 PM

To: Amir Shalaby

Cc: JoAnne Butler; Deborah Langelaan; Susan Kennedy
Subject: Cambridge Peaking Generation Plant Capacity

Amir,

The issue of the K-W peaking plant capacity came up at today's session with TCE. TCE is referring to the capacity as "season 3 degraded capacity of 450MW." Season 3 is the summer, when plant capacity would typically be the lowest because of the higher ambient air temperature. We were wondering if you might be able to clarify for us what was meant by a "450 MW peaking plant"? I went through the LTEP and I didn't see the plant capacity specifically referenced, but perhaps I missed it. The issue is important because if the plant is oversized, there will be merchant capacity that the ratepayer might be subsidizing through the NRR. It would be helpful if we could get this clarified by next Tuesday, or so, if possible.

Thanks, Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From:

Michael Killeavy

Sent:

December 10, 2010 9:50 PM

Cc:

Bob Chow; Amir Shalaby

Subject:

JoAnne Butler; Deborah Langelaan; Susan Kennedy Re: Cambridge Peaking Generation Plant Capacity

Thank you. This is helpful.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Bob Chow

Sent: Friday, December 10, 2010 09:48 PM

To: Amir Shalaby; Michael Killeavy

Cc: JoAnne Butler; Deborah Langelaan; Susan Kennedy; Bob Chow Subject: Re: Cambridge Peaking Generation Plant Capacity

For us, we refer to the nominal capacity when we refer to gas plants ratings. Unless specifically required, we don't usually need anything that must have a specific rating, just more or less in the nominal range. We want developers to have sufficient freedom to determine their best machine within a reasonable range of the nominal rating to minimize the cost. So 450mw could be 3x150 or 2x225 or thereabout. We are interested in this plant capacity at summer peak condition, ie at 35 degree C. We will determine whether the summer peak rating would be acceptable. We don't want to oversize a unit if it costs the ratepayers. We could discuss this further. Bob

Bob Chow (OPA) 416-969-6017 ... via Blackberry Wireless

---- Original Message -----

From: Amir Shalaby

Sent: Friday, December 10, 2010 09:31 PM

To: Michael Killeavy

Cc: JoAnne Butler; Deborah Langelaan; Susan Kennedy; Bob Chow Subject: Re: Cambridge Peaking Generation Plant Capacity

Acknowledging your request. We deliberately left the size out of LTEP to avoid constraints. The size quoted in system plans is typically rating at summer peak conditions, so consistent with what you are suggesting. This creates added capacity in winter (this must be common to all our fleet, is it not?) I suggest we contract for the capacity of the TWO G units (we are ordering fresh, let the contract follow the equipment) Let us talk some more on Monday. Copying BoB C to get his perspective Amir My instincts

---- Original Message -----

From: Michael Killeavy

Sent: Friday, December 10, 2010 08:10 PM

To: Amir Shalaby

Cc: JoAnne Butler; Deborah Langelaan; Susan Kennedy

Subject: Cambridge Peaking Generation Plant Capacity

Amir,

The issue of the K-W peaking plant capacity came up at today's session with TCE. TCE is referring to the capacity as "season 3 degraded capacity of 450MW." Season 3 is the summer, when plant capacity would typically be the lowest because of the higher ambient air temperature. We were wondering if you might be able to clarify for us what was meant by a "450 MW peaking plant"? I went through the LTEP and I didn't see the plant capacity specifically referenced, but perhaps I missed it. The issue is important because if the plant is oversized, there will be merchant capacity that the ratepayer might be subsidizing through the NRR. It would be helpful if we could get this clarified by next Tuesday, or so, if possible.

Thanks, Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From:

Michael Killeavy

Sent:

December 24, 2010 8:01 AM

To: Subject: Deborah Langelaan RE: JoAnne and TCE

Yes to both.

I think TCE needs a explanation about what constitutes "good faith negotiations."

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

----Original Message-----From: Deborah Langelaan

Sent: December 24, 2010 7:15 AM

To: Michael Killeavy Subject: JoAnne and TCE

Michael;

Just wondering if you followed up with JoAnne yesterday to have her call Karl at TCE?

Also, don't you find it interesting that John Mikkelsen hasn't forwarded us the e-mail he said he had on Wednesday from MPS re ± 25% price quote?

Deb

	•
	*
·	

From:

Michael Killeavy

Sent:

September 22, 2011 1:59 PM

To:

Deborah Langelaan

Subject:

RE: Confidential and Without Prejudice

Excellent. Please send it when you can. Thank you for attending to this.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Deborah Langelaan

Sent: September 22, 2011 1:50 PM

To: Michael Killeavy

Subject: Confidential and Without Prejudice

Michael – below is the e-mail I've crafted to send to TCE. Let me know what you think.

"John;

The OPA received an inquiry from the Toronto Star regarding our discussions with TransCanada Energy on the cancellation of the Oakville Generating Station. We do not know why the inquiry was made but have provided the following response to the inquiry:

"Discussions with TransCanada, the company selected to develop the Oakville plant, are continuing. These are ongoing discussions and we have no further information to provide at this time."

Kind Regards, Deb"

Deborah Langelaan | Manager, Natural Gas Projects | OPA | Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 | T: 416.969.6052 | F: 416.967.1947 | deborah langelaan@powerauthority.on.ca |

	·			
			. 1	
			ì	
·	·			2 1
,				

From:

Deborah Langelaan

Sent:

September 22, 2011 3:48 PM

To:

'John Mikkelsen (John_mikkelsen@transcanada.com)'

Cc:

Michael Killeavy

Subject:

Confidential and Without Prejudice

John;

The OPA received an inquiry from the Toronto Star regarding our discussions with TransCanada Energy on the cancellation of the Oakville Generating Station. We do not know why the inquiry was made but have provided the following response to the inquiry:

"Discussions with TransCanada, the company selected to develop the Oakville plant, are continuing. These are ongoing discussions and we have no further information to provide at this time."

Kind Regards, Deb

Deborah Langelaan | Manager, Natural Gas Projects | OPA | Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 |

T: 416.969.6052 | F: 416.967.1947 | deborah.langelaan@powerauthority.on.ca |

,				
·				
			·	
,				

From:

John Mikkelsen [john_mikkelsen@transcanada.com]

Sent:

September 23, 2011 9:29 AM

To:

Deborah Langelaan

Cc:

Michael Killeavy; Terry Bennett; John Cashin; Chris Breen

Subject:

RE: Confidential and Without Prejudice

Confidential and Without Prejudice

Thank you Deb.

We also had an inquiry from the Toronto Star and responded in a similar manner.

Best Regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

Royal Bank Plaza 200 Bay Street 24th Floor, South Tower Toronto, Ontario M5J 2J1

Tel: 416.869.2102

Fax:416.869.2056

Cell:416.559.1664

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Thursday, September 22, 2011 3:48 PM

To: John Mikkelsen Cc: Michael Killeavy

Subject: Confidential and Without Prejudice

John;

The OPA received an inquiry from the Toronto Star regarding our discussions with TransCanada Energy on the cancellation of the Oakville Generating Station. We do not know why the inquiry was made but have provided the following response to the inquiry:

"Discussions with TransCanada, the company selected to develop the Oakville plant, are continuing. These are ongoing discussions and we have no further information to provide at this time."

Kind Regards,

Deb

Deborah Langelaan | Manager, Natural Gas Projects | OPA |
Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 |
T: 416.969.6052 | F: 416.967.1947 | deborah langelaan@powerauthority.on.ca |

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

From:

Michael Killeavy

Sent:

September 22, 2011 1:59 PM

To:

Deborah Langelaan

Subject:

RE: Confidential and Without Prejudice

Excellent. Please send it when you can. Thank you for attending to this.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Deborah Langelaan

Sent: September 22, 2011 1:50 PM

To: Michael Killeavy

Subject: Confidential and Without Prejudice

Michael – below is the e-mail I've crafted to send to TCE. Let me know what you think.

"John;

The OPA received an inquiry from the Toronto Star regarding our discussions with TransCanada Energy on the cancellation of the Oakville Generating Station. We do not know why the inquiry was made but have provided the following response to the inquiry:

"Discussions with TransCanada, the company selected to develop the Oakville plant, are continuing. These are ongoing discussions and we have no further information to provide at this time."

Kind Regards, Deb"

Deborah Langelaan | Manager, Natural Gas Projects | OPA | Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 | T: 416.969.6052 | F: 416.967.1947 | deborah.langelaan@powerauthority.on.ca |

		-		
			·	
,				
		•		

From:

Deborah Langelaan

Sent:

September 22, 2011 3:48 PM

To:

'John Mikkelsen (John mikkelsen@transcanada.com)'

Cc:

Michael Killeavy

Subject:

Confidential and Without Prejudice

John;

The OPA received an inquiry from the Toronto Star regarding our discussions with TransCanada Energy on the cancellation of the Oakville Generating Station. We do not know why the inquiry was made but have provided the following response to the inquiry:

"Discussions with TransCanada, the company selected to develop the Oakville plant, are continuing. These are ongoing discussions and we have no further information to provide at this time."

Kind Regards, Deb

Deborah Langelaan | Manager, Natural Gas Projects | OPA | Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 |

T: 416.969.6052 | F: 416.967.1947 | deborah.langelaan@powerauthority.on.ca |

			·
	·		
			·
	,		

From:

John Mikkelsen [john mikkelsen@transcanada.com]

Sent:

September 23, 2011 9:29 AM

To:

Deborah Langelaan

Cc:

Michael Killeavy; Terry Bennett; John Cashin; Chris Breen

Subject:

RE: Confidential and Without Prejudice

Confidential and Without Prejudice

Thank you Deb.

We also had an inquiry from the Toronto Star and responded in a similar manner.

Best Regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

Royal Bank Plaza 200 Bay Street 24th Floor, South Tower Toronto, Ontario M5J 2J1

Tel: 416.869.2102

Fax:416.869.2056

Cell:416.559.1664

From: Deborah Langelaan [mailto:Deborah,Langelaan@powerauthority.on.ca]

Sent: Thursday, September 22, 2011 3:48 PM

To: John Mikkelsen Cc: Michael Killeavy

Subject: Confidential and Without Prejudice

John;

The OPA received an inquiry from the Toronto Star regarding our discussions with TransCanada Energy on the cancellation of the Oakville Generating Station. We do not know why the inquiry was made but have provided the following response to the inquiry:

"Discussions with TransCanada, the company selected to develop the Oakville plant, are continuing. These are ongoing discussions and we have no further information to provide at this time."

Kind Regards,

Deb

Deborah Langelaan | Manager, Natural Gas Projects | OPA | Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 | T: 416.969.6052 | F: 416.967.1947 | deborah.langelaan@powerauthority.on.ca |

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

From:

Michael Killeavy

Sent:

December 16, 2010 6:20 PM

To:

Susan Kennedy

Subject:

Re: Revised MPS Acknowledgement

Better you than me Thanks for all the support over the past few days. I appreciate it. I am leaving Osler now. Have a pleasant evening.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Susan Kennedy

Sent: Thursday, December 16, 2010 06:13 PM

To: Michael Killeavy

Subject: Re: Revised MPS Acknowledgement

I'll do my best. He has resigned himself to being stalked by me for signatures.

From: Michael Killeavy

Sent: Thursday, December 16, 2010 06:06 PM

To: Susan Kennedy; 'RSebastiano@osler.com' < RSebastiano@osler.com >

Cc: 'PIvanoff@osler.com' < PIvanoff@osler.com' >; 'ESmith@osler.com' < ESmith@osler.com' >; Deborah Langelaan

Subject: Re: Revised MPS Acknowledgement

Rocco says it is fine. Can you please arrange have Colin execute the clean version with TCE draft removed from the top.

Michael Killeavy, LL.B., MBA, P.Eng.

Director, Contract-Management

Ontario Power Authority

120 Adelaide St. West, Suite 1600

Toronto, Ontario, M5H 1T1

416-969-6288 (office)

416-969-6071 (fax)

416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

From: Susan Kennedy

Sent: Thursday, December 16, 2010 05:55 PM

To: 'rsebastiano@osler.com' < rsebastiano@osler.com >; Michael Killeavy

Cc: 'PIvanoff@osler.com' < PIvanoff@osler.com' >; 'esmith@osler.com' < esmith@osler.com' >; Deborah Langelaan

Subject: Re: Revised MPS Acknowledgement

I'm okay with the changes. Doew it meet Oslers needs?

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 16, 2010 05:50 PM

To: Michael Killeavy; Susan Kennedy

Cc: Ivanoff, Paul < PIvanoff@osler.com >; Smith, Elliot < ESmith@osler.com >; Deborah Langelaan

Subject: Revised MPS Acknowledgement

Just arrived from David Lever...

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Thursday, December 16, 2010 5:44 PM

To: Sebastiano, Rocco

Cc: Huber, Harold R.; 'Terry Bennett'; 'Terri Steeves'; 'John Mikkelsen'; 'John Cashin'; Lever, David A.N.

Subject:

Rocco,

Please find attached a revised draft of the Acknowledgement that incorporates the point we discussed earlier today and two small comments from MPS. This has now been approved by MPS and TCE. If it is in a form acceptable to you and your client, please arrange to have it executed and circulated to the addressees of this email, in which case we will arrange for the MPS Contract to be provided to you.

If you have any questions or concerns with the attached, please call me at 416 997 7655

Best Regards,

David.

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).

Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify

the sender and destroy all copies of this e-mail. Our privacy policy is available at www.mccarthy.ca .

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 16, 2010 6:44 PM

To:

'RSebastiano@osler.com'

Cç: Subject: 'ESmith@osler.com'; Susan Kennedy; 'PIvanoff@osler.com' Re: TransCanada Base Oakville Generation Station Unlevered Economics

I haven't looked at it yet. Sorry

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 16, 2010 06:41 PM

To: Michael Killeavy

Cc: Smith, Elliot < ESmith@osler.com >; Susan Kennedy; Ivanoff, Paul < PIvanoff@osler.com >

Subject: RE: TransCanada Base Oakville Generation Station Unlevered Economics

A few quick observations of TCE's financial model:

The first is that it contemplates a COD of November 15, 2013 which is three months earlier than the COD Milestone Date in the contract.

The second is that the financial model shows the calculated NRR and INR ending on 2033, but on the next two lines down showing the CSP, TCE has inserted CSP revenues from 2034 to 2044 totalling more than \$1 billion. Where is this money coming from given that the CES contract term will have expired? Am I missing something or this a major error in their model?

Lastly, the XNPV value is \$503 million at a discount rate of 5.25%. This compares to Safouh's calculation of approximately \$450 million.

Regards, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 16, 2010 6:08 PM

To: Sebastiano, Rocco

Cc: Smith, Elliot; Susan Kennedy

Subject: Fw: TransCanada Base Oakville Generation Station Unlevered Economics

Here's the TCE financial model.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Thursday, December 16, 2010 06:05 PM

To: Michael Killeavy

Cc: Deborah Langelaan; Terry Bennett < terry bennett@transcanada.com >; Chris Breen

<chris breen@transcanada.com>; Terri Steeves <<u>terri steeves@transcanada.com</u>>; John Cashin

<john cashin@transcanada.com>

Subject: TransCanada Base Oakville Generation Station Unlevered Economics

Michael,

Further to the receipt of your letter earlier today, please find attached TransCanada Base Oakville Generation Station Unlevered Economics and our letter of explanation.

We would be happy to walk you through this tomorrow and, to the best of my ability, answers your questions.

See you at 10 tomorrow.

Best regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

	-				
************************				····	
his e-mail message is privilego	ed, confidential and subject to				
opyright. Any unauthorized us					
e contenu du présent courriel oumis à des droits d'auteur. Il e le divulguer sans autorisation	est interdit de l'utiliser ou				
*******************	*************************************				
				,	
					•
			,		
				.	

	·		
		·	

Erom:

From: Michael Killeavy

Sent: December 16, 2010 9:32 PM

To: 'RSebastiano@osler.com'; Susan Kennedy
Cc: 'ESmith@osler.com'; 'Plvanoff@osler.com'

Subject: Re

Yes. Let's walk to TCE tomorrow and discuss. McCarthy's probably has them up a tree on this. We'll need to talk them down tomorrow.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 16, 2010 08:24 PM

To: Michael Killeavy; Susan Kennedy

Cc: Smith, Elliot < ESmith@osler.com >; Ivanoff, Paul < PIvanoff@osler.com >

Subject: Fw:

Looks like TCE is holding back the MOU trying to put leverage on the GT indemnity.

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Thursday, December 16, 2010 07:45 PM

To: Sebastiano, Rocco

Subject: Re:

TCE would like to understand what's happening on the indemnity front. Hopefully we can conclude that tomorrow am

David

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 16, 2010 06:15 PM

To: Lever, David A.N.

Cc: Huber, Harold R.; 'Terry Bennett' < terry bennett@transcanada.com >; 'Terri Steeves'

<terri steeves@transcanada.com>; 'John Mikkelsen' <john mikkelsen@transcanada.com>; 'John Cashin'

<john cashin@transcanada.com>; Michael Killeavy (Michael.killeavy@powerauthority.on.ca)

<Michael,killeavy@powerauthority.on.ca>; Susan Kennedy <Susan.Kennedy@powerauthority.on.ca>; Smith, Elliot

<<u>ESmith@osier.com</u>>; Deborah Langelaan <<u>Deborah.Langelaan@powerauthority.on.ca</u>>

Subject: RE:

David,

This revised version looks fine. We will arrange to have the OPA and Osler sign it and get is back to TCE tomorrow.

Where do we stand on the MOU?

Thanks, Rocco

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Thursday, December 16, 2010 5:44 PM

To: Sebastiano, Rocco

Cc: Huber, Harold R.; 'Terry Bennett'; 'Terri Steeves'; 'John Mikkelsen'; 'John Cashin'; Lever, David A.N.

Subject:

Rocco,

Please find attached a revised draft of the Acknowledgement that incorporates the point we discussed earlier today and two small comments from MPS. This has now been approved by MPS and TCE. If it is in a form acceptable to you and your client, please arrange to have it executed and circulated to the addressees of this email, in which case we will arrange for the MPS Contract to be provided to you.

If you have any questions or concerns with the attached, please call me at 416 997 7655

Best Regards,

David.

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).

Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify

the sender and destroy all copies of this e-mail. Our privacy policy is available at www.mccarthy.ca .

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

±******************************

2

From:

Michael Killeavy

Sent:

December 17, 2010 4:27 AM

To:

Sebastiano, Rocco; Susan Kennedy

Cc:

Smith, Elliot; Ivanoff, Paul

Subject:

RE:

Yes. Thanks

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

----Original Message----

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thu 12/16/2010 9:52 PM

To: Michael Killeavy; Susan Kennedy Cc: Smith, Elliot; Ivanoff, Paul

Subject: Re:

Sure. Did you want to come by at 9:45 and we can walk over to TCE together?

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 16, 2010 09:32 PM

To: Sebastiano, Rocco; Susan Kennedy <Susan.Kennedy@powerauthority.on.ca>

Cc: Smith, Elliot; Ivanoff, Paul

Subject: Re:

Yes. Let's walk to TCE tomorrow and discuss. McCarthy's probably has them up a tree on this. We'll need to talk them down tomorrow.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 16, 2010 08:24 PM

To: Michael Killeavy; Susan Kennedy

Cc: Smith, Elliot <ESmith@osler.com>; Ivanoff, Paul <PIvanoff@osler.com>

Subject: Fw:

Looks like TCE is holding back the MOU trying to put leverage on the GT indemnity.

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Thursday, December 16, 2010 07:45 PM

To: Sebastiano, Rocco

Subject: Re:

TCE would like to understand what's happening on the indemnity front. Hopefully we can conclude that tomorrow am

David

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 16, 2010 06:15 PM

To: Lever, David A.N.

Cc: Huber, Harold R.; 'Terry Bennett' < terry bennett@transcanada.com>; 'Terri Steeves' < terri steeves@transcanada.com>; 'John Mikkelsen' < john mikkelsen@transcanada.com>; 'John Cashin' < john cashin@transcanada.com>; Michael Killeavy

(Michael.killeavy@powerauthority.on.ca) < Michael.killeavy@powerauthority.on.ca>; Smith Filiot < FSmith@osler.com>; Deborah

(Michael.Killeavy@powerauthority.on.ca) <Michael.Killeavy@powerauthority.on.ca>; Susan Kennedy <Susan.Kennedy@powerauthority.on.ca>; Smith, Elliot <ESmith@osler.com>; Deborah Langelaan@powerauthority.on.ca>

Subject: RE:

David,

This revised version looks fine. We will arrange to have the OPA and Osler sign it and get is back to TCE tomorrow.

Where do we stand on the MOU?

Thanks, Rocco

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Thursday, December 16, 2010 5:44 PM

To: Sebastiano, Rocco

Cc: Huber, Harold R.; 'Terry Bennett'; 'Terri Steeves'; 'John Mikkelsen'; 'John Cashin';

Lever, David A.N.

Subject:

Rocco,

Please find attached a revised draft of the Acknowledgement that incorporates the point we discussed earlier today and two small comments from MPS. This has now been approved by MPS and TCE. If it is in a form acceptable to you and your client, please arrange to have it executed and circulated to the addressees of this email, in which case we will arrange for the MPS Contract to be provided to you.

If you have any questions or concerns with the attached, please call me at 416 997 7655

Best Regards,

David,

This e-mail may contain information that is privileged, confidential and/or exempt from

disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named

recipient(s).
Unauthorized use, dissemination or copying is prohibited. If you receive this email in error,

please notify the sender and destroy all copies of this e-mail. Our privacy policy is available at www.mccarthy.ca.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From:

Michael Killeavy

Sent:

December 19, 2010 11:12 AM

To:

'Rocco Sebastiano (rsebastiano@osler.com)'

Subject:

RE: OPA Letter to TCE

It's a pity they didn't do this analysis before they asked for it.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

----Original Message----

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Sun 12/19/2010 10:32 AM

To: 'Rocco Sebastiano (rsebastiano@osler.com)'; Michael Killeavy

Cc: 'Terry Bennett'; 'Terri Steeves'; 'John Mikkelsen'; 'John Cashin'; Huber, Harold R.;

Lever, David A.N.

Subject: OPA Letter to TCE

Michael and Rocco,

As suggested at our meeting on Friday, we are reviewing the OPAs authority under the Electricity Act, 1998 to grant an indemnity of the type we have been discussing. While we have not completed that analysis, we thought it might make sense to provide you with a mark up of the draft letter you tabled on Friday given the timeline in which this must be addressed. To the extent that our analysis on the OPA's authority is different than yours, we reserve the right to continue our request for the indemnity in the form we have provided.

I would be pleased to discuss the attached at your earliest convenience.

Best Regards,

David.

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).

Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this e-mail. Our privacy policy is available at www.mccarthy.ca.

From:

Michael Killeavy

Sent:

December 19, 2010 11:13 AM

To:

Lever, David A.N.; 'Rocco Sebastiano (rsebastiano@osler.com)'

Cc:

'Terry Bennett'; 'Terri Steeves'; 'John Mikkelsen'; 'John Cashin'; Huber, Harold R.; Deborah

Langelaar

Subject:

RE: OPA Letter to TCE

I acknowledge receipt of you email and attachment.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

----Original Message----

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Sun 12/19/2010 10:32 AM

To: 'Rocco Sebastiano (<u>rsebastiano@osler.com</u>)'; Michael Killeavy

Cc: 'Terry Bennett'; 'Terri Steeves'; 'John Mikkelsen'; 'John Cashin'; Huber, Harold R.;

Lever, David A.N.

Subject: OPA Letter to TCE

Michael and Rocco,

As suggested at our meeting on Friday, we are reviewing the OPAs authority under the Electricity Act, 1998 to grant an indemnity of the type we have been discussing. While we have not completed that analysis, we thought it might make sense to provide you with a mark up of the draft letter you tabled on Friday given the timeline in which this must be addressed. To the extent that our analysis on the OPA's authority is different than yours, we reserve the right to continue our request for the indemnity in the form we have provided.

I would be pleased to discuss the attached at your earliest convenience.

Best Regards,

David.

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).

Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this e-mail. Our privacy policy is available at www.mccarthy.ca.

·

2

From:

Michael Killeavy

Sent:

December 19, 2010 3:31 PM

To:

Deborah Langelaan

Subject:

Fw: OPA Letter to TCE

Attachments:

9932865vdoc - OPA Letter re Turbines.doc; 9932865v2 - OPA Letter re Turbines.doc

Here it is ... We can discuss it tomorrow.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Sunday, December 19, 2010 10:32 AM

To: 'Rocco Sebastiano (<u>rsebastiano@osler.com</u>)' <<u>rsebastiano@osler.com</u>>; Michael Killeavy

Cc: 'Terry Bennett' < terry bennett@transcanada.com >; 'Terri Steeves' < terri steeves@transcanada.com >; 'John Mikkelsen' < john mikkelsen@transcanada.com >; 'John Cashin' < john cashin@transcanada.com >; Huber, Harold R.

<hacklight <> https://www.ncanthy.ca; Lever, David A.N. DLEVER@MCCARTHY.CA; Lever, David A.N. DLEVER@MCCARTHY.CA; Lever, David A.N. DLEVER@MCCARTHY.CA; Lever, David A.N. https://www.ncanthy.ca; Lever, David A.N. https://www.ncanthy.ca; Lever, David A.N. DLEVER@MCCARTHY.CA; Lever, David A.N. DLEVER@MCCARTHY.CA; Lever, David A.N. https://www.ncanthy.ca; Lever,

Subject: OPA Letter to TCE

Michael and Rocco.

As suggested at our meeting on Friday, we are reviewing the OPAs authority under the Electricity Act, 1998 to grant an indemnity of the type we have been discussing. While we have not completed that analysis, we thought it might make sense to provide you with a mark up of the draft letter you tabled on Friday given the timeline in which this must be addressed. To the extent that our analysis on the OPA's authority is different than yours, we reserve the right to continue our request for the indemnity in the form we have provided.

I would be pleased to discuss the attached at your earliest convenience.

Best Regards,

David.

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).

Unauthorized use, dissemination or copying is prohibited. If you receive

this email in error, please notify the sender and destroy all copies of this e-mail. Our privacy policy is available at www.mccarthy.ca.

[OPA Letterhead]

Privileged and Confidential

December 17,20, 2010

Alex Pourbaix
TransCanada Energy IneLtd.
[insert TCE address]

450 - 1st Street SW Calgary, AB T2P 5H1

Dear Sirs:

Re: Equipment Supply Agreement NO. 6519 dated July 7, 2009 between MPS Canada, Inc. ("MPS") and TransCanada Inc. ("TCE") as amended by letter agreements dated October 29, 2010 and November 19, 2010, and as may be further amended—form, modified or supplemented from time to time (the "Contract")

And: Southwest GTA Clean Energy Supply (CES) Contract dated as of October 9, 2009 between TCE and the Ontario Power Authority (the "OPA") (the "SWGTA CES Contract")

The OPA and TCE have entered into a Memorandum of Understanding (the "MOU") dated December [•],20, 2010 whereby the OPA and TCE agree to work together in good faith to negotiate a Definitive Agreement for a Potential Project as set out in the MOU. It is anticipated that this potential project the Potential Project will use the gas turbines sourced under the Contract. However, as of the date of this letter, the OPA has not been provided with a copy of the Contract or a redacted copy of the Contract Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the MOU.

The OPA is in agreement with TCE's recommendation to extend the suspension of the work under the Contract to January 31, 2011 and change the cancellation fee for January from 55% to [•%], on the basis that TCE will be providing us with (i) a copy of the Contract on or before December [31] and (ii) an indicative price (including scope) by December [21], 2010, valid to January 31, 2011, to convert from the equipment from 501GAC to 501GAC Fast in order to permit its use in connection with the Potential Project.

In light of these ongoing negotiations, the OPA acknowledges and agrees that it is prudent and reasonable for TCE not to terminate the Contract and to accept the additional obligations under the Cancellation Schedule as defined and as set out in the Contract for as long as good faith negotiations towards a Definitive Agreement for a Potential Project continue. [The OPA also requests TCE to seek an extension of the suspension of the work under the Contract to January 31, 2011.]

[NTD: Given resent discussions with MPS, discuss whether an extension to the suspension should be sought.]

In the event that the Definitive Agreement is not executed and delivered by the OPA and TCE as contemplated under the terms of the MOU; and TCE commences legal proceedings against the OPA in connection with the SWGTA CES Contract and the OPA alleges that the extension set out in this letter was, the OPA agrees that it will not allege that TCE should have terminated the Contract at a date earlier than when TCE receives written notice from the OPA that discussions between TCE and the OPA relating to the Potential Project have ended and that the additional obligations under the Cancellation Schedule referred to above or otherwise in the Contract were imprudent, improper or unreasonable; and the OPA acknowledges and agrees that despite this letter being marked as "privileged and confidential" TCE shall be entitled to use and rely on this letter to defend against such allegation in such proceedings.

Yours sincerely,

Colin Andersen
President and CEO

Document comparison by Workshare Professional on Saturday, December 18, 2010 10:37:55 PM

lijevie "	
Document 1 ID	PowerDocs://DOCS/9932877/1
Description	DOCS-#9932877-v1-OPALetter
Document 2 ID	PowerDocs://DOCS/9932865/2
Description	DOCS-#9932865-v2-OPA_Letter_re_Turbines
Rendering set	MTStandard

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:		eare se
	Count	
Insertions		18
Deletions		12
Moved from		0
Moved to		0
Style change		0_
Format changed		0_
Total changes		30

,		

[OPA Letterhead]

Privileged and Confidential

December 20, 2010

Alex Pourbaix TransCanada Energy Ltd. 450 - 1st Street SW Calgary, AB T2P 5H1

Dear Sirs:

Re: Equipment Supply Agreement NO. 6519 dated July 7, 2009 between MPS Canada, Inc. ("MPS") and TransCanada Energy Ltd. ("TCE") as amended by letter agreements dated October 29, 2010 and November 19, 2010, and as may be further amended, modified or supplemented from time to time (the "Contract")

And: Southwest GTA Clean Energy Supply (CES) Contract dated as of October 9, 2009 between TCE and the Ontario Power Authority (the "OPA") (the "SWGTA CES Contract")

The OPA and TCE have entered into a Memorandum of Understanding (the "MOU") dated December 20, 2010 whereby the OPA and TCE agree to work together in good faith to negotiate a Definitive Agreement for a Potential Project as set out in the MOU. It is anticipated that the Potential Project will use the gas turbines sourced under the Contract. Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the MOU.

In light of these ongoing negotiations, the OPA acknowledges and agrees that it is prudent and reasonable for TCE not to terminate the Contract and to accept the additional obligations under the Cancellation Schedule as defined and as set out in the Contract for as long as good faith negotiations towards a Definitive Agreement for a Potential Project continue. [The OPA also requests TCE to seek an extension of the suspension of the work under the Contract to January 31, 2011.]

[NTD: Given resent discussions with MPS, discuss whether an extension to the suspension should be sought.]

In the event that the Definitive Agreement is not executed and delivered by the OPA and TCE as contemplated under the terms of the MOU and TCE commences legal proceedings against the OPA in connection with the SWGTA CES Contract, the OPA agrees that it will not allege that TCE should have terminated the Contract at a date earlier than when TCE receives written notice from the OPA that discussions between TCE and the OPA relating to the Potential Project have ended and that the additional obligations under the Cancellation Schedule referred to above or otherwise in the Contract were imprudent, improper or unreasonable and the OPA acknowledges and agrees that despite this letter being marked as "privileged and confidential" TCE shall be entitled to use and rely on this letter to defend against such allegation in such proceedings.

Yours sincerely,

Colin Andersen President and CEO

From:

Michael Killeavv

Sent:

December 19, 2010 4:02 PM

To:

'john mikkelsen@transcanada.com'

Cc:

'terry bennett@transcanada.com'; Deborah Langelaan

Subject:

Re: OPA Letter to TCE

Let me discuss this with Deb, Rocco and Susan tomorrow morning.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Sunday, December 19, 2010 02:54 PM

To: Michael Killeavy

Cc: Terry Bennett < terry bennett@transcanada.com >

Subject: Re: OPA Letter to TCE

Michael,

We would happy to set up a call to discuss this letter. Please let me know if you would like me to do so and if so what time would work for the OPA.

Regards,

John Mikkelsen

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Sunday, December 19, 2010 09:13 AM

To: Lever, David A.N. <DLEVER@MCCARTHY.CA>, rsebastiano@osler.com <rsebastiano@osler.com>

Cc: Terry Bennett; Terri Steeves; John Mikkelsen; John Cashin; Huber, Harold R. < HHUBER@MCCARTHY.CA >; Deborah

Langelaan < Deborah. Langelaan @powerauthority.on.ca>

Subject: RE: OPA Letter to TCE

I acknowledge receipt of you email and attachment.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael killeavy@powerauthority.on.ca

----Original Message----

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Sun 12/19/2010 10:32 AM

To: 'Rocco Sebastiano (rsebastiano@osler.com)'; Michael Killeavy

Cc: 'Terry Bennett'; 'Terri Steeves'; 'John Mikkelsen'; 'John Cashin'; Huber, Harold R.; Lever, David A.N.

Subject: OPA Letter to TCE

Michael and Rocco,

As suggested at our meeting on Friday, we are reviewing the OPAs authority under the Electricity Act, 1998 to grant an indemnity of the type we have been discussing. While we have not completed that analysis, we thought it might make sense to provide you with a mark up of the draft letter you tabled on Friday given the timeline in which this must be addressed. To the extent that our analysis on the OPA's authority is different than yours, we reserve the right to continue our request for the indemnity in the form we have provided.

I would be pleased to discuss the attached at your earliest convenience.

Best Regards,

David.

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure. No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s). Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this e-mail. Our privacy policy is available at www.mccarthy.ca.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message,

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

From:

Michael Killeavy

Sent:

December 19, 2010 4:03 PM

To:

Susan Kennedy

Subject:

Fw: OPA Letter to TCE

Attachments:

9932865vdoc - OPA Letter re Turbines.doc; 9932865v2 - OPA Letter re Turbines.doc

This came earlier today.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Sunday, December 19, 2010 10:32 AM

To: 'Rocco Sebastiano (<u>rsebastiano@osler.com</u>)' < <u>rsebastiano@osler.com</u>>; Michael Killeavy

Cc: 'Terry Bennett' < terry bennett@transcanada.com>; 'Terri Steeves' < terri steeves@transcanada.com>; 'John Mikkelsen' < terri steeves@transcanada.com>; 'John Cashin' < t

<HHUBER@MCCARTHY.CA>; Lever, David A.N. <DLEVER@MCCARTHY.CA>

Subject: OPA Letter to TCE

Michael and Rocco,

As suggested at our meeting on Friday, we are reviewing the OPAs authority under the Electricity Act, 1998 to grant an indemnity of the type we have been discussing. While we have not completed that analysis, we thought it might make sense to provide you with a mark up of the draft letter you tabled on Friday given the timeline in which this must be addressed. To the extent that our analysis on the OPA's authority is different than yours, we reserve the right to continue our request for the indemnity in the form we have provided.

I would be pleased to discuss the attached at your earliest convenience.

Best R	egar	as,
--------	------	-----

David.

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).

Unauthorized use, dissemination or copying is prohibited. If you receive

this email in error, please notify the sender and destroy all copies of this e-mail. Our privacy policy is available at $\underline{www.mccarthy.ca}$.

[OPA Letterhead]

Privileged and Confidential

December 17,20, 2010

<u>Alex Pourbaix</u> TransCanada Energy Inc<u>Ltd</u>. [insert TCE address]

450 - 1st Street SW Calgary, AB T2P 5H1

Dear Sirs:

Re: Equipment Supply Agreement NO. 6519 dated July 7, 2009 between MPS Canada. Inc. ("MPS") and TransCanada IncEnergy Ltd. ("TCE") as amended by letter agreements dated October 29, 2010 and November 19, 2010, and as may be further amended form. modified or supplemented from time to time (the "Contract")

And: Southwest GTA Clean Energy Supply (CES) Contract dated as of October 9, 2009 between TCE and the Ontario Power Authority (the "OPA") (the "SWGTA CES Contract")

The OPA and TCE have entered into a Memorandum of Understanding (the "MOU") dated December [•],20, 2010 whereby the OPA and TCE agree to work together in good faith to negotiate a Definitive Agreement for a Potential Project as set out in the MOU. It is anticipated that this potential project Potential Project will use the gas turbines sourced under the Contract. However, as of the date of this letter, the OPA has not been provided with a copy of the Contract or a redacted copy of the Contract Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the MOU.

The OPA is in agreement with TCE's recommendation to extend the suspension of the work under the Contract to January 31, 2011 and change the cancellation fee for January from 55% to [•%], on the basis that TCE will be providing us with (i) a copy of the Contract on or before December [31] and (ii) an indicative price (including scope) by December [21], 2010, valid to January 31, 2011, to convert from the equipment from 501GAC to 501GAC Fast in order to permit its use in connection with the Potential Project.

In light of these ongoing negotiations, the OPA acknowledges and agrees that it is prudent and reasonable for TCE not to terminate the Contract and to accept the additional obligations under the Cancellation Schedule as defined and as set out in the Contract for as long as good faith negotiations towards a Definitive Agreement for a Potential Project continue. [The OPA also requests TCE to seek an extension of the suspension of the work under the Contract to January 31, 2011.]

[NTD: Given resent discussions with MPS, discuss whether an extension to the suspension should be sought.]

In the event that the Definitive Agreement is not executed and delivered by the OPA and TCE as contemplated under the terms of the MOU; and TCE commences legal proceedings against the OPA in connection with the SWGTA CES Contract—and the OPA—alleges that the extension set out in this letter was, the OPA agrees that it will not allege that TCE should have terminated the Contract at a date earlier than when TCE receives written notice from the OPA that discussions between TCE and the OPA relating to the Potential Project have ended and that the additional obligations under the Cancellation Schedule referred to above or otherwise in the Contract were imprudent, improper or unreasonable; and the OPA acknowledges and agrees that despite this letter being marked as "privileged and confidential" TCE shall be entitled to use and rely on this letter to defend against such allegation in such proceedings.

Yours sincerely,

Colin Andersen President and CEO

Document comparison by Workshare Professional on Saturday, December 18, 2010 10:37:55 PM

input.	
Document 1 ID	PowerDocs://DOCS/9932877/1
Description	DOCS-#9932877-v1-OPALetter
Document 2 ID	PowerDocs://DOCS/9932865/2
Description	DOCS-#9932865-v2-OPA_Letter_re_Turbines
Rendering set	MTStandard

Legends	
<u>Insertion</u>	
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	18
Deletions	12
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	30

			•	
				- 1
				*
,				
		•		

.

[OPA Letterhead]

Privileged and Confidential

December 20, 2010

Alex Pourbaix TransCanada Energy Ltd. 450 - 1st Street SW Calgary, AB T2P 5H1

Dear Sirs:

Re: Equipment Supply Agreement NO. 6519 dated July 7, 2009 between MPS Canada, Inc. ("MPS") and TransCanada Energy Ltd. ("TCE") as amended by letter agreements dated October 29, 2010 and November 19, 2010, and as may be further amended, modified or

supplemented from time to time (the "Contract")

And: Southwest GTA Clean Energy Supply (CES) Contract dated as of October 9, 2009 between TCE and the Ontario Power Authority (the "OPA") (the "SWGTA CES Contract")

The OPA and TCE have entered into a Memorandum of Understanding (the "MOU") dated December 20, 2010 whereby the OPA and TCE agree to work together in good faith to negotiate a Definitive Agreement for a Potential Project as set out in the MOU. It is anticipated that the Potential Project will use the gas turbines sourced under the Contract. Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the MOU.

In light of these ongoing negotiations, the OPA acknowledges and agrees that it is prudent and reasonable for TCE not to terminate the Contract and to accept the additional obligations under the Cancellation Schedule as defined and as set out in the Contract for as long as good faith negotiations towards a Definitive Agreement for a Potential Project continue. [The OPA also requests TCE to seek an extension of the suspension of the work under the Contract to January 31, 2011.]

[NTD: Given resent discussions with MPS, discuss whether an extension to the suspension should be sought.]

In the event that the Definitive Agreement is not executed and delivered by the OPA and TCE as contemplated under the terms of the MOU and TCE commences legal proceedings against the OPA in connection with the SWGTA CES Contract, the OPA agrees that it will not allege that TCE should have terminated the Contract at a date earlier than when TCE receives written notice from the OPA that discussions between TCE and the OPA relating to the Potential Project have ended and that the additional obligations under the Cancellation Schedule referred to above or otherwise in the Contract were imprudent, improper or unreasonable and the OPA acknowledges and agrees that despite this letter being marked as "privileged and confidential" TCE shall be entitled to use and rely on this letter to defend against such allegation in such proceedings.

Yours sincerely,

Colin Andersen President and CEO

From:

Deborah Langelaan

Sent:

December 20, 2010 9:10 AM

To:

'Sebastiano, Rocco': Michael Killeavy

Cc:

'Hua, Linda'

Subject:

RE: Redacted ESA ...

Rocco;

Michael and I will be heading over to your offices at 9:30 to review the ESA.

Deb

Deborah Langelaan | Manager, Natural Gas Projects OPA | Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 |

T: 416.969.6052 | F: 416.967.1947 | deborah.langelaan@powerauthority.on.ca |

----Original Message----

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 20, 2010 9:06 AM

To: Michael Killeavy

Cc: Deborah Langelaan; Hua, Linda
Subject: RE: Redacted ESA ...

Michael,

Paul and I are out of the office this morning, but I have arranged for my assistant, Lind Hua, to set up a room with copies of the documents we received from TCE on Friday. You can reach Linda at 416-862-4285 or at the email address above to arrange a time to come by this morning.

Thanks, Rocco

----Original Message----

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Monday, December 20, 2010 8:01 AM

To: Sebastiano, Rocco Cc: Deborah Langelaan Subject: Redacted ESA ...

May I please come by this morning to look at the redacted ESA?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited.

If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 20, 2010 9:18 AM

To: Cc:

'RSebastiano@osler.com'

Deborah Langelaan; 'LHua@osler.com'

Subject:

Re: Redacted ESA ...

Ok. We'll need to talk about David Lever's Sunday email, too, sometime today.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Monday, December 20, 2010 09:06 AM

To: Michael Killeavy

Cc: Deborah Langelaan; Hua, Linda <LHua@osler.com>

Subject: RE: Redacted ESA ...

Michael,

Paul and I are out of the office this morning, but I have arranged for my assistant, Lind Hua, to set up a room with copies of the documents we received from TCE on Friday. You can reach Linda at 416-862-4285 or at the email address above to arrange a time to come by this morning.

Thanks, Rocco

----Original Message----

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Monday, December 20, 2010 8:01 AM

To: Sebastiano, Rocco -Cc:-Deborah Langelaan-----Subject: Redacted ESA ...

May I please come by this morning to look at the redacted ESA?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office)

416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited.

If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 20, 2010 1:17 PM

To:

Deborah Langelaan

Subject:

Cambridge Electrical Reliability Issue

Deb,

At Friday's meeting with TCE, John Mikkelsen inquired as to whether there was any information we could share about electrical reliability in the K-W area? I think you followed up with PSP on this, but I wasn't sure where we were on this exactly.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

•

From:

Michael Killeavy

Sent: To: December 20, 2010 8:35 PM 'RSebastiano@osler.com'

Cc:

Susan Kennedy; Deborah Langelaan

Subject:

Fast-Start Option Pricing

Rocco,

During my telephone call this evening John Mikkelsen mentioned that MPS had reiterated that the indicative price quotation was ±15%. MPS will confirm this in writing tonight, but TCE has yet to receive it. So, effectively we will have some certainty as to the price quotation imminently.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

	,	·

From:

Michael Killeavy

Sent: To: December 20, 2010 8:48 PM 'RSebastiano@osler.com'

Cc:

Susan Kennedy; Deborah Langelaan; 'Plvanoff@osler.com'

Subject:

Re: TCE Telephone Call ...

Sorry for the confusion. It was the schedule to conclude the commercial negotiations in March/April 2011.

As we discussed earlier, if we get a ±15% commitment from MPS, I think we're alright. The indicative price we have plus 15% is plugged into the model and can be adjusted once it's firmed up. This is why I'm so concerned about the fact that the price quotation was silent on this and why I want a letter committing MPS to provide this cap on the price.

You will knock me over with a feather if the final price isn't the indicative price plus 15%.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Monday, December 20, 2010 08:40 PM

To: Michael Killeavy

Cc: Susan Kennedy; Deborah Langelaan; Ivanoff, Paul <PIvanoff@osler.com>

Subject: Re: TCE Telephone Call ...

Can't make the schedule? Which schedule? The June 30, 2011 schedule to get a contract signed or a COD of December 2013. If the latter then I don't believe them because I asked Terri whether the turbines were critical path delivery items and she said no. If the former then I still have a problem because the final Fast Start incremental cost is simply going to go into the pro-forma build up of the NRR and can easily be accommodated up until commercial close on the peaking contract.

Bottom-line TCE doesn't want to be the meat in the sandwich and would prefer to pass the pressure back on to us.

Rocco

---- Original Message -----

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Monday, December 20, 2010 08:26 PM

To: Sebastiano, Rocco

From:

Michael Killeavy

Sent:

December 20, 2010 9:05 PM

To:

Lever, David A.N.; 'rsebastiano@osler.com'

Cc:

Susan Kennedy; Deborah Langelaan; 'Terri Steeves'; 'Terry Bennett'; 'John Mikkelsen'; 'John

Cashin'; Huber, Harold R.; 'Ivanoff, Paul'

Subject:

RE: TCE MOU and Letter re Turbines.

Alright. Thank you.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

----Original Message----

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Mon 12/20/2010 9:04 PM

To: Michael Killeavy; 'rsebastiano@osler.com'

Cc: Susan Kennedy; Deborah Langelaan; 'Terri Steeves'; 'Terry Bennett'; 'John Mikkelsen';

'John Cashin'; Huber, Harold R.; 'Ivanoff, Paul' Subject: RE: TCE MOU and Letter re Turbines.

Michael,

I understand Terri is working on that.

David.

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Monday, December 20, 2010 9:00 PM

To: Lever, David A.N.; rsebastiano@osler.com

Cc: Susan Kennedy; Deborah Langelaan; Terri Steeves; Terry Bennett; John Mikkelsen; John

Cashin; Huber, Harold R.; Ivanoff, Paul

Subject: RE: TCE MOU and Letter re Turbines.

David,

Will we be getting written confirmation from MPS that its price quotation the fast-start option is +/- 15% this evening, too? We noted that the actual price quotation sent this past Friday was silent on this and we have requested written confirmation that this is the basis for the quotation. It will be important for us to have such written confirmation.

Thanks,

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

----Original Message----

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Mon 12/20/2010 8:53 PM

To: 'Rocco Sebastiano (<u>rsebastiano@osler.com</u>)'; Michael Killeavy

Cc: Susan Kennedy; Deborah Langelaan; 'Terri Steeves'; 'Terry Bennett'; 'John Mikkelsen';

'John Cashin'; Huber, Harold R.; Lever, David A.N.; 'Ivanoff, Paul'

Subject: TCE MOU and Letter re Turbines.

Michael and Rocco.

Further to the various discussions that occurred between TCE and the OPA today, please find attached a revised draft of each of the MOU and the letter agreement with respect to the Turbines.

Would you please confirm that the attached are in a form acceptable to you in order that they can be signed up tomorrow morning.

If the documents are acceptable to you, TCE will arrange to have the MOU put on its letter head and forwarded to you for execution and we would request that the OPA arrange to have the Turbine letter agreement put on OPA letter head and sent to TCE for execution.

Should you have any questions or concerns with respect to the attached, please contact me.

Best Regards,

David.

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).

Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify

the sender and destroy all copies of this e-mail. Our privacy policy is available at www.mccarthy.ca.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt.

from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

	•		
•			

From:

Michael Killeavy

Sent:

December 20, 2010 9:38 PM

To:

Deborah Langelaan

Cc:

'rsebastiano@osler.com'; Susan Kennedy, 'pivanoff@osler.com'

Subject:

RE: TCE MOU and Letter re Turbines.

Yes, I agree, but I thought ten days prior notice was required, so 21 December ought to be the key date if 31 December is the date on which the price steps up if the ESA is terminated? Maybe I'm missing something here.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

----Original Message----From: Deborah Langelaan Sent: Mon 12/20/2010 9:33 PM

To: Michael Killeavy

Cc: 'rsebastiano@osler.com'; Susan Kennedy; 'pivanoff@osler.com'

Subject: Re: TCE MOU and Letter re Turbines.

Michael;

The way I understand it is Dec. 31st is the day before the cancellation fee increases from 55 percent to 75. We are of the position that we don't want to cancel and MPS requires Notice from TCE by year end to terminate the Suspension to provide a firm price by Feb.

Deb

---- Original Message -----

From: Michael Killeavy

Sent: Monday, December 20, 2010 09:17 PM

To:--'Rocco-Sebastiano-(rseb<u>astiano@osler.com)'-<rsebasti</u>ano<u>@osler.com</u>>-

Cc: Susan Kennedy; Deborah Langelaan; 'Ivanoff, Paul' <PIvanoff@osler.com>

Subject: RE: TCE MOU and Letter re Turbines.

Rocco,

I will discuss internally whether we can provide this notice about proceeding with the fast-start option. My sense is that if we have decided, as we have, that the plant is a peaking plant and we have written confirmation that the price quotation for the indicative price quotation is capped at +15%, we ought to be able to provide such a notice. We did not want to be locked into an open-ended deal for the fast-start, so the MPS written confirmation of the cap is key here.

I am puzzled by the 31 December 2010 deadline. If 10 days prior notice is required for cancellation on or before 31 December 2010 when the cancellation price takes a quantum leap to 75%, what is the significance of 31 December? It looks like a transparent attempt to jam us again.

I am fine with the period for us not alleging that the ESA ought to have been cancelled beginning on 7 October 2010. I think this is reasonable compromise to make.

Michael

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

----Original Message----

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Mon 12/20/2010 8:53 PM

To: 'Rocco Sebastiano (rsebastiano@osler.com)'; Michael Killeavy

Cc: Susan Kennedy; Deborah Langelaan; 'Terri Steeves'; 'Terry Bennett'; 'John Mikkelsen';

'John Cashin'; Huber, Harold R.; Lever, David A.N.; 'Ivanoff, Paul'

Subject: TCE MOU and Letter re Turbines.

Michael and Rocco.

Further to the various discussions that occurred between TCE and the OPA today, please find attached a revised draft of each of the MOU and the letter agreement with respect to the Turbines.

Would you please confirm that the attached are in a form acceptable to you in order that they can be signed up tomorrow morning.

If the documents are acceptable to you, TCE will arrange to have the MOU put on its letter head and forwarded to you for execution and we would request that the OPA arrange to have the Turbine letter agreement put on OPA letter head and sent to TCE for execution.

Should you have any questions or concerns with respect to the attached, please contact me.

Best Regards,

David.

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).

Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this e-mail. Our privacy policy is available at www.mccarthy.ca.

From:

Michael Killeavv

Sent:

December 21, 2010 9:48 AM

To:

'RSebastiano@osler.com'; Deborah Langelaan

Cc: Subject: Susan Kennedy Re: TCE MOU

I think you're right. Reopening it again might delay things.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management **Ontario Power Authority** 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Tuesday, December 21, 2010 09:44 AM

To: Deborah Langelaan

Cc: Michael Killeavy; Susan Kennedy

Subject: RE: TCE MOU

Regarding your suggested changes to the MOU, my preference would be to not make further changes unless necessary given that both sides I think had essentially signed off on the text in the MOU. Let's discuss at our 10 am call.

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Tuesday, December 21, 2010 7:49 AM

To: Michael Killeavy; Sebastiano, Rocco; Susan Kennedy

Subject: TCE MOU

All;

I have made a few suggested changes to the MOU for your consideration.

Deb

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 21, 2010 3:58 PM

To: Cc: 'Sebastiano, Rocco'; Deborah Langelaan 'Ivanoff, Paul'; 'Smith, Elliot'; Susan Kennedy

Subject:

RE: Proposed Pricing language for the Budgetary Proposal

Basically, I think they are saying that this indicative price quotation is a best guess, and they might be within 25%, but don't hold them to it. It's not at all much comfort that we've capped the cost of the fast-start option. This is brand new information from TCE. They led us to believe that there would be a +/- 15% margin for error on the indicative price. I think we'll need to think about the re-drafted letter in light of this surprise.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 21, 2010 3:53 PM **To:** Michael Killeavy; Deborah Langelaan

Cc: Ivanoff, Paul; Smith, Elliot

Subject: RE: Proposed Pricing language for the Budgetary Proposal

My sentiments exactly.

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Tuesday, December 21, 2010 3:52 PM **To:** Sebastiano, Rocco; Deborah Langelaan

Subject: FW: Proposed Pricing language for the Budgetary Proposal

Importance: High

WTF?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: December 21, 2010 3:50 PM

To: rsebastiano@osler.com; Michael Killeavy; Deborah Langelaan Cc: David Lever; John Cashin; Terri Steeves; Janine Watson Subject: Proposed Pricing language for the Budgetary Proposal

Importance: High

We have been working with MPS throughout the day on this language. Can you tell me if the following will work for the OPA?

"MPS Canada, Inc. submitted its "indicative budgetary non-binding proposal" on December 16 2010 based on preliminary non-binding estimates from MPS's subcontractors and suppliers where available and past experience where such quotations were not obtained from a vendor and as such, MPS makes no representation of the accuracy of the pricing, including each of the subcontractor and supplier price quotes. Although MPS cannot guarantee this pricing, we have a reasonable expectation that the firm price that will be quoted for the project change should not exceed 25% of such amount. MPS will submit a firm price quote to TransCanada once all project specific information is supplied to MPS and the scope of supply is finalized."

Thank you,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From:

Michael Killeavy

Sent:

December 21, 2010 5:47 PM

To:

Ben Chin

Subject:

RE: Jammed Chris

Ok. We cannot live with their proposed changes to the reliance letter. They are far too risky for us. This is going to be a show stopper. I cannot recommend to Colin that we sign a letter with TCE's proposed changes.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

----Original Message----

From: Ben Chin

Sent: December 21, 2010 5:45 PM

To: Michael Killeavy Subject: Jammed Chris

He tried to jam me right back. Said the "hawks" in his place would scuttle everything if T issue isn't solved tonight. I said, that would be too bad for his company. Especially since their inability to deliver promised info has put us here.

	,		

From:

Sebastiano, Rocco [RSebastiano@osler.com]

Sent:

December 21, 2010 6:15 PM

To:

'Lever, David A.N.'

Cc:

'Huber, Harold R.'; Ivanoff, Paul; Deborah Langelaan; Susan Kennedy; Michael Killeavy

Subject:

Further Revised OPA Letter re Turbines

Attachments:

#5038523v2_TOR_P2Z_-OPA Letter re Turbines (OPA Draft Dec 21, 2010).DOCX; WSComparison_#5038523v1_TOR_P2Z_-OPA Letter re Turbines (TCE Draft Dec 20, 2010)-#5038523v2_TOR_P2Z_-OPA Letter re Turbines (OPA Draft Dec 21, 2010).pdf

David,

We had a discussion with the OPA team and the view was that it was not in the best interests of the discussions surrounding the Potential Project to allow MPS the full leash to proceed with the ESA without having a firm price on the fast start conversion. Having said this, we recognize that if the OPA decides on December 31 that it wants TCE to pursue the fast start pricing, the termination payment under the Cancellation Schedule will go up in January to 75% and then again in February to more than 75%. Furthermore, as long as the good faith negotiations are continuing between the OPA and TCE then the risk of not having terminated the Contract earlier cannot be used against TCE under the terms of this letter. Therefore, we do not see the need to delete the last sentence of the second paragraph.

Regarding the changes to paragraph (a), we have changed it to track the good faith obligations provision in the MOU and that while that obligation subsists, this clause remains in effect. I hope that this addresses your concern about somehow at a later date the OPA alleging that TCE was not "engaged in good faith negotiations".

Lastly, we changed "the foregoing" at the very end of the last paragraph to refer to paragraphs (a) and (b) to address your concern. Using the foregoing may refer to other portions of this letter which is not the intention in the drafting.

As Colin is waiting on stand-by to sign this letter, we are going to proceed to get it signed with these changes which we hope TCE will accept.

Thanks, Rocco	
***************************************	<u> </u>
This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.	
Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.	

•			٠	
	·			

[OPA Letterhead]

Privileged and Confidential

December 21, 2010

Alex Pourbaix TransCanada Energy Ltd. 450 - 1st Street SW Calgary, AB T2P 5H1

Dear Sirs:

Re: Equipment Supply Agreement NO. 6519 dated July 7, 2009 between MPS Canada, Inc. ("MPS") and TransCanada Energy Ltd. ("TCE") as amended by letter agreements dated October 29, 2010 and November 19, 2010, and as may be further amended, modified or supplemented from time to time (the "Contract")

And: Southwest GTA Clean Energy Supply (CES) Contract dated as of October 9, 2009 between TCE and the Ontario Power Authority (the "OPA") (the "SWGTA CES Contract")

The OPA and TCE have entered into a Memorandum of Understanding (the "MOU") dated December 21, 2010 whereby the OPA and TCE agree to work together in good faith to negotiate a Definitive Agreement for a Potential Project as set out in the MOU. It is anticipated that the Potential Project will use the gas turbines sourced under the Contract. Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the MOU.

In light of these ongoing negotiations, the OPA acknowledges and agrees that it is prudent and reasonable for TCE not to terminate the Contract and to permit the increase in the amount of the termination payment specified in the Cancellation Schedule (as defined and as set out in the Contract) for as long as good faith negotiations towards a Definitive Agreement for a Potential Project continue. The OPA agrees to advise TCE by December 31, 2010 of whether it wishes TCE to obtain from MPS a fixed price quotation for the M501GAC Fast Start option (in connection with the Potential Project) on or before February 11, 2011.

Ţ	'n	-f	h	Δ.	e٦	761	nt	_ _ †1	ha	t.

- (i) the Definitive Agreement is not executed and delivered by the OPA and TCE as contemplated under the terms of the MOU; and
- (ii) TCE commences legal proceedings against the OPA in connection with the SWGTA CES Contract,

the OPA agrees that:

(a) the OPA will not allege that TCE should have terminated the Contract at any time on or after October 7, 2010 (being the date of the announcement of the Minister, as referred to in the

MOU, and the date upon which TCE received the October 7 Letter) for as long as the obligation of TCE and the OPA to work together in good faith to negotiate the Definitive Agreement in accordance with the terms of the MOU subsists; and

(b) the OPA will not allege that the resulting increase in the amount of the termination payment specified in the Cancellation Schedule was imprudent, improper or unreasonable.

The OPA acknowledges and agrees that despite this letter being marked as "privileged and confidential" and despite the provisions of Section 1.7 of the Confidentiality Agreement dated October 8, 2010 between the OPA and TCE, TCE shall be entitled to use and rely on this letter to defend against the OPA in the event that the OPA makes an allegation in such proceedings that is contrary to paragraphs (a) and (b) above.

Yours sincerely,

Colin Andersen
Chief Executive Officer

[OPA Letterhead]

Privileged and Confidential

December 21, 2010

Alex Pourbaix TransCanada Energy Ltd. 450 - 1st Street SW Calgary, AB T2P 5H1

Dear Sirs:

Re: Equipment Supply Agreement NO. 6519 dated July 7, 2009 between MPS Canada, Inc. ("MPS") and TransCanada Energy Ltd. ("TCE") as amended by letter agreements dated October 29, 2010 and November 19, 2010, and as may be further amended, modified or supplemented from time to time (the "Contract")

And: Southwest GTA Clean Energy Supply (CES) Contract dated as of October 9, 2009 between TCE and the Ontario Power Authority (the "OPA") (the "SWGTA CES Contract")

The OPA and TCE have entered into a Memorandum of Understanding (the "MOU") dated December 21, 2010 whereby the OPA and TCE agree to work together in good faith to negotiate a Definitive Agreement for a Potential Project as set out in the MOU. It is anticipated that the Potential Project will use the gas turbines sourced under the Contract. Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the MOU.

In light of these ongoing negotiations, the OPA acknowledges and agrees that it is prudent and reasonable for TCE not to terminate the Contract and to accept the additional obligations underpermit the increase in the amount of the termination payment specified in the Cancellation Schedule (as defined and as set out in the Contract) for as long as good faith negotiations towards a Definitive Agreement for a Potential Project continue. The OPA agrees to advise TCE by December 31, 2010 of whether it wishes to pursue TCE to obtain from MPS a fixed price quotation for the M501GAC Fast Start option or to continue the use of the M501GAC for use (in connection with the Potential Project.) on or before February 11, 2011.

In i	the	ev	ent	th	at	3

(i) the Definitive Agreement is not executed and delivered by the OPA and TCE as contemplated under the terms of the MOU; and

(ii) TCE commences legal proceedings against the OPA in connection with the SWGTA CES Contract,

the OPA agrees that-it:

(a) the OPA will not allege that TCE should have terminated the Contract at any time on or after October 7, 2010, 2010 (being the date of the announcement of the Minister, as referred to in

the MOU, and the date upon which TCE received the October 7 Letter, and before the date on which TCE receives written notice from the OPA that discussions between TCE and the OPA relating to the Potential Project have ended and that the additional obligations under) for as long as the obligation of TCE and the OPA to work together in good faith to negotiate the Definitive Agreement in accordance with the terms of the MOU subsists: and

(b) the OPA will not allege that the resulting increase in the amount of the termination payment specified in the Cancellation Schedule referred to above or otherwise in the Contract were was imprudent, improper or unreasonable and the.

<u>The</u> OPA acknowledges and agrees that despite this letter being marked as "privileged and confidential" and despite the provisions of Section 1.7 of the Confidentiality Agreement dated October 8, 2010 between the OPA and TCE, TCE shall be entitled to use and rely on this letter to defend against such the OPA in the event that the OPA makes an allegation in such proceedings that is contrary to paragraphs (a) and (b) above.

Yours sincerely,

Colin Andersen
President and CEO Chief Executive Officer

From:

Michael Killeavy

Sent:

December 21, 2010 6:16 PM

To: Cc: Irene Mauricette

Subject:

Colin Andersen

Subject.

FW: Further Revised OPA Letter re Turbines

Attachments:

#5038523v2_TOR_P2Z_ - OPA Letter re Turbines (OPA Draft Dec 21, 2010).DOCX; WSComparison_#5038523v1_TOR_P2Z_ - OPA Letter re Turbines (TCE Draft Dec 20, 2010)-#5038523v2_TOR_P2Z_ - OPA Letter re Turbines (OPA Draft Dec 21, 2010).pdf

Irene,

Could you print this on OPA letterhead for Colin to review and possibly sign, per the email below?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osier.com]

Sent: December 21, 2010 6:15 PM

To: 'Lever, David A.N.'

Cc: 'Huber, Harold R.'; Ivanoff, Paul; Deborah Langelaan; Susan Kennedy; Michael Killeavy

Subject: Further Revised OPA Letter re Turbines

David,

We had a discussion with the OPA team and the view was that it was not in the best interests of the discussions surrounding the Potential Project to allow MPS the full leash to proceed with the ESA without having a firm price on the fast start conversion. Having said this, we recognize that if the OPA decides on December 31 that it wants TCE to pursue the fast start pricing, the termination payment under the Cancellation Schedule will go up in January to 75% and then again in February to more than 75%. Furthermore, as long as the good faith negotiations are continuing between the OPA and TCE then the risk of not having terminated the Contract earlier cannot be used against TCE under the terms of this letter. Therefore, we do not see the need to delete the last sentence of the second paragraph.

Regarding the changes to paragraph (a), we have changed it to track the good faith obligations provision in the MOU and that while that obligation subsists, this clause remains in effect. I hope that this addresses your concern about somehow at a later date the OPA alleging that TCE was not "engaged in good faith negotiations".

Lastly, we changed "the foregoing" at the very end of the last paragraph to refer to paragraphs (a) and (b) to address your concern. Using the foregoing may refer to other portions of this letter which is not the intention in the drafting.

As Colin is waiting on stand-by to sign this letter, we are going to proceed to get it signed with these changes which we hope TCE will accept.

Thanks, Rocco

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

[OPA Letterhead]

Privileged and Confidential

December 21, 2010

Alex Pourbaix TransCanada Energy Ltd. 450 - 1st Street SW Calgary, AB T2P 5H1

Dear Sirs:

Re: Equipment Supply Agreement NO. 6519 dated July 7, 2009 between MPS Canada, Inc. ("MPS") and TransCanada Energy Ltd. ("TCE") as amended by letter agreements dated October 29, 2010 and November 19, 2010, and as may be further amended, modified or supplemented from time to time (the "Contract")

And: Southwest GTA Clean Energy Supply (CES) Contract dated as of October 9, 2009 between TCE and the Ontario Power Authority (the "OPA") (the "SWGTA CES Contract")

The OPA and TCE have entered into a Memorandum of Understanding (the "MOU") dated December 21, 2010 whereby the OPA and TCE agree to work together in good faith to negotiate a Definitive Agreement for a Potential Project as set out in the MOU. It is anticipated that the Potential Project will use the gas turbines sourced under the Contract. Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the MOU.

In light of these ongoing negotiations, the OPA acknowledges and agrees that it is prudent and reasonable for TCE not to terminate the Contract and to permit the increase in the amount of the termination payment specified in the Cancellation Schedule (as defined and as set out in the Contract) for as long as good faith negotiations towards a Definitive Agreement for a Potential Project continue. The OPA agrees to advise TCE by December 31, 2010 of whether it wishes TCE to obtain from MPS a fixed price quotation for the M501GAC Fast Start option (in connection with the Potential Project) on or before February 11, 2011.

In the event that:

- (i) the Definitive Agreement is not executed and delivered by the OPA and TCE as contemplated under the terms of the MOU; and
- (ii) TCE commences legal proceedings against the OPA in connection with the SWGTA CES Contract,

the OPA agrees that:

(a) the OPA will not allege that TCE should have terminated the Contract at any time on or after October 7, 2010 (being the date of the announcement of the Minister, as referred to in the

MOU, and the date upon which TCE received the October 7 Letter) for as long as the obligation of TCE and the OPA to work together in good faith to negotiate the Definitive Agreement in accordance with the terms of the MOU subsists; and

(b) the OPA will not allege that the resulting increase in the amount of the termination payment specified in the Cancellation Schedule was imprudent, improper or unreasonable.

The OPA acknowledges and agrees that despite this letter being marked as "privileged and confidential" and despite the provisions of Section 1.7 of the Confidentiality Agreement dated October 8, 2010 between the OPA and TCE, TCE shall be entitled to use and rely on this letter to defend against the OPA in the event that the OPA makes an allegation in such proceedings that is contrary to paragraphs (a) and (b) above.

Yours sincerely,

Colin Andersen Chief Executive Officer

[OPA Letterhead]

Privileged and Confidential

December 21, 2010

Alex Pourbaix TransCanada Energy Ltd. 450 - 1st Street SW Calgary, AB T2P 5H1

Dear Sirs:

Re: Equipment Supply Agreement NO. 6519 dated July 7, 2009 between MPS Canada, Inc. ("MPS") and TransCanada Energy Ltd. ("TCE") as amended by letter agreements dated October 29, 2010 and November 19, 2010, and as may be further amended, modified or supplemented from time to time (the "Contract")

And: Southwest GTA Clean Energy Supply (CES) Contract dated as of October 9, 2009 between TCE and the Ontario Power Authority (the "OPA") (the "SWGTA CES Contract")

The OPA and TCE have entered into a Memorandum of Understanding (the "MOU") dated December 21, 2010 whereby the OPA and TCE agree to work together in good faith to negotiate a Definitive Agreement for a Potential Project as set out in the MOU. It is anticipated that the Potential Project will use the gas turbines sourced under the Contract. Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the MOU.

In light of these ongoing negotiations, the OPA acknowledges and agrees that it is prudent and reasonable for TCE not to terminate the Contract and to accept the additional obligations underpermit the increase in the amount of the termination payment specified in the Cancellation Schedule (as defined and as set out in the Contract) for as long as good faith negotiations towards a Definitive Agreement for a Potential Project continue. The OPA agrees to advise TCE by December 31, 2010 of whether it wishes to pursue TCE to obtain from MPS a fixed price quotation for the M501GAC Fast Start option or to continue the use of the M501GAC for use (in connection with the Potential Project.) on or before February 11, 2011.

In the event that:

<u>(i) — the Definitive Agreement is not executed and delivered by the OPA and TCE as — contemplated under the terms of the MOU;</u> and

(ii) TCE commences legal proceedings against the OPA in connection with the SWGTA CES Contract,

the OPA agrees that-it:

(a) the OPA will not allege that TCE should have terminated the Contract at any time on or after October 7, 2010, 2010 (being the date of the announcement of the Minister, as referred to in

the MOU, and the date upon which TCE received the October 7 Letter, and before the date on which TCE receives written notice from the OPA that discussions between TCE and the OPA relating to the Potential Project have ended and that the additional obligations under) for as long as the obligation of TCE and the OPA to work together in good faith to negotiate the Definitive Agreement in accordance with the terms of the MOU subsists; and

(b) the OPA will not allege that the resulting increase in the amount of the termination payment specified in the Cancellation Schedule referred to above or otherwise in the Contract werewas imprudent, improper or unreasonable and the.

The OPA acknowledges and agrees that despite this letter being marked as "privileged and confidential" and despite the provisions of Section 1.7 of the Confidentiality Agreement dated October 8, 2010 between the OPA and TCE, TCE shall be entitled to use and rely on this letter to defend against such the OPA in the event that the OPA makes an allegation in such proceedings that is contrary to paragraphs (a) and (b) above.

Yours sincerely,

Colin Andersen

President and CEO-Chief Executive Officer

From:

Michael Killeavy

Sent:

December 21, 2010 6:55 PM

To:

'Sebastiano, Rocco'

Cc:

'Ivanoff, Paul': Deborah Langelaan

Subject:

RE: Further Revised OPA Letter re Turbines

This is okay. I couldn't see the colours on my BlackBerry. This is good newa

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 21, 2010 6:51 PM

To: Michael Killeavy **Cc:** Ivanoff, Paul

Subject: Fw: Further Revised OPA Letter re Turbines

Let's discuss if Colin has not yet signed.

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Tuesday, December 21, 2010 06:48 PM

To: Sebastiano, Rocco

Subject: RE: Further Revised OPA Letter re Turbines

TCE requests the following change to the last sentence in the second paragraph

....of whether it wishes TCE to request MPS to provide a fixed price.....

Please confirm that the foregoing is acceptable. We will live with the balance of your changes.

Once you confirm that the foregoing is acceptable we will send you a signed copy of the MOU which is to be held in escrow pending our receipt of the signed letter from the OPA and a signed back copy of the MOU.

David.

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Tuesday, December 21, 2010 6:34 PM

To: Lever, David A.N.

Subject: RE: Further Revised OPA Letter re Turbines

There are some general statements in the first two paragraphs that are not as precisely worded as paragraphs (a) and (b) (for example, the first sentence of the second paragraph) in respect of the which the statement about the OPA not making a certain allegation should not be referring back to.

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Tuesday, December 21, 2010 6:23 PM

To: Sebastiano, Rocco

Subject: RE: Further Revised OPA Letter re Turbines

Re your second to last sentence, what portions of the letter are caught by "the foregoing" that cause you concern.

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Tuesday, December 21, 2010 6:15 PM

To: Lever, David A.N.

Cc: Huber, Harold R.; Ivanoff, Paul; 'Deborah.Langelaan@powerauthority.on.ca'; 'susan.kennedy@powerauthority.on.ca';

'Michael Killeavy (Michael.killeavy@powerauthority.on.ca)'

Subject: Further Revised OPA Letter re Turbines

David.

We had a discussion with the OPA team and the view was that it was not in the best interests of the discussions surrounding the Potential Project to allow MPS the full leash to proceed with the ESA without having a firm price on the fast start conversion. Having said this, we recognize that if the OPA decides on December 31 that it wants TCE to pursue the fast start pricing, the termination payment under the Cancellation Schedule will go up in January to 75% and then again in February to more than 75%. Furthermore, as long as the good faith negotiations are continuing between the OPA and TCE then the risk of not having terminated the Contract earlier cannot be used against TCE under the terms of this letter. Therefore, we do not see the need to delete the last sentence of the second paragraph.

Regarding the changes to paragraph (a), we have changed it to track the good faith obligations provision in the MOU and that while that obligation subsists, this clause remains in effect. I hope that this addresses your concern about somehow at a later date the OPA alleging that TCE was not "engaged in good faith negotiations".

Lastly, we changed "the foregoing" at the very end of the last paragraph to refer to paragraphs (a) and (b) to address your concern. Using the foregoing may refer to other portions of this letter which is not the intention in the drafting.

As Colin is waiting on stand-by to sign this letter, we are going to proceed to get it signed with these changes which we hope TCE will accept.

Thanks, Rocco

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).

Unauthorized use, dissemination or copying is prohibited. If you receive

this email in error, please notify the sender and destroy all copies of this e-mail. Our privacy policy is available at www.mccarthy.ca .

		·		
			•	
	·			;

From:

Michael Killeavy

Sent:

December 21, 2010 6:56 PM

To:

Colin Andersen JoAnne Butler

Cc: Subject:

FW: Further Revised OPA Letter re Turbines

The change requested by TCE is minor. They can live with the rest of our changes, so this is indeed good news. I'll make the changes and run off another copy on OPS letterhead.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 21, 2010 6:51 PM

To: Michael Killeavy **Cc:** Ivanoff, Paul

Subject: Fw: Further Revised OPA Letter re Turbines

Let's discuss if Colin has not yet signed.

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Tuesday, December 21, 2010 06:48 PM

To: Sebastiano, Rocco

Subject: RE: Further Revised OPA Letter re Turbines

TCE requests the following change to the last sentence in the second paragraph

....of whether it wishes TCE to request MPS to provide a fixed price.....

Please confirm that the foregoing is acceptable. We will live with the balance of your changes.

Once you confirm that the foregoing is acceptable we will send you a signed copy of the MOU which is to be held in escrow pending our receipt of the signed letter from the OPA and a signed back copy of the MOU.

David.

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Tuesday, December 21, 2010 6:34 PM

To: Lever, David A.N.

Subject: RE: Further Revised OPA Letter re Turbines

There are some general statements in the first two paragraphs that are not as precisely worded as paragraphs (a) and (b) (for example, the first sentence of the second paragraph) in respect of the which the statement about the OPA not making a certain allegation should not be referring back to.

From: Lever, David A.N. [mailto:DLEVER@MCCARTHY.CA]

Sent: Tuesday, December 21, 2010 6:23 PM

To: Sebastiano, Rocco

Subject: RE: Further Revised OPA Letter re Turbines

Re your second to last sentence, what portions of the letter are caught by "the foregoing" that cause you concern.

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Tuesday, December 21, 2010 6:15 PM

To: Lever, David A.N.

Cc: Huber, Harold R.; Ivanoff, Paul; 'Deborah.Langelaan@powerauthority.on.ca'; 'susan.kennedy@powerauthority.on.ca';

'Michael Killeavy (Michael.killeavy@powerauthority.on.ca)'

Subject: Further Revised OPA Letter re Turbines

David,

We had a discussion with the OPA team and the view was that it was not in the best interests of the discussions surrounding the Potential Project to allow MPS the full leash to proceed with the ESA without having a firm price on the fast start conversion. Having said this, we recognize that if the OPA decides on December 31 that it wants TCE to pursue the fast start pricing, the termination payment under the Cancellation Schedule will go up in January to 75% and then again in February to more than 75%. Furthermore, as long as the good faith negotiations are continuing between the OPA and TCE then the risk of not having terminated the Contract earlier cannot be used against TCE under the terms of this letter. Therefore, we do not see the need to delete the last sentence of the second paragraph.

Regarding the changes to paragraph (a), we have changed it to track the good faith obligations provision in the MOU and that while that obligation subsists, this clause remains in effect. I hope that this addresses your concern about somehow at a later date the OPA alleging that TCE was not "engaged in good faith negotiations".

Lastly, we changed "the foregoing" at the very end of the last paragraph to refer to paragraphs (a) and (b) to address your concern. Using the foregoing may refer to other portions of this letter which is not the intention in the drafting.

As Colin is waiting on stand-by to sign this letter, we are going to proceed to get it signed with these changes which we hope TCE will accept.

Thanks, Rocco

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure.

No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s).

Unauthorized use, dissemination or copying is prohibited. If you receive

this email in error, please notify the sender and destroy all copies of this e-mail. Our privacy policy is available at www.mccarthy.ca.

		·
·		

From:

Sebastiano, Rocco [RSebastiano@osler.com]

Sent:

December 21, 2010 6:58 PM

To:

Michael Killeavy

Cc:

Deborah Langelaan; Susan Kennedy; Ivanoff, Paul; Smith, Elliot

Subject:

Final form on OPA Turbine Letter

Attachments:

5038523_2.docx

Michael,

Here is the revised letter with the final change that David Lever requested (i.e., TCE requests the following change to the last sentence in the second paragraph:

....of whether it wishes TCE to request MPS to provide a fixed price.....

Thanks, Rocco

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

		•

[OPA Letterhead]

Privileged and Confidential

December 21, 2010

Alex Pourbaix TransCanada Energy Ltd. 450 - 1st Street SW Calgary, AB T2P 5H1

Dear Sirs:

Re: Equipment Supply Agreement NO. 6519 dated July 7, 2009 between MPS Canada, Inc. ("MPS") and TransCanada Energy Ltd. ("TCE") as amended by letter agreements dated October 29, 2010 and November 19, 2010, and as may be further amended, modified or supplemented from time to time (the "Contract")

And: Southwest GTA Clean Energy Supply (CES) Contract dated as of October 9, 2009 between TCE and the Ontario Power Authority (the "OPA") (the "SWGTA CES Contract")

The OPA and TCE have entered into a Memorandum of Understanding (the "MOU") dated December 21, 2010 whereby the OPA and TCE agree to work together in good faith to negotiate a Definitive Agreement for a Potential Project as set out in the MOU. It is anticipated that the Potential Project will use the gas turbines sourced under the Contract. Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the MOU.

In light of these ongoing negotiations, the OPA acknowledges and agrees that it is prudent and reasonable for TCE not to terminate the Contract and to permit the increase in the amount of the termination payment specified in the Cancellation Schedule (as defined and as set out in the Contract) for as long as good faith negotiations towards a Definitive Agreement for a Potential Project continue. The OPA agrees to advise TCE by December 31, 2010 of whether it wishes TCE to request MPS to provide a fixed price quotation for the M501GAC Fast Start option (in connection with the Potential Project) on or before February 11, 2011.

In the event that:

- (i) the Definitive Agreement is not executed and delivered by the OPA and TCE as contemplated under the terms of the MOU; and
- (ii) TCE commences legal proceedings against the OPA in connection with the SWGTA CES Contract,

the OPA agrees that:

(a) the OPA will not allege that TCE should have terminated the Contract at any time on or after October 7, 2010 (being the date of the announcement of the Minister, as referred to in the

MOU, and the date upon which TCE received the October 7 Letter) for as long as the obligation of TCE and the OPA to work together in good faith to negotiate the Definitive Agreement in accordance with the terms of the MOU subsists; and

(b) the OPA will not allege that the resulting increase in the amount of the termination payment specified in the Cancellation Schedule was imprudent, improper or unreasonable.

The OPA acknowledges and agrees that despite this letter being marked as "privileged and confidential" and despite the provisions of Section 1.7 of the Confidentiality Agreement dated October 8, 2010 between the OPA and TCE, TCE shall be entitled to use and rely on this letter to defend against the OPA in the event that the OPA makes an allegation in such proceedings that is contrary to paragraphs (a) and (b) above.

Yours sincerely,

Colin Andersen Chief Executive Officer

From:

Michael Killeavy

Sent:

December 21, 2010 7:36 PM

To:

'RSebastiano@osler.com'; 'Ivanoff, Paul'; 'Smith, Elliot'; Deborah Langelaan

Cc:

JoAnne Butler; Ben Chin

Subject:

TCE Matter - Finalization of the Reliance Letter

Everyone,

Thank you very much for your extra effort this evening. It is indeed a good sign that Osler's discussions with McCarthy's resulted in TCE accepting our final drafting of the reliance letter a few minutes ago. Colin Anderson has signed the letter and I have sent it to TCE.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

· .			

From:

Michael Killeavy

Sent:

December 21, 2010 7:55 PM

To:

'john_mikkelsen@transcanada.com'

Cc: Subject: 'terry_bennett@transcanada.com'; 'dlever@mccarthy.ca'; 'john_cashin@transcanada.com' Re: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired

Power Generation Project

Yes. We will execute the agreed upon MOU tomorrow.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Tuesday, December 21, 2010 07:48 PM

To: Michael Killeavy

Cc: Terry Bennett <terry_bennett@transcanada.com>; David Lever <DLEVER@MCCARTHY.CA>; John Cashin

<john_cashin@transcanada.com>

Subject: RE: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Michael,

Thank you.

Please confirm our conversation this evening, re: the OPA will sign the MOU and provide to TCE tomorrow.

Best regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

Royal-Bank-Plaza ---

200 Bay Street

24th Floor, South Tower

Toronto, Ontario M5J 2J1

Tel: 416.869.2102

Fax:416.869.2056

Cell:416.559.1664

We have moved! Please note the new address above

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Tuesday, December 21, 2010 7:32 PM

To: John Mikkelsen; RSebastiano@osler.com; Deborah Langelaan **Cc:** dlever@mccarthy.ca; Terry Bennett; John Cashin; Terri Steeves

Subject: RE: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation Project

Attached is the signed letter from Colin Andersen.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: December 21, 2010 7:31 PM

To: Michael Killeavy; RSebastiano@osler.com; Deborah Langelaan **Cc:** dlever@mccarthy.ca; Terry Bennett; John Cashin; Terri Steeves

Subject: RE: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Michael,

We need to see the signed GT letter this evening to prevent termination. It was our understanding that the signing authority was standing by this evening.

Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Tuesday, December 21, 2010 7:24 PM

To: John Mikkelsen; RSebastiano@osler.com; Deborah Langelaan **Cc:** dlever@mccarthy.ca; Terry Bennett; John Cashin; Terri Steeves

Subject: Re: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

I acknowledge receipt. I'll arrange this tomorrow,

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Tuesday, December 21, 2010 07:19 PM

To: rsebastiano@osler.com <rsebastiano@osler.com>; Michael Killeavy; Deborah Langelaan

Cc: David Lever <DLEVER@MCCARTHY.CA>; Terry Bennett <terry_bennett@transcanada.com>; John Cashin

<john cashin@transcanada.com>; Terri Steeves <terri steeves@transcanada.com>

Subject: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Attached please find executed MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation Project in pdf. The MOU is to be held in escrow until TransCanada receives a signed back copy of the MOU from the OPA and a signed copy of the OPA's letter with respect to the MPS Canada, Inc. gas turbines.

Best regards,

Cell:416.559.1664

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102
Fax:416.869.2056

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

From:

Michael Killeavy

Sent:

December 21, 2010 8:05 PM

To:

Deborah Langelaan; 'Plvanoff@osler.com'; Deborah Langelaan; Susan Kennedy

Subject:

Fw: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired

Power Generation Project

I forgot to copy you on this. I didn't have a chance to review the signed MOU so I was careful with my response.

Deb and Susan, we'll need to set up a time with Colin tomorrow to walk him through the MOU and to ask him to sign it.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Tuesday, December 21, 2010 07:54 PM

To: 'john_mikkelsen@transcanada.com' <john_mikkelsen@transcanada.com>

Cc: 'terry_bennett@transcanada.com' <terry_bennett@transcanada.com>; 'dlever@mccarthy.ca' <dlever@mccarthy.ca>; 'john_cashin@transcanada.com' <john_cashin@transcanada.com>

Subject: Re: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Yes. We will execute the agreed upon MOU tomorrow.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office)

416-969-6071 (fax)

416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Tuesday, December 21, 2010 07:48 PM

To: Michael Killeavy

Cc: Terry Bennett <terry_bennett@transcanada.com>; David Lever <DLEVER@MCCARTHY.CA>; John Cashin

<iohn cashin@transcanada.com>

Subject: RE: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation Project

Michael, Thank you.

Please confirm our conversation this evening, re: the OPA will sign the MOU and provide to TCE tomorrow.

Best regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Tuesday, December 21, 2010 7:32 PM

To: John Mikkelsen; RSebastiano@osler.com; Deborah Langelaan **Cc:** dlever@mccarthy.ca; Terry Bennett; John Cashin; Terri Steeves

Subject: RE: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Attached is the signed letter from Colin Andersen.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: December 21, 2010 7:31 PM

To: Michael Killeavy; RSebastiano@osler.com; Deborah Langelaan **Cc:** dlever@mccarthy.ca; Terry Bennett; John Cashin; Terri Steeves

Subject: RE: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Michael,

We need to see the signed GT letter this evening to prevent termination. It was our understanding that the signing authority was standing by this evening.

Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102
Fax:416.869.2056

We have moved! Please note the new address above

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Tuesday, December 21, 2010 7:24 PM

To: John Mikkelsen; RSebastiano@osler.com; Deborah Langelaan **Cc:** dlever@mccarthy.ca; Terry Bennett; John Cashin; Terri Steeves

Subject: Re: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Cell:416.559.1664

I acknowledge receipt. I'll arrange this tomorrow.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Tuesday, December 21, 2010 07:19 PM

To: rsebastiano@osler.com <rsebastiano@osler.com>; Michael Killeavy; Deborah Langelaan

Cc: David Lever <DLEVER@MCCARTHY.CA>; Terry Bennett <terry bennett@transcanada.com>; John Cashin

<john_cashin@transcanada.com>; Terri Steeves <terri_steeves@transcanada.com>

Subject: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Attached please find executed MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation Project in pdf. The MOU is to be held in escrow until TransCanada receives a signed back copy of the MOU from the OPA and a signed copy of the OPA's letter with respect to the MPS Canada, Inc. gas turbines.

Best regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

From:

Michael Killeavy

Sent:

December 21, 2010 8:44 PM

To:

'Plvanoff@osler.com'

Subject:

Re: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired

Power Generation Project

Thank you, Paul. It was a long night

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Ivanoff, Paul [mailto:PIvanoff@osler.com] **Sent:** Tuesday, December 21, 2010 08:16 PM **To:** Sebastiano, Rocco <RSebastiano@osler.com>

Cc: Michael Killeavy

Subject: Fw: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Rocco, see below from Michael.

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Tuesday, December 21, 2010 08:05 PM

To: Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>; Ivanoff, Paul; Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>; Susan Kennedy <Susan.Kennedy@powerauthority.on.ca>

Subject: Fw: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation Project

I forgot to copy you on this. I didn't have a chance to review the signed MOU so I was careful with my response.

Deb and Susan, we'll need to set up a time with Colin tomorrow to walk him through the MOU and to ask him to sign it.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax)

416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Tuesday, December 21, 2010 07:54 PM

To: 'john_mikkelsen@transcanada.com' <john_mikkelsen@transcanada.com>

Cc: 'terry_bennett@transcanada.com' <terry_bennett@transcanada.com>; 'dlever@mccarthy.ca' <dlever@mccarthy.ca>; 'john_cashin@transcanada.com' <john_cashin@transcanada.com>

Subject: Re: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Yes. We will execute the agreed upon MOU tomorrow.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Tuesday, December 21, 2010 07:48 PM

To: Michael Killeavy

Cc: Terry Bennett <terry_bennett@transcanada.com>; David Lever <DLEVER@MCCARTHY.CA>; John Cashin

<iohn cashin@transcanada.com>

Subject: RE: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Michael, Thank you.

Please confirm our conversation this evening, re: the OPA will sign the MOU and provide to TCE tomorrow.

Best regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Tuesday, December 21, 2010 7:32 PM

To: John Mikkelsen; RSebastiano@osler.com; Deborah Langelaan Cc: dlever@mccarthy.ca; Terry Bennett; John Cashin; Terri Steeves

Subject: RE: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Attached is the signed letter from Colin Andersen.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto. Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: December 21, 2010 7:31 PM

To: Michael Killeavy; RSebastiano@osler.com; Deborah Langelaan Cc: dlever@mccarthy.ca; Terry Bennett; John Cashin; Terri Steeves

Subject: RE: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Michael,

We need to see the signed GT letter this evening to prevent termination. It was our understanding that the signing authority was standing by this evening.

Regards,

John Mikkelsen, P.Eng. Director, Eastern Canada, Power Development **Trans**Canada

Royal Bank Plaza 200 Bay Street

24th Floor, South Tower

Toronto, Óntario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Tuesday, December 21, 2010 7:24 PM

To: John Mikkelsen; RSebastiano@osler.com; Deborah Langelaan Cc: dlever@mccarthy.ca; Terry Bennett; John Cashin; Terri Steeves Subject: Re: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation Project

I acknowledge receipt. I'll arrange this tomorrow.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Tuesday, December 21, 2010 07:19 PM

To: rsebastiano@osler.com <rsebastiano@osler.com>; Michael Killeavy; Deborah Langelaan

Cc: David Lever <DLEVER@MCCARTHY.CA>; Terry Bennett <terry bennett@transcanada.com>; John Cashin

<john_cashin@transcanada.com>; Terri Steeves <terri_steeves@transcanada.com>

Subject: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Attached please find executed MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation Project in pdf. The MOU is to be held in escrow until TransCanada receives a signed back copy of the MOU from the OPA and a signed copy of the OPA's letter with respect to the MPS Canada, Inc. gas turbines.

Best regards,

John Mikkelsen, P.Eng. Director, Eastern Canada, Power Development TransCanada Royal Bank Plaza 200 Bay Street 24th Floor, South Tower Toronto, Ontario M5J 2J1 Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou

de le divulguer sans autorisation.

•							
						•	
			V .		•		
						•	
	•	÷					
				-			
							:
							4
			'				,
				•			
							Ě
							2
						•	
							1
							j

From:

Michael Killeavy

Sent:

December 22, 2010 6:33 AM

To:

Deborah Langelaan

Cc:

Irene Mauricette; Susan Kennedy

Subject:

Re: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired

Power Generation Project

OK. Thank you. This is very helpful.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Deborah Langelaan

Sent: Wednesday, December 22, 2010 06:25 AM

To: Michael Killeavy

Cc: Irene Mauricette: Susan Kennedy

Subject: Re: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Michael;

Yesterday I had Irene set up a meeting with Colin at 1:00 pm - this was his first available time slot.

Deb

From: Michael Killeavy

Sent: Tuesday, December 21, 2010 08:05 PM

To: Deborah Langelaan; 'PIvanoff@osler.com' <PIvanoff@osler.com>; Deborah Langelaan; Susan Kennedy

Subject: Fw: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

I forgot to copy you on this. I didn't have a chance to review the signed MOU so I was careful with my response.

Deb and Susan, we'll need to set up a time with Colin tomorrow to walk him through the MOU and to ask him to sign it.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Tuesday, December 21, 2010 07:54 PM

To: 'john_mikkelsen@transcanada.com' <john_mikkelsen@transcanada.com>

Cc: 'terry_bennett@transcanada.com' <terry_bennett@transcanada.com>; 'dlever@mccarthy.ca' <dlever@mccarthy.ca>; 'john_cashin@transcanada.com' <john_cashin@transcanada.com>

Subject: Re: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Yes. We will execute the agreed upon MOU tomorrow.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Tuesday, December 21, 2010 07:48 PM.

To: Michael Killeavy

Cc: Terry Bennett <terry_bennett@transcanada.com>; David Lever <DLEVER@MCCARTHY.CA>; John Cashin

<iohn cashin@transcanada.com>

Subject: RE: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Michael, Thank you.

Please confirm our conversation this evening, re: the OPA will sign the MOU and provide to TCE tomorrow.

Best regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102

Fax:416.869.2056

Cell:416.559.1664

We have moved! Please note the new address above

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Tuesday, December 21, 2010 7:32 PM

To: John Mikkelsen; RSebastiano@osler.com; Deborah Langelaan **Cc:** dlever@mccarthy.ca; Terry Bennett; John Cashin; Terri Steeves

Subject: RE: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Attached is the signed letter from Colin Andersen.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: December 21, 2010 7:31 PM

To: Michael Killeavy; RSebastiano@osler.com; Deborah Langelaan **Cc:** dlever@mccarthy.ca; Terry Bennett; John Cashin; Terri Steeves

Subject: RE: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Michael,

We need to see the signed GT letter this evening to prevent termination. It was our understanding that the signing authority was standing by this evening.

Regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power-Development

TransCanada

Royal Bank Plaza 200 Bay Street 24th Floor, South Tower Toronto, Ontario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Tuesday, December 21, 2010 7:24 PM

To: John Mikkelsen; RSebastiano@osler.com; Deborah Langelaan **Cc:** dlever@mccarthy.ca; Terry Bennett; John Cashin; Terri Steeves

Subject: Re: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

I acknowledge receipt. I'll arrange this tomorrow.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Tuesday, December 21, 2010 07:19 PM

To: rsebastiano@osler.com <rsebastiano@osler.com>; Michael Killeavy; Deborah Langelaan

Cc: David Lever <DLEVER@MCCARTHY.CA>; Terry Bennett <terry bennett@transcanada.com>; John Cashin

<john_cashin@transcanada.com>; Terri Steeves <terri_steeves@transcanada.com>

Subject: TransCanada OPA MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation

Project

Attached please find executed MOU for Potential Development of a Simple Cycle Natural Gas-Fired Power Generation Project in pdf. The MOU is to be held in escrow until TransCanada receives a signed back copy of the MOU from the OPA and a signed copy of the OPA's letter with respect to the MPS Canada, Inc. gas turbines.

Best regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

			_
·			

From:

Michael Killeavy

Sent:

December 22, 2010 11:24 AM

To:

'RSebastiano@osler.com'; 'Ivanoff, Paul' Deborah Langelaan; Susan Kennedy

Cc: Subject:

MPS Fast-Start Option - Decision to Proceed with Firm Pricing

Rocco and Paul,

We've been discussing the decision to proceed with firm pricing on the fast-start option, and we believe that we need to see the unredacted Equipment Supply Agreement. There is a lot of information redacted from the version that was provided to you. In particular, we need to see the technical appendices, which appear to be completely missing. It's hard for Safouh to properly assess the fast-start proposal without seeing the unredacted version. Do you have any thoughts on us pushing back on TCE to get this missing information?

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

	·			
				·
·				
			·	

From:

Michael Killeavy

Sent:

December 22, 2010 3:34 PM

To:

'RSebastiano@osler.com'; 'Plvanoff@osler.com'

Cc:

Susan Kennedy; Deborah Langelaan; 'safouh@smsenergy-engineering.com'

Subject:

Re: Proposed Email to TCE

Here's draft #2:

"In light of the fast-start quotation and technical information we have received, we need to see the technical information that has been redacted from the Equipment Supply Agreement provided to Osler on 17 December 2010 in order for us to make a decision on whether we want MPS to proceed with fixing the price on the fast-start option. Could you please release this information to Osler no later than noon on 24 December so that we can review it.

Thank you,

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message ----

From: Michael Killeavy

Sent: Wednesday, December 22, 2010 03:21 PM

To: 'RSebastiano@osler.com' < RSebastiano@osler.com'; 'PIvanoff@osler.com'

<PIvanoff@osler.com>

Cc: Susan Kennedy; Deborah Langelaan; 'safouh@smsenergy-engineering.com' <safouh@smsenergy-

engineering.com>

Subject: Proposed Email to TCE

Here's a draft of a proposed email to TCE:

"John,

In order for us to make a decision on whether we want MPS to proceed with fixing the price on the fast-start option, we'd like to see the technical information that has been redacted from the Equipment Supply Agreement provided to Osler on 17 December 2010. Could you please release this information as soon as possible so that we can review it.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management

Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From:

Michael Killeavy

Sent:

December 23, 2010 3:53 PM

To:

'Safouh Soufi'

Subject:

RE: SMS Acknowledgement re. MPS Contract

Thanks.

Can you send me that technical information you were speaking about yesterday when you were in my office with Deb?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 23, 2010 3:51 PM

To: 'Sebastiano, Rocco'

Cc: Deborah Langelaan; Michael Killeavy; Susan Kennedy; 'Smith, Elliot'; 'Ivanoff, Paul'

Subject: RE: SMS Acknowledgement re. MPS Contract

Rocco,

I acknowledge receipts of the redacted MPS Contract and MPS FS Proposal together with supporting information.

Thanks, Safouh

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 23, 2010 2:58 PM

To: 'Safouh Soufi'

Cc: 'Deborah Langelaan'; 'Michael Killeavy'; 'Susan Kennedy'; Smith, Elliot; Ivanoff, Paul

Subject: RE: SMS Acknowledgement re. MPS Contract

Safouh, I have now sent you the redacted MPS Contract and MPS' Fast Start Proposal and supporting materials. Please confirm that you have received them.

Regards, Rocco

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: Thursday, December 23, 2010 11:42 AM

To: Sebastiano, Rocco

Cc: 'Deborah Langelaan'; 'Michael Killeavy'; 'Susan Kennedy'; Smith, Elliot; Ivanoff, Paul

Subject: RE: SMS Acknowledgement re. MPS Contract

Rocco,

Attached you will find the executed Acknowledgement.

Thanks, Safouh

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 23, 2010 8:37 AM

To: 'Safouh Soufi'

Cc: 'Deborah Langelaan'; 'Michael Killeavy'; 'Susan Kennedy'; Smith, Elliot; Ivanoff, Paul

Subject: RE: SMS Acknowledgement re. MPS Contract

These changes look fine to me. Please send me the executed Acknowledgement. Thanks, Rocco

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: Wednesday, December 22, 2010 6:41 PM

To: Sebastiano, Rocco

Cc: 'Deborah Langelaan'; 'Michael Killeavy'; 'Susan Kennedy'; Smith, Elliot; Ivanoff, Paul

Subject: RE: SMS Acknowledgement re. MPS Contract

Rocco,

I am proposing two minor changes and have revised and attached the document with track changes.

Item 7 - 2nd line: removed "by or on behalf" replaced with "for"

Item 8 - 8th line: removed "the construction and operation of a replacement facility" replaced with mostly your other wording "one of the potential alternative projects".

Let me know if the propose changes are OK. If so, I will sign and return executed copy to your attention.

Thanks, Safouh

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 22, 2010 5:33 PM

To: 'safouh@smsenergy-engineering.com'

Cc: 'Deborah Langelaan (deborah langelaan@powerauthority.on.ca)'; 'Michael Killeavy

(Michael.killeavy@powerauthority.on.ca)'; 'Susan Kennedy (susan.kennedy@powerauthority.on.ca)'; Smith, Elliot;

Ivanoff, Paul

Subject: SMS Acknowledgement re. MPS Contract

Safouh,

Please find enclosed a form of acknowledgement which the OPA and Osler is required to obtain from your company before we can forward to you the redacted form of Contract and technical proposal that we received from TCE. If you have any questions on the form, please get back to me as soon as possible. If not, please sign it and return a PDF copy to my attention.

Thanks, Rocco

From:

Michael Killeavy

Sent:

December 23, 2010 4:19 PM

To:

'Safouh Soufi' Deborah Langelaan

Cc: Subject:

RE: SMS Acknowledgement re. MPS Contract

Can we discuss some preliminary findings tomorrow?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 23, 2010 3:51 PM

To: 'Sebastiano, Rocco'

Cc: Deborah Langelaan; Michael Killeavy; Susan Kennedy; 'Smith, Elliot'; 'Ivanoff, Paul'

Subject: RE: SMS Acknowledgement re. MPS Contract

Rocco,

I acknowledge receipts of the redacted MPS Contract and MPS FS Proposal together with supporting information.

Thanks, Safouh

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 23, 2010 2:58 PM

To: 'Safouh Soufi'

Cc: 'Deborah Langelaan'; 'Michael Killeavy'; 'Susan Kennedy'; Smith, Elliot; Ivanoff, Paul

Subject: RE: SMS Acknowledgement re. MPS Contract

Safouh, I have now sent you the redacted MPS Contract and MPS' Fast Start Proposal and supporting materials. Please confirm that you have received them.

Regards, Rocco

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: Thursday, December 23, 2010 11:42 AM

To: Sebastiano, Rocco

Cc: 'Deborah Langelaan'; 'Michael Killeavy'; 'Susan Kennedy'; Smith, Elliot; Ivanoff, Paul

Subject: RE: SMS Acknowledgement re. MPS Contract

Rocco,

Attached you will find the executed Acknowledgement.

Thanks, Safouh

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 23, 2010 8:37 AM

To: 'Safouh Soufi'

Cc: 'Deborah Langelaan'; 'Michael Killeavy'; 'Susan Kennedy'; Smith, Elliot; Ivanoff, Paul

Subject: RE: SMS Acknowledgement re. MPS Contract

These changes look fine to me. Please send me the executed Acknowledgement. Thanks, Rocco

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: Wednesday, December 22, 2010 6:41 PM

To: Sebastiano, Rocco

Cc: 'Deborah Langelaan'; 'Michael Killeavy'; 'Susan Kennedy'; Smith, Elliot; Ivanoff, Paul

Subject: RE: SMS Acknowledgement re. MPS Contract

Rocco,

I am proposing two minor changes and have revised and attached the document with track changes.

Item 7 - 2nd line: removed "by or on behalf" replaced with "for"

Item 8 - 8th line: removed "the construction and operation of a replacement facility" replaced with mostly your other wording "one of the potential alternative projects".

Let me know if the propose changes are OK. If so, I will sign and return executed copy to your attention.

Thanks, Safouh

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 22, 2010 5:33 PM

To: 'safouh@smsenergy-engineering.com'

Cc: 'Deborah Langelaan (deborah,langelaan@powerauthority.on.ca)'; 'Michael Killeavy

(Michael.killeavy@powerauthority.on.ca)'; 'Susan Kennedy (susan.kennedy@powerauthority.on.ca)'; Smith, Elliot;

Ivanoff, Paul

Subject: SMS Acknowledgement re. MPS Contract

Safouh,

Please find enclosed a form of acknowledgement which the OPA and Osler is required to obtain from your company before we can forward to you the redacted form of Contract and technical proposal that we received from TCE. If you have any questions on the form, please get back to me as soon as possible. If not, please sign it and return a PDF copy to my attention.

Thanks, Rocco

From:

Michael Killeavy

Sent:

December 24, 2010 8:16 AM

To: Cc: 'Sebastiano, Rocco'; 'Ivanoff, Paul' Susan Kennedy: Deborah Langelaan

Subject:

TCE Matter - Status of the 22 December 2010 Information Request for Redacted ESA

Technical Appendices

Importance:

High

Rocco and Paul,

I just wanted to update both of you on a brief teleconference Deb and I had with John Mikkelsen of TCE yesterday afternoon. As you will recall, we asked for the redacted technical appendices to the Equipment Supply Agreement ("ESA") on 22 December 2010. We asked for this information to be delivered to Osler no later than noon today. During the teleconference yesterday we asked John for an update on the status of this information request. John said categorically that we would not be getting the information by noon today. He mentioned that we might get in next Tuesday, but there was no commitment on TCE's part to do so.

He further inquired as to why the OPA needed this information and what benefit it would be to see these redacted appendices. Deb and I maintained that our information request was reasonable in the context of the circumstances, and that we were really not asking for anything more than had already been disclosed for the fast-start option. We conveyed our disappointment at not being granted access to the information in a timely fashion, despite the representations TCE has made about conducting the negotiations on an "open book" basis and its desire to be transparent.

I have escalated the issue.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

		,	
			-
	·		

From:

Michael Killeavy

Sent:

December 24, 2010 1:24 PM

To:

JoAnne Butler; Susan Kennedy; Deborah Langelaan

Cc:

Colin Andersen

Subject:

Re: Call to Karl

Ok. We will be all over them Wednesday.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: JoAnne Butler

Sent: Friday, December 24, 2010 01:23 PM

To: Michael Killeavy; Susan Kennedy; Deborah Langelaan

Cc: Colin Andersen

Subject: Re: Call to Karl

Ok, then I will ping Karl again early next week and keep on it - or we will get extension on other date if we have to.

JCB

---- Original Message -----

From: Michael Killeavy

Sent: Friday, December 24, 2010 01:09 PM

To: JoAnne Butler; Susan Kennedy; Deborah Langelaan

Cc: Colin Andersen

Subject: RE: Call to Karl

Thank you for doing this.

Getting the information in the New Year is problematic. We have to give notice to TCE by 31 December 2010 as to whether we want MPS to proceed with the fixed pricing of the fast-start option. Without the technical information that has been redacted we won't know whether derating the turbines will be feasible. If it is feasible we don't need the extra expense of the fast-start capability.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority

120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

----Original Message----

From: JoAnne Butler

Sent: December 24, 2010 1:06 PM

To: Michael Killeavy; Susan Kennedy; Deborah Langelaan

Cc: Colin Andersen
Subject: Call to Karl

I had my call with Karl. He was very gracious and agreed that MPS should be more cooperative. He was going to send some emails today but probably would not get anything definite until early in the new year.

I think that we will ultimately get what we want but if we need to escalate it, the next step would be Colin to Alex Pourbaix. Karl did mention that he wanted to have a more senior level meeting with MPS.

Ok...now I hope that you have all left the building...

JCB

From:

Michael Killeavy

Sent:

December 24, 2010 2:03 PM

To:

Deborah Langelaan

Subject:

Re: MPS documentation

It's no problem for us that it goes to Rocco. It'd be part of the TCE information released to him.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Deborah Langelaan

Sent: Friday, December 24, 2010 01:32 PM

To: Michael Killeavy

Subject: Fw: MPS documentation

I wonder if TCE also has to get permission from MPS to go to the bathroom? Should we let him know his excuse is inexcusable?

Deb

---- Original Message -----

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Friday, December 24, 2010 01:28 PM

To: Deborah Langelaan

Subject: Re: MPS documentation

Deb,

Yes I have an email with the qualification language surrounding the budgetary quotation. I am just confirming if I can send this and if so whether it goes to Rocco or you directly.

John

---- Original Message ----

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Friday, December 24, 2010 10:21 AM

To: John Mikkelsen

Subject: MPS documentation

John;

During our call on Wednesday you agreed to forward Michael and I an e-mail you received from MPS confirming the proposed pricing caveats of the Fast start option. Please provide this documentation as soon as possible.

Also, when will you be providing draft meeting minutes for the Dec. 3, 10 and 17 meetings?

Thanks, Deb

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited.

If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

From:

Michael Killeavy

Sent:

December 28, 2010 8:24 PM

To:

'Plvanoff@osler.com'; 'RSebastiano@osler.com'

Cc:

Deborah Langelaan

Subject:

Re: TCE Matter - OPA Request for Redacted ESA Technical Schedules ...

Ok. Thank you.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Ivanoff, Paul [mailto:PIvanoff@osler.com]

Sent: Tuesday, December 28, 2010 08:15 PM

To: Michael Killeavy; Sebastiano, Rocco < RSebastiano@osler.com>

Cc: Deborah Langelaan

Subject: Re: TCE Matter - OPA Request for Redacted ESA Technical Schedules ...

I have not heard from counsel for TCE regarding the request.

Regards,

Paul

---- Original Message -----

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Tuesday, December 28, 2010 06:24 PM

To: Sebastiano, Rocco; Ivanoff, Paul

Cc: Deborah Langelaan < Deborah. Langelaan @powerauthority.on.ca>

Subject: TCE Matter - OPA Request for Redacted ESA Technical Schedules ...

Rocco and Paul,

I hope both of you had a nice Christmas and are enjoying some down time before the New Year. Has either of you received the information we requested of TCE last week or has TCE counsel been in touch with either of you about our request?

Thank you, ...
Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management

Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited.

If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 29, 2010 5:03 AM

To:

'RSebastiano@osler.com'; 'PIvanoff@osler.com'

Cc:

Deborah Langelaan

Subject:

Re: TCE Matter - OPA Request for Redacted ESA Technical Schedules ...

Thanks.

Yes, JoAnne did speak with Karl Johanssen. Let's see if it has any effect.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message ----

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Tuesday, December 28, 2010 11:16 PM

To: Michael Killeavy; Ivanoff, Paul <PIvanoff@osler.com>

Cc: Deborah Langelaan

Subject: Re: TCE Matter - OPA Request for Redacted ESA Technical Schedules ...

Thank you, it was a peaceful Christmas. I hope that you had a nice Christmas also.

Regarding our friends at TCE, it has been radio silence. Did Joanne call Karl Johanssen last week?

Regards, Rocco

---- Original Message ----

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent:-Tuesday, December-28,-2010-06:24-PM------

To: Sebastiano, Rocco; Ivanoff, Paul

Cc: Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>

Subject: TCE Matter - OPA Request for Redacted ESA Technical Schedules ...

Rocco and Paul,

I hope both of you had a nice Christmas and are enjoying some down time before the New Year. Has either of you received the information we requested of TCE last week or has TCE counsel been in touch with either of you about our request?

Thank you, Michael Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited.

If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Sebastiano, Rocco [RSebastiano@osler.com]

Sent:

December 29, 2010 10:29 AM

To: Cc: Michael Killeavy; Deborah Langelaan Ivanoff, Paul; Smith, Elliot; Lazaroff, Lara

Subject:

Re: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Michael and Deb,

TCE sent over the emissions and start-up guarantee specs under the ESA. I have not yet taken a look at exactly what is contained in the document. I will forward this to Safouh to review and have asked Lara to print out copies for you to come over and review at your convenience.

Regards, Rocco

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 10:05 AM

To: Sebastiano, Rocco

Cc: David Lever < DLEVER@MCCARTHY.CA>; John Cashin < john cashin@transcanada.com>; Terri Steeves

<terri steeves@transcanada.com>; Terry Bennett <terry bennett@transcanada.com>

Subject: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Dear Mr. Sebastiano,

Subject to and in accordance with the Acknowledgement executed by the Ontario Power Authority and Osler, Hoskin & Harcourt LLP on December 17, 2010, please find attached Emissions and Start-up Guarantee for the M501GAC Gas Turbine & Generator (original specifications) associated with Equipment Supply Agreement #6519 between TransCanada Energy Ltd. and MPS Canada, Inc..

Best regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From: Sent: Sebastiano, Rocco [RSebastiano@osler.com]

Seni

December 29, 2010 10:33 AM

To: Cc: Michael Killeavy; Deborah Langelaan Ivanoff, Paul; Smith, Elliot; Lazaroff, Lara

Subject:

Re: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Please let Lara know what time is convenient for you and she will book a boardroom.

Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 10:30 AM

To: Sebastiano, Rocco; Deborah Langelaan < Deborah.Langelaan@powerauthority.on.ca

Cc: Ivanoff, Paul; Smith, Elliot; Lazaroff, Lara

Subject: RE: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Thank you. I can come by this afternoon to look at this information.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 29, 2010 10:29 AM **To:** Michael Killeavy; Deborah Langelaan **Cc:** Ivanoff, Paul; Smith, Elliot; Lazaroff, Lara

Subject: Re: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Michael and Deb,

TCE sent over the emissions and start-up guarantee specs under the ESA. I have not yet taken a look at exactly what is contained in the document. I will forward this to Safouh to review and have asked Lara to print out copies for you to come over and review at your convenience.

Regards, Rocco

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 10:05 AM

To: Sebastiano, Rocco

Cc: David Lever <DLEVER@MCCARTHY.CA>; John Cashin <<u>john cashin@transcanada.com</u>>; Terri Steeves

<terri steeves@transcanada.com>; Terry Bennett <<u>terry bennett@transcanada.com</u>>

Subject: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Dear Mr. Sebastiano,

Subject to and in accordance with the Acknowledgement executed by the Ontario Power Authority and Osler, Hoskin & Harcourt LLP on December 17, 2010, please find attached Emissions and Start-up Guarantee for the M501GAC Gas Turbine & Generator (original specifications) associated with Equipment Supply Agreement #6519 between TransCanada Energy Ltd. and MPS Canada, Inc..

Best regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102
Fax:416 869.2056

Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From:

Sebastiano, Rocco [RSebastiano@osler.com]

Sent:

December 29, 2010 10:35 AM

To:

Michael Killeavy; Deborah Langelaan

Cc:

Ivanoff, Paul; Smith, Elliot

Subject:

Re: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

FYI, have sent this over to Safouh to review.

From: Sebastiano, Rocco

Sent: Wednesday, December 29, 2010 10:33 AM

To: 'safouh@smsenergy-engineering.com' <<u>safouh@smsenergy-engineering.com</u>> . **Subject:** Fw: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Safouh,

TCE sent over the emissions and start-up guarantee specs under the ESA. I have not yet taken a look at exactly what is contained in the document. I have alerted Michael and Deb about this document.

Please review it at your earliest convenience as I am sure that Michael will want your input on this rather quickly.

Thanks, Rocco

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 10:05 AM

To: Sebastiano, Rocco

Cc: David Lever < <u>DLEVER@MCCARTHY.CA</u>>; John Cashin < <u>john cashin@transcanada.com</u>>; Terri Steeves

<terri steeves@transcanada.com>; Terry Bennett <terry bennett@transcanada.com>

Subject: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Dear Mr. Sebastiano,

Subject to and in accordance with the Acknowledgement executed by the Ontario Power Authority and Osler, Hoskin & Harcourt LLP on December 17, 2010, please find attached Emissions and Start-up Guarantee for the M501GAC Gas Turbine & Generator (original specifications) associated with Equipment Supply Agreement #6519 between TransCanada Energy Ltd. and MPS Canada, Inc..

Best regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

Royal Bank Plaza

200 Bay Street

24th Floor, South Tower

Toronto, Ontario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056

Cell:416.559.1664

We have moved! Please note the new address above

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to
copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Sebastiano, Rocco [RSebastiano@osler.com]

Sent:

December 29, 2010 10:40 AM

To:

Michael Killeavy; Deborah Langelaan

Cc:

Ivanoff, Paul

Subject:

Re: [INFOITCS-General/[QUOTATION] Indicative budgetary non-binding proposal for project

schedule change and specification/scope change in the equipment supply contract #6519

This also arrived from TCE. I have forwarded it to Safouh to review and Lara will also make copies for you to review when you come over to our offices.

Thanks, Rocco

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 10:33 AM To: Sebastiano, Rocco; Smith, Elliot; Lazaroff, Lara

Cc: David Lever <DLEVER@MCCARTHY.CA>; John Cashin <john_cashin@transcanada.com>; Terri Steeves

<terri steeves@transcanada.com>; Terry Bennett <terry bennett@transcanada.com>

Subject: FW: [INFO]TCS-General/[QUOTATION] Indicative budgetary non-binding proposal for project schedule change

and specification/scope change in the equipment supply contract #6519

Dear Mr. Sebastiano.

Subject to and in accordance with the Acknowledgement executed by the Ontario Power Authority and Osler, Hoskin & Harcourt LLP on December 17, 2010, and further to my December 21st e-mail where I provided proposed language surrounding the qualification of the budgetary proposal pricing from MPS Canada, Inc. for the Fast Start option, please find following confirmation of the pricing qualification from MPS.

Best regards,

John Mikkelsen, P.Eng. Director, Eastern Canada, Power Development

TransCanada Royal Bank Plaza 200 Bay Street 24th Floor, South Tower Toronto, Ontario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

From: KNamba@mpshq.com [mailto:KNamba@mpshq.com]

Sent: Tuesday, December 21, 2010 5:44 PM

To: Terri Steeves

Cc: JPM-TEC@comcast.net; CHRIS Douglass; tschwartz@mpshq.com; southwestgtaproject@mpshq.com; knamba@mpshq.com; awatanabe@mpshq.com; pprigge@mpshq.com; Minoru.Yoshida@mpshq.com; Daisuke.Hiura@mpshq.com; Kazuki.Ishikura@mpshq.com; Akimasa.Muyama@mpshq.com; KHasegawa@mpshq.com; sueki@mpshq.com; mulligang@osc.mpshq.com; newsomb@osc.mpshq.com; John Mikkelsen; Bill Small Subject: [INFO]TCS-General/[QUOTATION] Indicative budgetary non-binding proposal for project schedule change and specification/scope change in the equipment supply contract #6519

MPS Canada, Inc. submitted its "indicative budgetary non-binding proposal via the e-mail No. MPS/TCS-General-10-E-0141 as attached on December 16 2010 based on preliminary non-binding estimates from MPS's subcontractors and suppliers where available and past experience where such quotations were not obtained from a vendor and as such, MPS makes no representation of the accuracy of the pricing, including each of the subcontractor and supplier price quotes. Although MPS cannot guarantee this pricing, we have a reasonable expectation that the firm price that will be quoted for the project change should not exceed 125% of such amount. MPS will submit a firm price quote to TransCanada once all project specific information is supplied to MPS and the scope of supply is finalized.

Best regards,

Namba (MPS)

---- Forwarded by Kotaro Namba/mhiahq on 2010/12/21 17:45 ----- Phil Prigge/mhiahq

2010/12/16 21:53

- To chris_douglass@transcanada.com, terri_steeves@transcanada.com, JPM-TEC@comcast.net
- cc isamu_matsumi@mhi.co.jp, F_Transc@mhi.co.jp, sosuke_masuda@mhi.co.jp, tschwartz@mpshq.com, southwestgtaproject@mpshq.com, knamba@mpshq.com, awatanabe@mpshq.com, pprigge@mpshq.com, Kazuo Yoshi/mhiahq@mhiahq, Minoru Yoshida/mhiahq@mhiahq, Daisuke Hiura/mhiahq@mhiahq, Kazuki Ishikura/mhiahq@mhiahq, Akimasa Muyama/mhiahq@mhiahq, Koji Hasegawa/mhiahq@mhiahq, Shinichi Ueki/mhiahq@mhiahq, mcdeedd@osc.mpshq.com, pyrosg@osc.mpshq.com, mulligang@osc.mpshq.com, Shigeki Takasugi/mhiahq@mhiahq, koenekec@osc.mpshq.com, newsomb@osc.mpshq.com, southwestgtaproject@mpshq.com, F_hcommon@mhi.co.jp

Subject TCS-General/[QUOTATION] Indicative budgetary non-binding proposal for project schedule change and specification/scope change in the equipment supply contract #8519

Date: December 16,2010

Ref. No: MPS/TCS-General-10-E-0141

To: Attention: Chris Douglass, Terri Steeves, Joseph P. Miller

: Company : TransCanada/SW GTA PJ - TransCanada Team Member, TransCanada/SW GTA PJ - TransCanada

Team Member, TransCanada/SW GTA PJ - TransCanada Team Member

CopyTo: Isamu Matsumi(TransCanada/SW GTA PJ - MHI TGO Team Member), MHI Takasago Mailbox(TransCanada/SW GTA PJ - MHI TGO Team Member), Sosuke Masuda(TransCanada/SW GTA PJ - MHI TGO Team Member), Schwartz Thangyah(TransCanada/SW GTA PJ - MPSA Team Member), TransCanada/SW GTA PJ - MPSA General Mailbox(TransCanada/SW GTA PJ - MPSA Team Member), Kotaro Namba(TransCanada/SW GTA PJ - MPSA Team Member), Airo Watanabe(TransCanada/SW GTA PJ - MPSA Team Member), Phil Prigge(TransCanada/SW GTA PJ - MPSA Team Member), Kazuo Yoshi(), Minoru Yoshida(), Daisuke Hiura(Lake Mary Headquaters), Kazuki Ishikura(), Akimasa Muyama(), Koji Hasegawa(Lake Mary Headquaters), Shinichi Ueki(), David Mcdeed(Lake Mary Headquarters), George Pyros(Lake Mary), George Mulligan(Lake Mary Headquarters), Shigeki Takasugi(), Carlos Koeneke(Orlando Service Center), Bill Newsom()

From: Phil Prigge, Project Manager

MPSA Headquarters

Person in Charge: kotaro namba (knamba@mpshq.com)

Phone No.: 407-688-6206 Fax No.: 407-688-

Project: TransCanada/Southwest-General

Subject: [QUOTATION] Indicative budgetary non-binding proposal for project schedule change and specification/scope

change in the equipment supply contract #6519

To be Replied by December 21,2010

Approved by:

p.prigge ,k.namba ,p.prigge

Dear Terri,

In reply to your request for quotation for the change in project schedule and specification/scope of Contract (No.6519), MPS Canada is pleased to propose the attached indicative budgetary non-binding quotation to TCE. A preliminary technical specification shall be submitted on December 17, 2010. MPS Canada is expecting TCE's decision on this change by December 21, 2010 as agreed.

Please let us know if you have any questions or concerns,

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du prsent courriel est privilgi, confidentiel et soumis des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

3

	•			
•				
•				,
		•		
·				

From:

Michael Killeavy

Sent:

December 29, 2010 11:18 AM

To:

'Lazaroff, Lara'

Subject:

RE: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Thank you.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Lazaroff, Lara [mailto:LLazaroff@osler.com]

Sent: December 29, 2010 11:17 AM

To: Michael Killeavy **Cc:** Sebastiano, Rocco

Subject: RE: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Hi Michael,

I have confirmation for a room at 3pm on our 63rd floor – "CC-4". Once you arrive I'll come down with the documents.

Thanks,

OSLER

Lara Lazaroff

Assistant to Bob Beaumont, Richard Wong and Raj Dhaliwal

Construction & Infrastructure
416.862.6478 DIRECT
416.862.6666 FACSIMILE
Ilazaroff@osler.com
Osler, Hoskin & Harcourt LLP
Box 50, 1 First Canadian Place
Toronto, Ontario, Canada M5X 1B8
osler.com

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 10:41 AM

To: Lazaroff, Lara

Subject: RE: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Thank you.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Lazaroff, Lara [mailto:LLazaroff@osler.com]

Sent: December 29, 2010 10:41 AM

To: Michael Killeavy

Subject: RE: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Hi Michael,

I will consult our boardroom bookings team to see which rooms are available at 3pm. I will confirm with you shortly.

Thank you.

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 10:38 AM

To: Lazaroff, Lara

Cc: Ivanoff, Paul; Smith, Elliot; Sebastiano, Rocco; Deborah Langelaan

Subject: RE: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Lara,

I'd like to come to Osler offices at 3pm today to look at the new information that Rocco has received today from TCE. Please let me know if this is convenient for you?

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 29, 2010 10:33 AM **To:** Michael Killeavy; Deborah Langelaan **Cc:** Ivanoff, Paul; Smith, Elliot; Lazaroff, Lara

Subject: Re: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Please let Lara know what time is convenient for you and she will book a boardroom.

Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 10:30 AM

To: Sebastiano, Rocco; Deborah Langelaan < Deborah. Langelaan@powerauthority.on.ca>

Cc: Ivanoff, Paul; Smith, Elliot; Lazaroff, Lara

Subject: RE: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Thank you. I can come by this afternoon to look at this information.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 29, 2010 10:29 AM **To:** Michael Killeavy; Deborah Langelaan **Cc:** Ivanoff, Paul; Smith, Elliot; Lazaroff, Lara

Subject: Re: TransCanada - OPA-M501GAC Start-up and Emissions Guaranatee

Michael and Deb,

TCE sent over the emissions and start-up guarantee specs under the ESA. I have not yet taken a look at exactly what is contained in the document. I will forward this to Safouh to review and have asked Lara to print out copies for you to come over and review at your convenience.

Regards, Rocco

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 10:05 AM

To: Sebastiano, Rocco

Cc: David Lever <DLEVER@MCCARTHY.CA>; John Cashin <john_cashin@transcanada.com>; Terri Steeves <terri steeves@transcanada.com>; Terry Bennett <terry_bennett@transcanada.com>

Subject: TransCanada - OPA M501GAC Start-up and Emissions Guaranatee

Dear Mr. Sebastiano,

Subject to and in accordance with the Acknowledgement executed by the Ontario Power Authority and Osler, Hoskin & Harcourt LLP on December 17, 2010, please find attached Emissions and Start-up Guarantee for the M501GAC Gas Turbine & Generator (original specifications) associated with Equipment Supply Agreement #6519 between TransCanada Energy Ltd. and MPS Canada, Inc..

Best regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From:

Michael Killeavy

Sent:

December 29, 2010 1:22 PM

To:

'RSebastiano@osler.com'; Deborah Langelaan

Cc:

'LLazaroff@osler.com'; 'Plvanoff@osler.com'; 'ESmith@osler.com'; 'safouh@smsenergy-

engineering.com'

Subject:

Re: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

Thanks. I had asked myself too about this Technology Support Letter when I reviewed the proposal. I will raise this specifically yet again with TCE.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Wednesday, December 29, 2010 01:18 PM

To: Michael Killeavy; Deborah Langelaan

Cc: Lazaroff, Lara <LLazaroff@osler.com>; Ivanoff, Paul <PIvanoff@osler.com>; Smith, Elliot <ESmith@osler.com>;

'Safouh Soufi' <safouh@smsenergy-engineering.com>

Subject: RE: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

There were no notices of FM from TCE to MPS that were sent over from TCE to me. I received two change orders (for some minor changes to the work (and no changes to the schedule) amounting to less than \$50K in changes for both CO's) and the initial notice to proceed from Oct, 2009. If these were all of the notices and CO's under the ESA, then there is no FM notice from TCE to MPS.

Let's put this in perspective: TCE enters into the ESA with MPS in July 2009, then issues a full NTP in October, 2009. This sets a milestone date for deliver (FOB date) of July 1, 2011 for the first unit and August 1, 2011 for the second unit. This would have taken TCE to approx 82.5% of the Contract Price under the original payment schedule by August 1, 2011. For TCE not to have given MPS a notice of FM to delay delivery and extend the payment schedule, TCE must either have perceived some benefit or got something of tangible value-from MPS to stick with this original schedule.

Another little gem that comes out of MPS's fast start pricing proposal is that MPS says that TCE and MPS will need to negotiate changes to the "Letter of Agreement No. 7188 for the Technology Risk Support". I wonder what this is all about?? Technology risk support?? Is TCE taking back some technology risk in exchange for something else?

Regards, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 12:47 PM **To:** Sebastiano, Rocco; Deborah Langelaan

Cc: Lazaroff, Lara; Ivanoff, Paul

Subject: Re: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

There were no notices invoking the Force Majeure provision in the Equipment Supply Agreement, correct?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Wednesday, December 29, 2010 12:26 PM

To: Michael Killeavy; Deborah Langelaan

Cc: Lazaroff, Lara <LLazaroff@osler.com>; Ivanoff, Paul <PIvanoff@osler.com> Subject: Re: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

Michael and Deb,

Just received two change orders and notice to proceed under the ESA. Lara will make copies of these documents also for you to review.

Regards, Rocco

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 11:46 AM **To:** Sebastiano, Rocco; Smith, Elliot; Lazaroff, Lara

Cc: David Lever <DLEVER@MCCARTHY.CA>; John Cashin <john_cashin@transcanada.com>; Terri Steeves

<terri_steeves@transcanada.com>; Terry Bennett <terry_bennett@transcanada.com>

Subject: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

Dear Mr. Sebastiano.

Subject to and in accordance with the Acknowledgement executed by the Ontario Power Authority and Osler, Hoskin & Harcourt LLP on December 17, 2010, please find attached Notice to Proceed and Change Orders associated with Equipment Supply Agreement #6519 between TransCanada Energy Ltd. and MPS Canada, Inc..

Best regards,

John Mikkelsen, P.Eng. Director, Eastern Canada, Power Development

TransCanada

Royal Bank Plaza 200 Bay Street 24th Floor, South Tower Toronto, Ontario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

			-	
,				
,				
				-
				=
				,
		**		
			·	

From: Michael Killeavy

Sent: December 29, 2010 2:38 PM

To: 'RSebastiano@osler.com'; Deborah Langelaan

Cc: 'LLazaroff@osler.com'; 'Plvanoff@osler.com'; 'ESmith@osler.com'; 'safouh@smsenergy-

engineering.com'

Subject: Re: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

In a meeting with TCE now. TCE confirms that MPS is willing to cap the \$33M fast-start at 25%. In other words we now have a not-to-exceed price of \$33M plus 25%. This is a very positive development.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osier.com]

Sent: Wednesday, December 29, 2010 01:18 PM

To: Michael Killeavy: Deborah Langelaan

Cc: Lazaroff, Lara <LLazaroff@osler.com>; Ivanoff, Paul <PIvanoff@osler.com>; Smith, Elliot <ESmith@osler.com>;

'Safouh Soufi' <safouh@smsenergy-engineering.com>

Subject: RE: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

There were no notices of FM from TCE to MPS that were sent over from TCE to me. I received two change orders (for some minor changes to the work (and no changes to the schedule) amounting to less than \$50K in changes for both CO's) and the initial notice to proceed from Oct, 2009. If these were all of the notices and CO's under the ESA, then there is no FM notice from TCE to MPS.

Let's put this in perspective: TCE enters into the ESA with MPS in July 2009, then issues a full NTP in October, 2009. This sets a milestone date for deliver (FOB date) of July 1, 2011 for the first unit and August 1, 2011 for the second unit. This would have taken TCE to approx 82.5% of the Contract Price under the original payment schedule by August 1, 2011. For TCE not to have given MPS a notice of FM to delay delivery and extend the payment schedule, TCE must either have perceived some benefit or got something of tangible value from MPS to stick with this original schedule.

Another little gem that comes out of MPS's fast start pricing proposal is that MPS says that TCE and MPS will need to negotiate changes to the "Letter of Agreement No. 7188 for the Technology Risk Support". I wonder what this is all about?? Technology risk support?? Is TCE taking back some technology risk in exchange for something else?

Regards, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 12:47 PM **To:** Sebastiano, Rocco; Deborah Langelaan

Cc: Lazaroff, Lara; Ivanoff, Paul

Subject: Re: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

There were no notices invoking the Force Majeure provision in the Equipment Supply Agreement, correct?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Wednesday, December 29, 2010 12:26 PM

To: Michael Killeavy; Deborah Langelaan

Cc: Lazaroff, Lara <LLazaroff@osler.com>; Ivanoff, Paul <PIvanoff@osler.com> **Subject**: Re: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

Michael and Deb,

Just received two change orders and notice to proceed under the ESA. Lara will make copies of these documents also for you to review.

Regards, Rocco

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 11:46 AM **To**: Sebastiano, Rocco; Smith, Elliot; Lazaroff, Lara

Cc: David Lever < DLEVER@MCCARTHY.CA>; John Cashin < john cashin@transcanada.com>; Terri Steeves

<terri_steeves@transcanada.com>; Terry Bennett <terry_bennett@transcanada.com>

Subject: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

Dear Mr. Sebastiano,

Subject to and in accordance with the Acknowledgement executed by the Ontario Power Authority and Osler, Hoskin & Harcourt LLP on December 17, 2010, please find attached Notice to Proceed and Change Orders associated with Equipment Supply Agreement #6519 between TransCanada Energy Ltd. and MPS Canada, Inc.,

Best regards,

John Mikkelsen, P.Eng. Director, Eastern Canada, Power Development TransCanada Royal Bank Plaza 200 Bay Street 24th Floor, South Tower Toronto, Ontario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.
Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

		,			
					È
	·				
					ļ
					>
					i
					•

From:

Michael Killeavy

Sent:

December 29, 2010 2:58 PM

To:

'RSebastiano@osler.com'; Deborah Langelaan

Cc:

'LLazaroff@osler.com'; 'Plvanoff@osler.com'; 'ESmith@osler.com'; 'safouh@smsenergy-

engineering.com'

Subject:

Re: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

TCE says yes. It will be as an email apparently. It will sent this afternoon to you.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Wednesday, December 29, 2010 02:54 PM

To: Michael Killeavy; Deborah Langelaan

Cc: Lazaroff, Lara <LLazaroff@osler.com>; Ivanoff, Paul <PIvanoff@osler.com>; Smith, Elliot <ESmith@osler.com>;

'safouh@smsenergy-engineering.com' <safouh@smsenergy-engineering.com> **Subject**: Re: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

Are they prepared to put this into a binding commitment letter?

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 02:38 PM

To: Sebastiano, Rocco; Deborah Langelaan < Deborah.Langelaan@powerauthority.on.ca>

Cc: Lazaroff, Lara; Ivanoff, Paul; Smith, Elliot; safouh@smsenergy-engineering.com <safouh@smsenergy-

engineering.com>

Subject: Re: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

In a meeting with TCE now. TCE confirms that MPS is willing to cap the \$33M fast-start at 25%. In other words we now have a not-to-exceed price of \$33M plus 25%. This is a very positive development.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Wednesday, December 29, 2010 01:18 PM

To: Michael Killeavy; Deborah Langelaan

Cc: Lazaroff, Lara <LLazaroff@osler.com>; Ivanoff, Paul <PIvanoff@osler.com>; Smith, Elliot <ESmith@osler.com>;

'Safouh Soufi' <safouh@smsenergy-engineering.com>

Subject: RE: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

There were no notices of FM from TCE to MPS that were sent over from TCE to me. I received two change orders (for some minor changes to the work (and no changes to the schedule) amounting to less than \$50K in changes for both CO's) and the initial notice to proceed from Oct, 2009. If these were all of the notices and CO's under the ESA, then there is no FM notice from TCE to MPS.

Let's put this in perspective: TCE enters into the ESA with MPS in July 2009, then issues a full NTP in October, 2009. This sets a milestone date for deliver (FOB date) of July 1, 2011 for the first unit and August 1, 2011 for the second unit. This would have taken TCE to approx 82.5% of the Contract Price under the original payment schedule by August 1, 2011. For TCE not to have given MPS a notice of FM to delay delivery and extend the payment schedule, TCE must either have perceived some benefit or got something of tangible value from MPS to stick with this original schedule.

Another little gem that comes out of MPS's fast start pricing proposal is that MPS says that TCE and MPS will need to negotiate changes to the "Letter of Agreement No. 7188 for the Technology Risk Support". I wonder what this is all about?? Technology risk support?? Is TCE taking back some technology risk in exchange for something else?

Regards, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 12:47 PM **To:** Sebastiano, Rocco; Deborah Langelaan

Cc: Lazaroff, Lara; Ivanoff, Paul

Subject: Re: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

There were no notices invoking the Force Majeure provision in the Equipment Supply Agreement, correct?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Wednesday, December 29, 2010 12:26 PM

To: Michael Killeavy; Deborah Langelaan

Cc: Lazaroff, Lara <LLazaroff@osler.com>; Ivanoff, Paul <PIvanoff@osler.com> **Subject**: Re: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

Michael and Deb,

Just received two change orders and notice to proceed under the ESA. Lara will make copies of these documents also for you to review.

Regards, Rocco

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 11:46 AM **To**: Sebastiano, Rocco; Smith, Elliot; Lazaroff, Lara

Cc: David Lever <DLEVER@MCCARTHY.CA>; John Cashin <john_cashin@transcanada.com>; Terri Steeves

<terri_steeves@transcanada.com>; Terry Bennett <terry_bennett@transcanada.com>

Subject: TransCanada - OPA - Notices and Change Orders for MPS ESA #6519

Dear Mr. Sebastiano,

Subject to and in accordance with the Acknowledgement executed by the Ontario Power Authority and Osler, Hoskin & Harcourt LLP on December 17, 2010, please find attached Notice to Proceed and Change Orders associated with Equipment Supply Agreement #6519 between TransCanada Energy Ltd. and MPS Canada, Inc..

Best regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

We have moved! Please note the new address above

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulquer sans autorisation.
······································

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From:

Michael Killeavy

Sent: To: December 29, 2010 4:07 PM 'RSebastiano@osler.com'

Cc:

Deborah Langelaan

Subject:

Re: MPS Email of 29 December 2010 ...

Domo arigato.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Wednesday, December 29, 2010 04:02 PM

To: Michael Killeavy Cc: Deborah Langelaan

Subject: Re: MPS Email of 29 December 2010 ...

Michael-san, will do.

---- Original Message -----

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 03:58 PM

To: Sebastiano, Rocco

Cc: Deborah Langelaan < Deborah. Langelaan @powerauthority.on.ca >

Subject: MPS Email of 29 December 2010 ...

Rocco-san,

We have reviewed the email. It is unclear to what the "change" terminology is referring.

Can you ask TCE to have MPS clarify that it would be a "scope change or design condition

-change" with reference to the fast start technical proposal MP-A2335; dated December 2010?

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited.

If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 29, 2010 4:10 PM

To:

Deborah Langelaan

Subject:

TCE Matter - Fast Start Proposal ...

Can you please ask TCE why the impact of the fast-start proposal on the Technology Risk Support letter agreement and LTSA needs to wait for a decision on proceeding. Presumably the scope of work is known now.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

		•
		-
		; · · ·
		•

From:

Michael Killeavy

Sent: To: December 29, 2010 4:20 PM 'RSebastiano@osler.com'

Subject:

Re: MPS Email of 29 December 2010 ...

Thanks again.

We should be getting more information tonight. We did get the start-up curve and Safouh can infer that they've very likely de-rated the turbines already to achieve the fast start. So, re-rating alone doesn't get us to where we want to be. We are still concerned about MPS gouging us at the back end on the LTSA and Technology Support (this is a post-commissioning availability guarantee we are told). We'd like to see the impact of this nailed down now as opposed to leaving our flank exposed on this.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Wednesday, December 29, 2010 04:15 PM

To: Michael Killeavy

Subject: Re: MPS Email of 29 December 2010 ...

You're welcome.

---- Original Message ----

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 04:15 PM

To: Sebastiano, Rocco

Subject: Re: MPS Email of 29 December 2010 ...

Impressive. What does it mean?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

Michael

```
---- Original Message -----
From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: Wednesday, December 29, 2010 04:14 PM
To: Michael Killeavy
Subject: Re: MPS Email of 29 December 2010 ...
Dö itashi mashite
---- Original Message -----
From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]
Sent: Wednesday, December 29, 2010 04:07 PM
To: Sebastiano, Rocco
Cc: Deborah Langelaan < Deborah. Langelaan @powerauthority.on.ca>
Subject: Re: MPS Email of 29 December 2010 ...
Domo arigato.
Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca
---- Original Message -----
From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: Wednesday, December 29, 2010 04:02 PM
To: Michael Killeavy
Cc: Deborah Langelaan
Subject: Re: MPS Email of 29 December 2010 ...
Michael-san, will do.
---- Original Message -----
From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]
Sent: Wednesday, December 29, 2010 03:58 PM
To: Sebastiano, Rocco
Cc: Deborah Langelaan < Deborah. Langelaan@powerauthority.on.ca >
Subject: MPS Email of 29 December 2010 ...
Rocco-san,
We have reviewed the email. It is unclear to what the "change" terminology is referring.
Can you ask TCE to have MPS clarify that it would be a "scope change or design condition
change" with reference to the fast start technical proposal MP-A2335, dated December 2010?
```

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

it is strictly prohibited.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with

If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 29, 2010 6:49 PM

To:

JoAnne Butler

Subject:

TCE Matter - Status Update ...

JoAnne,

We had a meeting with TCE today. It was productive. We are now getting more technical information. We'll review it tomorrow and formulate a response for 31 December. I may need to contact you tomorrow. Sorry about this, but it's an important decision.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority
120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

•			,

From:

Michael Killeavv

Sent:

December 30, 2010 11:08 AM

To:

'RSebastiano@osler.com'

Cc: Subject: Deborah Langelaan Re: MPS Update

Rocco,

Did TCE ever clarify the "change" wording in the email yesterday where it's ostensibly agreed to a 25% cap on the fast start proposal?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 30, 2010 09:49 AM

To: Deborah Langelaan

Cc: Lazaroff, Lara <LLazaroff@osler.com>; Michael Killeavy

Subject: RE: MPS Update

Deb, the five emails have been forwarded to Safouh. I have also asked Lara to print them out on case you and Michael would like to come over to take a look at them.

Regards, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 9:35 AM

To: Sebastiano, Rocco
Subject: FW: MPS Update

Rocco;

Would you please let me know when the information has been forwarded to Safouh?

Thanks, Deb Deborah Langelaan | Manager, Natural Gas Projects | OPA | Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 |

T: 416.969.6052 | F: 416.967.1947 | | deborah.langelaan@powerauthority.on.ca |

From: Michael Killeavy

Sent: December 29, 2010 7:17 PM

To: 'john_mikkelsen@transcanada.com'; Deborah Langelaan

Cc: 'RSebastiano@osler.com' Subject: Re: MPS Update

Rocco has confirmed receipt of all five emails. His mailbox is full and he can't send any emails, so I am sending this confirmation on his behalf.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 07:00 PM

To: Michael Killeavy: Deborah Langelaan

Cc: RSebastiano@osler.com <RSebastiano@osler.com>

Subject: RE: MPS Update

All five e-mails now sent from my inbox. Some of the files were of the order of 10 MB. Let me know if this is a problem and I will find another way to get them to you.

Best Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 6:42 PM

To: John Mikkelsen; Deborah Langelaan

Cc: RSebastiano@osler.com **Subject:** Re: MPS Update

You've sent them to Osler, correct?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 06:38 PM

To: Michael Killeavy; Deborah Langelaan

Subject: MPS Update

I just sent the first of what I expect to be several e-mails from MPS. The files are large. Please let me know if there are any issues in receiving them.

Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This

communication from TransCanada may contain information that is privileged, confidential or otherwise
protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization.
If you have received this message in error, please notify the sender immediately and delete the original
message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent: To: December 30, 2010 11:26 AM 'RSebastiano@osler.com'

Cc: Subject: Deborah Langelaan Re: MPS Update

Thanks.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 30, 2010 11:24 AM

To: Michael Killeavy Cc: Deborah Langelaan Subject: Re: MPS Update

I sent John an email asking for the clarification, but there has not been a response yet.

Regards, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca].

Sent: Thursday, December 30, 2010 11:08 AM

To: Sebastiano, Rocco

Cc: Deborah Langelaan < Deborah.Langelaan@powerauthority.on.ca>

Subject: Re: MPS Update

Rocco,

Did TCE ever clarify the "change" wording in the email yesterday where it's ostensibly agreed to a 25% cap on the fast start proposal?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)

416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 30, 2010 09:49 AM

To: Deborah Langelaan

Cc: Lazaroff, Lara < LLazaroff@osler.com>; Michael Killeavy

Subject: RE: MPS Update

Deb, the five emails have been forwarded to Safouh. I have also asked Lara to print them out on case you and Michael would like to come over to take a look at them.

Regards, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 9:35 AM

To: Sebastiano, Rocco Subject: FW: MPS Update

Rocco;

Would you please let me know when the information has been forwarded to Safouh?

Thanks, Deb

Deborah Langelaan | Manager, Natural Gas Projects | OPA | Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 |

T: 416.969.6052 | F: 416.967.1947 | | deborah.langelaan@powerauthority.on.ca |

From: Michael Killeavy

Sent: December 29, 2010 7:17 PM

To: 'john_mikkelsen@transcanada.com'; Deborah Langelaan

Cc: 'RSebastiano@osler.com' Subject: Re: MPS Update

Rocco has confirmed receipt of all five emails. His mailbox is full and he can't send any emails, so I am sending this confirmation on his behalf.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 07:00 PM

To: Michael Killeavy; Deborah Langelaan

Cc: RSebastiano@osler.com <RSebastiano@osler.com>

Subject: RE: MPS Update

All five e-mails now sent from my inbox. Some of the files were of the order of 10 MB. Let me know if this is a problem and I will find another way to get them to you.

Best Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 6:42 PM

To: John Mikkelsen; Deborah Langelaan

Cc: RSebastiano@osler.com Subject: Re: MPS Update

You've sent them to Osler, correct?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1

416-969-6288 (office)

416-969-6071 (fax)

416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 06:38 PM

To: Michael Killeavy; Deborah Langelaan

Subject: MPS Update

I just sent the first of what I expect to be several e-mails from MPS. The files are large. Please let me know if there are any issues in receiving them.

Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Sebastiano, Rocco [RSebastiano@osler.com]

Sent:

December 30, 2010 1:30 PM

To:

Michael Killeavy

Cc:

Deborah Langelaan; Smith, Elliot; Ivanoff, Paul; Susan Kennedy; 'safouh@smsenergy-

engineering.com'

Subject:

Re: MPS Update

I just received a draft letter agreement between TCE and MPS which I think you should review. The cover email from John Mikkelsen states the following:

"TransCanada and MPS have been working on the letter agreement for the release from suspension and now have agreed form. This letter agreement contains the language surrounding the not to exceed pricing and includes the proposal. I have attached the letter agreement to this e-mail. I know this does not answer your question directly but I believe this is more robust and reflects the current status. Does this address your concerns regarding the wording in the e-mail provided previously? Please don't hesitate to contact me should you have any questions today."

I have taken a quick look at it and the language on the not to exceed price states the following:

From: Sebastiano, Rocco

Sent: Thursday, December 30, 2010 11:24 AM

To: 'Michael.killeavy@powerauthority.on.ca' <Michael.killeavy@powerauthority.on.ca> **Cc:** 'deborah.langelaan@powerauthority.on.ca>

Subject: Re: MPS Update

I sent John an email asking for the clarification, but there has not been a response yet.

Regards, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 11:08 AM

To: Sebastiano, Rocco

Cc: Deborah Langelaan < Deborah Langelaan@powerauthority.on.ca>

Subject: Re: MPS Update

Rocco,

Did TCE ever clarify the "change" wording in the email yesterday where it's ostensibly agreed to a 25% cap on the fast start proposal?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 30, 2010 09:49 AM

To: Deborah Langelaan

Cc: Lazaroff, Lara <LLazaroff@osler.com>; Michael Killeavy

Subject: RE: MPS Update

Deb, the five emails have been forwarded to Safouh. I have also asked Lara to print them out on case you and Michael would like to come over to take a look at them.

Regards, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 9:35 AM

To: Sebastiano, Rocco **Subject:** FW: MPS Update

Rocco;

Would you please let me know when the information has been forwarded to Safouh?

Thanks, Deb

Deborah Langelaan | Manager, Natural Gas Projects | OPA |
Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 |
T: 416.969.6052 | F: 416.967.1947 | | deborah.langelaan@powerauthority.on.ca |

From: Michael Killeavy

Sent: December 29, 2010 7:17 PM

To: 'john_mikkeisen@transcanada.com'; Deborah Langelaan

Cc: 'RSebastiano@osler.com' Subject: Re: MPS Update

Rocco has confirmed receipt of all five emails. His mailbox is full and he can't send any emails, so I am sending this confirmation on his behalf.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) **From**: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 07:00 PM

To: Michael Killeavy; Deborah Langelaan

Cc: RSebastiano@osler.com <RSebastiano@osler.com>

Subject: RE: MPS Update

All five e-mails now sent from my inbox. Some of the files were of the order of 10 MB. Let me know if this is a problem and I will find another way to get them to you.

Best Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102
Fax:416.869.2056

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 6:42 PM

To: John Mikkelsen; Deborah Langelaan

Cc: RSebastiano@osler.com **Subject:** Re: MPS Update

Cell:416.559.1664

You've sent them to Osler, correct?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1

-416-969-6288-(office)

416-969=6071 (fax)

416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 06:38 PM

To: Michael Killeavy; Deborah Langelaan

Subject: MPS Update

I just sent the first of what I expect to be several e-mails from MPS. The files are large. Please let me know if there are any issues in receiving them.

Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidențiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 30, 2010 1:35 PM

To:

'Sebastiano, Rocco'

Cc:

Deborah Langelaan; 'Smith, Elliot'; 'Ivanoff, Paul'; Susan Kennedy; 'safouh@smsenergy-

engineering.com'

Subject:

RE: MPS Update

Ok. Where may I review this letter agreement?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 30, 2010 1:30 PM

To: Michael Killeavy

Cc: Deborah Langelaan; Smith, Elliot; Ivanoff, Paul; Susan Kennedy; 'safouh@smsenergy-engineering.com'

Subject: Re: MPS Update

I just received a draft letter agreement between TCE and MPS which I think you should review. The cover email from John Mikkelsen states the following:

"TransCanada and MPS have been working on the letter agreement for the release from suspension and now have agreed form. This letter agreement contains the language surrounding the not to exceed pricing and includes the proposal. I have attached the letter agreement to this e-mail. I know this does not answer your question directly but I believe this is more robust and reflects the current status. Does this address your concerns regarding the wording in the e-mail provided previously? Please don't hesitate to contact me should you have any questions today."

I have taken a quick look at it and the language on the not to exceed price states the following:

From: Sebastiano, Rocco

Sent: Thursday, December 30, 2010 11:24 AM

To: 'Michael.killeavy@powerauthority.on.ca' <Michael.killeavy@powerauthority.on.ca> **Cc:** 'deborah.langelaan@powerauthority.on.ca' <deborah.langelaan@powerauthority.on.ca>

Subject: Re: MPS Update

I sent John an email asking for the clarification, but there has not been a response yet.

Regards, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 11:08 AM

To: Sebastiano, Rocco

Cc: Deborah Langelaan < Deborah. Langelaan @powerauthority.on.ca>

Subject: Re: MPS Update

Rocco,

Did TCE ever clarify the "change" wording in the email yesterday where it's ostensibly agreed to a 25% cap on the fast start proposal?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 30, 2010 09:49 AM

To: Deborah Langelaan

Cc: Lazaroff, Lara <LLazaroff@osler.com>; Michael Killeavy

Subject: RE: MPS Update

Deb, the five emails have been forwarded to Safouh. I have also asked Lara to print them out on case you and Michael would like to come over to take a look at them.

Regards, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 9:35 AM

To: Sebastiano, Rocco **Subject:** FW: MPS Update

Rocco:

Would you please let me know when the information has been forwarded to Safouh?

Thanks, Deb

Deborah Langelaan | Manager, Natural Gas Projects | OPA |
Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 |
T: 416.969.6052 | F: 416.967.1947 | | deborah.langelaan@powerauthority.on.ca |

From: Michael Killeavy

Sent: December 29, 2010 7:17 PM

To: 'john_mikkelsen@transcanada.com'; Deborah Langelaan

Cc: 'RSebastiano@osler.com' Subject: Re: MPS Update

Rocco has confirmed receipt of all five emails. His mailbox is full and he can't send any emails, so I am sending this confirmation on his behalf.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 07:00 PM

To: Michael Killeavy; Deborah Langelaan

Cc: RSebastiano@osler.com <RSebastiano@osler.com>

Subject: RE: MPS Update

All five e-mails now sent from my inbox. Some of the files were of the order of 10 MB. Let me know if this is a problem and I will find another way to get them to you.

Best Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower

Toronto, Ontario M5J 2J1 Tel: 416,869,2102

Fax:416.869.2056 Cell:416.559.1664

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 6:42 PM

To: John Mikkelsen: Deborah Langelaan

Cc: RSebastiano@osler.com Subject: Re: MPS Update You've sent them to Osler, correct?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 06:38 PM

To: Michael Killeavy; Deborah Langelaan

Subject: MPS Update

Cell:416.559.1664

I just sent the first of what I expect to be several e-mails from MPS. The files are large. Please let me know if there are any issues in receiving them.

Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102
Fax:416.869.2056

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization.

essage. Thank you.				

is e-mail message is privileged, confidential and subject to pyright. Any unauthorized use or disclosure is prohibited.	0			
contenu du présent courriel est privilégié, confidentiel et umis à des droits d'auteur. Il est interdit de l'utiliser ou le divulguer sans autorisation.				
*************************		•		
				•
				•

			÷	
	•			
-				

From:

Michael Killeavy

Sent:

December 30, 2010 1:42 PM

To:

'Sebastiano, Rocco'

Cc:

Deborah Langelaan; 'Smith, Elliot'; 'Ivanoff, Paul'; Susan Kennedy; 'safouh@smsenergy-

engineering.com'

Subject:

RE: MPS Update

Agreed. This language is not as comforting as it was explained yesterday. Does Article 14 refer to ESA Article 14 or Article 14 of the letter agreement?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 30, 2010 1:37 PM

To: Michael Killeavv

Cc: Deborah Langelaan; Smith, Elliot; Ivanoff, Paul; Susan Kennedy; 'safouh@smsenergy-engineering.com'

Subject: Re: MPS Update

Apologies, but I sent out this email before completing it. Here are the excepts from the letter agreement that I wanted to include:

"The OPA has reviewed and indicated its acceptance of the Budgetary Proposal, and therefore Supplier and Purchaser agree that the Supplier's Work shall no longer be suspended effective December 31, 2010 and Supplier shall proceed with the Work in accordance with the Budgetary Proposal, subject to the terms and conditions set out herein."

And:

"Supplier agrees to propose a revised Contract Price based upon such New Equipment on or before February 10, 2011.

Such proposed Contract Price shall include any amounts determined in accordance with Article 14 as needing to be paid as a result of the suspensions described in the Previous Letter Agreements. Supplier agrees that the additional amount for the New Equipment that will be included in the revised Contract Price will not exceed 125% of such amount included in the Budgetary Proposal. However, the Budgetary Proposal was based upon information and scope of supply provided prior to December 16, 2010 and is subject to change depending upon any changes in the scope of supply provided by Purchaser or new information provided by Purchaser or a third party after such date."

I am not entirely happy with the not to exceed language as it does not refer specifically back to MPS's fast start technical proposal, rather refers to being based on "information and scope of supply provided prior to December 16". Not sure what this means as it is somewhat undefined.

Let's discuss this further once you have had a chance to review and consider this further.

Thanks, Rocco

From: Sebastiano, Rocco

Sent: Thursday, December 30, 2010 01:30 PM

To: 'Michael.killeavy@powerauthority.on.ca' < Michael.killeavy@powerauthority.on.ca>

Cc: 'deborah.langelaan@powerauthority.on.ca' <deborah.langelaan@powerauthority.on.ca>; Smith, Elliot; Ivanoff, Paul; 'susan.kennedy@powerauthority.on.ca>; 'safouh@smsenergy-engineering.com'

<safouh@smsenergy-engineering.com>

Subject: Re: MPS Update

I just received a draft letter agreement between TCE and MPS which I think you should review. The cover email from John Mikkelsen states the following:

"TransCanada and MPS have been working on the letter agreement for the release from suspension and now have agreed form. This letter agreement contains the language surrounding the not to exceed pricing and includes the proposal. I have attached the letter agreement to this e-mail. I know this does not answer your question directly but I believe this is more robust and reflects the current status. Does this address your concerns regarding the wording in the e-mail provided previously? Please don't hesitate to contact me should you have any questions today."

I have taken a quick look at it and the language on the not to exceed price states the following:

From: Sebastiano, Rocco

Sent: Thursday, December 30, 2010 11:24 AM

To: 'Michael.killeavy@powerauthority.on.ca' <Michael.killeavy@powerauthority.on.ca> **Cc:** 'deborah.langelaan@powerauthority.on.ca' <deborah.langelaan@powerauthority.on.ca>

Subject: Re: MPS Update

I sent John an email asking for the clarification, but there has not been a response yet.

Regards, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 11:08 AM

To: Sebastiano, Rocco

Cc: Deborah Langelaan < Deborah.Langelaan@powerauthority.on.ca>

Subject: Re: MPS Update

Rocco,

Did TCE ever clarify the "change" wording in the email yesterday where it's ostensibly agreed to a 25% cap on the fast start proposal?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 30, 2010 09:49 AM

To: Deborah Langelaan

Cc: Lazaroff, Lara <LLazaroff@osler.com>; Michael Killeavy

Subject: RE: MPS Update

Deb, the five emails have been forwarded to Safouh. I have also asked Lara to print them out on case you and Michael would like to come over to take a look at them.

Regards, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 9:35 AM

To: Sebastiano, Rocco Subject: FW: MPS Update

Rocco;

Would you please let me know when the information has been forwarded to Safouh?

Thanks, Deb

Deborah Langelaan | Manager, Natural Gas Projects | OPA |
Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 |
T: 416.969.6052 | F: 416.967.1947 | | deborah langelaan@powerauthority.on.ca |

From: Michael Killeavy

Sent: December 29, 2010 7:17 PM

To: 'john_mikkelsen@transcanada.com'; Deborah Langelaan

Cc: 'RSebastiano@osler.com' Subject: Re: MPS Update

Rocco has confirmed receipt of all five emails. His mailbox is full and he can't send any emails, so I am sending this confirmation on his behalf.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax)

416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 07:00 PM

To: Michael Killeavy; Deborah Langelaan

Cc: RSebastiano@osler.com <RSebastiano@osler.com>

Subject: RE: MPS Update

All five e-mails now sent from my inbox. Some of the files were of the order of 10 MB. Let me know if this is a problem and I will find another way to get them to you.

Best Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102
Fax:416.869.2056

Fax:416.869.2056 Cell:416.559.1664

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 6:42 PM

To: John Mikkelsen; Deborah Langelaan

Cc: RSebastiano@osler.com **Subject:** Re: MPS Update

You've sent them to Osler, correct?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 06:38 PM

To: Michael Killeavy; Deborah Langelaan

Subject: MPS Update

I just sent the first of what I expect to be several e-mails from MPS. The files are large. Please let me know if there are any issues in receiving them.

Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

		·		
, .			 	
			÷ .	

From:

Michael Killeavy

Sent:

December 30, 2010 1:43 PM

To:

'Sebastiano, Rocco'

Cc:

Deborah Langelaan; 'Smith, Elliot'; 'Ivanoff, Paul'; Susan Kennedy; 'safouh@smsenergy-

engineering.com'; 'Lazaroff, Lara'

Subject:

RE: MPS Update

I'm on my way now. Thx again.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 30, 2010 1:42 PM

To: Michael Killeavy

Cc: Deborah Langelaan; Smith, Elliot; Ivanoff, Paul; Susan Kennedy; 'safouh@smsenergy-engineering.com'; Lazaroff,

Lara

Subject: Re: MPS Update

This is certainly annoying. I see no reason why this letter agreement should be treated as per the MPS acknowledgment. After all, TCE gave the OPA the entire text of the two other amending letter agreements with MPS.

Anyways, I have asked Lara to print out the draft letter agreement and email from TCE so that you can come over to review it.

Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 01:35 PM

To: Sebastiano, Rocco

Cc: Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>; Smith, Elliot; Ivanoff, Paul; Susan Kennedy <Susan.Kennedy@powerauthority.on.ca>; safouh@smsenergy-engineering.com <safouh@smsenergy-engineering.com>

Subject: RE: MPS Update

Ok. Where may I review this letter agreement?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management

Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 30, 2010 1:30 PM

To: Michael Killeavy

Cc: Deborah Langelaan; Smith, Elliot; Ivanoff, Paul; Susan Kennedy; 'safouh@smsenergy-engineering.com'

Subject: Re: MPS Update

I just received a draft letter agreement between TCE and MPS which I think you should review. The cover email from John Mikkelsen states the following:

"TransCanada and MPS have been working on the letter agreement for the release from suspension and now have agreed form. This letter agreement contains the language surrounding the not to exceed pricing and includes the proposal. I have attached the letter agreement to this e-mail. I know this does not answer your question directly but I believe this is more robust and reflects the current status. Does this address your concerns regarding the wording in the e-mail provided previously? Please don't hesitate to contact me should you have any questions today."

I have taken a guick look at it and the language on the not to exceed price states the following:

From: Sebastiano, Rocco

Sent: Thursday, December 30, 2010 11:24 AM

To: 'Michael.killeavy@powerauthority.on.ca' <Michael.killeavy@powerauthority.on.ca> **Cc**: 'deborah.langelaan@powerauthority.on.ca' <deborah.langelaan@powerauthority.on.ca>

Subject: Re: MPS Update

I sent John an email asking for the clarification, but there has not been a response yet.

Regards, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 11:08 AM

To: Sebastiano, Rocco

Cc: Deborah Langelaan < Deborah. Langelaan@powerauthority.on.ca>

Subject: Re: MPS Update

Rocco,

Did TCE ever clarify the "change" wording in the email yesterday where it's ostensibly agreed to a 25% cap on the fast start proposal?

Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 30, 2010 09:49 AM

To: Deborah Langelaan

Cc: Lazaroff, Lara <LLazaroff@osler.com>; Michael Killeavy

Subject: RE: MPS Update

Deb, the five emails have been forwarded to Safouh. I have also asked Lara to print them out on case you and Michael would like to come over to take a look at them.

Regards, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 9:35 AM

To: Sebastiano, Rocco Subject: FW: MPS Update

Rocco;

Would you please let me know when the information has been forwarded to Safouh?

Thanks, Deb

Deborah Langelaan | Manager, Natural Gas Projects | OPA |
Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 |
T: 416.969.6052 | F: 416.967.1947 | | deborah.langelaan@powerauthority.on.ca |

From: Michael Killeavy

Sent: December 29, 2010 7:17 PM

-To: -john_mikkelsen@transcanada.com'; Deborah-Langelaan-------

Cc: 'RSebastiano@osler.com'

Subject: Re: MPS Update

Rocco has confirmed receipt of all five emails. His mailbox is full and he can't send any emails, so I am sending this confirmation on his behalf.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 07:00 PM

To: Michael Killeavy; Deborah Langelaan

Cc: RSebastiano@osler.com <RSebastiano@osler.com>

Subject: RE: MPS Update

All five e-mails now sent from my inbox. Some of the files were of the order of 10 MB. Let me know if this is a problem and I will find another way to get them to you.

Best Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 6:42 PM

To: John Mikkelsen; Deborah Langelaan

Cc: RSebastiano@osler.com Subject: Re: MPS Update

You've sent them to Osler, correct?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 06:38 PM

To: Michael Killeavy; Deborah Langelaan

Subject: MPS Update

I just sent the first of what I expect to be several e-mails from MPS. The files are large. Please let me know if there are any issues in receiving them.

Regards,

Cell:416.559.1664

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102
Fax:416.869.2056

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

	-			
		·		
,				
·				
			·	
			·	
		•		
		,		

From:

Michael Killeavy

Sent: To: December 30, 2010 1:48 PM 'RSebastiano@osler.com'

Subject:

Re: MPS Update

Ok. I'm on my way.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 30, 2010 01:44 PM

To: Michael Killeavy

Cc: Deborah Langelaan; Smith, Elliot <ESmith@osler.com>; Ivanoff, Paul <PIvanoff@osler.com>; Susan Kennedy;

'safouh@smsenergy-engineering.com' <safouh@smsenergy-engineering.com>

Subject: Re: MPS Update

It must be Article 14 of ESA as the draft letter agreement does not have an Article 14.

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 01:42 PM

To: Sebastiano, Rocco

Cc: Deborah Langelaan < Deborah.Langelaan@powerauthority.on.ca>; Smith, Elliot; Ivanoff, Paul; Susan Kennedy < Susan.Kennedy@powerauthority.on.ca>; safouh@smsenergy-engineering.com < safouh@smsenergy-engineering.com>

Subject: RE: MPS Update

Agreed. This language is not as comforting as it was explained yesterday. Does Article 14 refer to ESA Article 14 or

--- Article 14 of the letter agreement? -----

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX) From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 30, 2010 1:37 PM

To: Michael Killeavy

Cc: Deborah Langelaan; Smith, Elliot; Ivanoff, Paul; Susan Kennedy; 'safouh@smsenergy-engineering.com'

Subject: Re: MPS Update

Apologies, but I sent out this email before completing it. Here are the excepts from the letter agreement that I wanted to include:

"The OPA has reviewed and indicated its acceptance of the Budgetary Proposal, and therefore Supplier and Purchaser agree that the Supplier's Work shall no longer be suspended effective December 31, 2010 and Supplier shall proceed with the Work in accordance with the Budgetary Proposal, subject to the terms and conditions set out herein."

And:

"Supplier agrees to propose a revised Contract Price based upon such New Equipment on or before February 10, 2011. Such proposed Contract Price shall include any amounts determined in accordance with Article 14 as needing to be paid as a result of the suspensions described in the Previous Letter Agreements. Supplier agrees that the additional amount for the New Equipment that will be included in the revised Contract Price will not exceed 125% of such amount included in the Budgetary Proposal. However, the Budgetary Proposal was based upon information and scope of supply provided prior to December 16, 2010 and is subject to change depending upon any changes in the scope of supply provided by Purchaser or new information provided by Purchaser or a third party after such date."

I am not entirely happy with the not to exceed language as it does not refer specifically back to MPS's fast start technical proposal, rather refers to being based on "information and scope of supply provided prior to December 16". Not sure what this means as it is somewhat undefined.

Let's discuss this further once you have had a chance to review and consider this further.

Thanks, Rocco

From: Sebastiano, Rocco

Sent: Thursday, December 30, 2010 01:30 PM

To: 'Michael.killeavy@powerauthority.on.ca' < Michael.killeavy@powerauthority.on.ca>

Cc: 'deborah.langelaan@powerauthority.on.ca' <deborah.langelaan@powerauthority.on.ca>; Smith, Elliot; Ivanoff, Paul; 'susan.kennedy@powerauthority.on.ca' <susan.kennedy@powerauthority.on.ca>; 'safouh@smsenergy-engineering.com' <safouh@smsenergy-engineering.com>

Subject: Re: MPS Update

I just received a draft letter agreement between TCE and MPS which I think you should review. The cover email from John Mikkelsen states the following:

"TransCanada and MPS have been working on the letter agreement for the release from suspension and now have agreed form. This letter agreement contains the language surrounding the not to exceed pricing and includes the proposal. I have attached the letter agreement to this e-mail. I know this does not answer your question directly but I believe this is more robust and reflects the current status. Does this address your concerns regarding the wording in the e-mail provided previously? Please don't hesitate to contact me should you have any questions today."

I have taken a quick look at it and the language on the not to exceed price states the following:

From: Sebastiano, Rocco

Sent: Thursday, December 30, 2010 11:24 AM

To: 'Michael.killeavy@powerauthority.on.ca' <Michael.killeavy@powerauthority.on.ca> **Cc:** 'deborah.langelaan@powerauthority.on.ca' <deborah.langelaan@powerauthority.on.ca>

Subject: Re: MPS Update

I sent John an email asking for the clarification, but there has not been a response yet.

Regards, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 11:08 AM

To: Sebastiano, Rocco

Cc: Deborah Langelaan < Deborah.Langelaan@powerauthority.on.ca>

Subject: Re: MPS Update

Rocco,

Did TCE ever clarify the "change" wording in the email yesterday where it's ostensibly agreed to a 25% cap on the fast start proposal?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 30, 2010 09:49 AM

To: Deborah Langelaan

Cc: Lazaroff, Lara <LLazaroff@osler.com>; Michael Killeavy

Subject: RE: MPS Update

Deb, the five emails have been forwarded to Safouh. I have also asked Lara to print them out on case you and Michael would like to come over to take a look at them.

Regards, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 9:35 AM

To: Sebastiano, Rocco **Subject:** FW: MPS Update

Rocco;

Would you please let me know when the information has been forwarded to Safouh?

Thanks, Deb

Deborah Langelaan | Manager, Natural Gas Projects | OPA |
Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 |
T: 416.969.6052 | F: 416.967.1947 | | deborah.langelaan@powerauthority.on.ca |

From: Michael Killeavy

Sent: December 29, 2010 7:17 PM

To: 'john_mikkelsen@transcanada.com'; Deborah Langelaan

Cc: 'RSebastiano@osler.com' Subject: Re: MPS Update

Rocco has confirmed receipt of all five emails. His mailbox is full and he can't send any emails, so I am sending this confirmation on his behalf.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 07:00 PM

To: Michael Killeavy; Deborah Langelaan

Cc: RSebastiano@osler.com <RSebastiano@osler.com>

Subject: RE: MPS Update

All five e-mails now sent from my inbox. Some of the files were of the order of 10 MB. Let me know if this is a problem and I will find another way to get them to you.

Best Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 6:42 PM

To: John Mikkelsen; Deborah Langelaan

Cc: RSebastiano@osler.com **Subject:** Re: MPS Update

You've sent them to Osler, correct?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 06:38 PM

To: Michael Killeavy; Deborah Langelaan

Subject: MPS Update

I just sent the first of what I expect to be several e-mails from MPS. The files are large. Please let me know if there are any issues in receiving them.

Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

6

From:

Michael Killeavy

Sent:

December 30, 2010 2:08 PM 'RSebastiano@osler.com'

Cc:

Deborah Langelaan; 'ESmith@osler.com'; 'Plvanoff@osler.com'; Susan Kennedy;

'safouh@smsenergy-engineering.com'; 'LLazaroff@osler.com'

Subject:

Re: MPS Update

The letter agreement says that we've agreed with TCE to deploy two M501 GAC Fast Start GTs in Cambridge. Our MOU is silent on equipment selection. Do you know where they got this from?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 30, 2010 01:41 PM

To: Michael Killeavy

Cc: Deborah Langelaan; Smith, Elliot <ESmith@osler.com>; Ivanoff, Paul <PIvanoff@osler.com>; Susan Kennedy; 'safouh@smsenergy-engineering.com' <safouh@smsenergy-engineering.com>; Lazaroff, Lara <LLazaroff@osler.com>

Subject: Re: MPS Update

This is certainly annoying. I see no reason why this letter agreement should be treated as per the MPS acknowledgment. After all, TCE gave the OPA the entire text of the two other amending letter agreements with MPS.

Anyways, I have asked Lara to print out the draft letter agreement and email from TCE so that you can come over to review it.

Thanks, Rocco

From: Michael Killeavy [mailto:Michael Killeavy@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 01:35 PM

To: Sebastiano, Rocco

Cc: Deborah Langelaan < Deborah.Langelaan@powerauthority.on.ca>; Smith, Elliot; Ivanoff, Paul; Susan Kennedy < Susan.Kennedy@powerauthority.on.ca>; safouh@smsenergy-engineering.com < safouh@smsenergy-engineering.com >

Subject: RE: MPS Update

Ok. Where may I review this letter agreement?

Michael Killeavy, LL.B., MBA, P.Eng.

Director, Contract Management
Ontario Power Authority
120 Adelaide Street West, Suite 1600
Toronto, Ontario
M5H 1T1
416-969-6288
416-5209788 (CELL)
416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 30, 2010 1:30 PM

To: Michael Killeavy

Cc: Deborah Langelaan; Smith, Elliot; Ivanoff, Paul; Susan Kennedy; 'safouh@smsenergy-engineering.com'

Subject: Re: MPS Update

I just received a draft letter agreement between TCE and MPS which I think you should review. The cover email from John Mikkelsen states the following:

"TransCanada and MPS have been working on the letter agreement for the release from suspension and now have agreed form. This letter agreement contains the language surrounding the not to exceed pricing and includes the proposal. I have attached the letter agreement to this e-mail. I know this does not answer your question directly but I believe this is more robust and reflects the current status. Does this address your concerns regarding the wording in the e-mail provided previously? Please don't hesitate to contact me should you have any questions today."

I have taken a quick look at it and the language on the not to exceed price states the following:

From: Sebastiano, Rocco

Sent: Thursday, December 30, 2010 11:24 AM

To: 'Michael.killeavy@powerauthority.on.ca' <Michael.killeavy@powerauthority.on.ca> **Cc:** 'deborah.langelaan@powerauthority.on.ca' <deborah.langelaan@powerauthority.on.ca>

Subject: Re: MPS Update

I sent John an email asking for the clarification, but there has not been a response yet.

Regards, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 11:08 AM

To: Sebastiano, Rocco

Cc: Deborah Langelaan < Deborah.Langelaan@powerauthority.on.ca>

Subject: Re: MPS Update

Rocco,

Did TCE ever clarify the "change" wording in the email yesterday where it's ostensibly agreed to a 25% cap on the fast start proposal?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 30, 2010 09:49 AM

To: Deborah Langelaan

Cc: Lazaroff, Lara <LLazaroff@osler.com>; Michael Killeavy

Subject: RE: MPS Update

Deb, the five emails have been forwarded to Safouh. I have also asked Lara to print them out on case you and Michael would like to come over to take a look at them.

Regards, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 9:35 AM

To: Sebastiano, Rocco **Subject:** FW: MPS Update

Rocco;

Would you please let me know when the information has been forwarded to Safouh?

Thanks, Deb

Deborah Langelaan | Manager, Natural Gas Projects | OPA |
Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 |
T: 416.969.6052 | F: 416.967.1947 | | deborah.langelaan@powerauthority.on.ca |

From: Michael Killeavy

Sent: December 29, 2010 7:17 PM

To: 'john_mikkelsen@transcanada.com'; Deborah Langelaan

Cc: 'RSebastiano@osler.com' **Subject:** Re: MPS Update

Rocco has confirmed receipt of all five emails. His mailbox is full and he can't send any emails, so I am sending this confirmation on his behalf.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 07:00 PM

To: Michael Killeavy; Deborah Langelaan

Cc: RSebastiano@osler.com <RSebastiano@osler.com>

Subject: RE: MPS Update

All five e-mails now sent from my inbox. Some of the files were of the order of 10 MB. Let me know if this is a problem and I will find another way to get them to you.

Best Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 6:42 PM

To: John Mikkelsen; Deborah Langelaan

Cc: RSebastiano@osler.com **Subject:** Re: MPS Update

You've sent them to Osler, correct?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 06:38 PM

To: Michael Killeavy: Deborah Langelaan

Subject: MPS Update

I just sent the first of what I expect to be several e-mails from MPS. The files are large. Please let me know if there are any issues in receiving them.

Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1

Tel: 416.869.2102 Fax:416.869.2056 Cell:416.559.1664

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

. ţ •

From:

Michael Killeavy

Sent: To:

December 30, 2010 2:29 PM

'RSebastiano@osler.com'

Cc:

Deborah Langelaan; 'ESmith@osler.com'; 'Plvanoff@osler.com'; Susan Kennedy;

'safouh@smsenergy-engineering.com'; 'LLazaroff@osler.com'

Subject:

Re: MPS Update

Rocco,

The commitment in s. 1 seems to go well beyond having MPS provide a firmed up price. It has TCE and MPS amending the ESA for inclusion of the Fast Start GTs, which presumes to OPA agrees to proceed with this option.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 30, 2010 02:16 PM

To: Michael Killeavv

Cc: Deborah Langelaan; Smith, Elliot <ESmith@osler.com>; Ivanoff, Paul <PIvanoff@osler.com>; Susan Kennedy; 'safouh@smsenergy-engineering.com' <safouh@smsenergy-engineering.com>; Lazaroff, Lara <LLazaroff@osler.com>

Subject: Re: MPS Update

Don't know where the language comes from. Our turbine reliance letter says that we would advise TCE by December 31 whether we want them to ask MPS to provide a firm fast start price by Feb 11, but as far as I recall, neither the letter nor the MOU says that the OPA has agreed to deploy the two M501 GAC Fast Start GTs in Cambridge. This statement is not correct. Presumably, we will not agree to this until some time in February after we've seen the final firm price from MPS. This is the only way to keep MPS honest on its fast start pricing, I guess.

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 02:08 PM

To: Sebastiano, Rocco

Cc: Deborah Langelaan < Deborah.Langelaan @powerauthority.on.ca>; Smith, Elliot; Ivanoff, Paul; Susan Kennedy

<Susan.Kennedy@powerauthority.on.ca>; safouh@smsenergy-engineering.com <safouh@smsenergy-

engineering.com>; Lazaroff, Lara

Subject: Re: MPS Update

The letter agreement says that we've agreed with TCE to deploy two M501 GAC Fast Start GTs in Cambridge. Our MOU is silent on equipment selection. Do you know where they got this from?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 30, 2010 01:41 PM

To: Michael Killeavy

Cc: Deborah Langelaan; Smith, Elliot <ESmith@osler.com>; Ivanoff, Paul <PIvanoff@osler.com>; Susan Kennedy; 'safouh@smsenergy-engineering.com' <safouh@smsenergy-engineering.com>; Lazaroff, Lara <LLazaroff@osler.com>

Subject: Re: MPS Update

This is certainly annoying. I see no reason why this letter agreement should be treated as per the MPS acknowledgment. After all, TCE gave the OPA the entire text of the two other amending letter agreements with MPS.

Anyways, I have asked Lara to print out the draft letter agreement and email from TCE so that you can come over to review it.

Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 01:35 PM

To: Sebastiano, Rocco

Cc: Deborah Langelaan Deborah.Langelaan@powerauthority.on.ca; Smith, Elliot; Ivanoff, Paul; Susan Kennedy Susan.Kennedy@powerauthority.on.ca; safouh@smsenergy-engineering.com Safouh@smsenergy-engineering.com>; safouh@smsenergy-engineering.com Susan.Kennedy@powerauthority.on.ca; safouh@smsenergy-engineering.co

Ok. Where may I review this letter agreement?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: December 30, 2010 1:30 PM

To: Michael Killeavy

Cc: Deborah Langelaan; Smith, Elliot; Ivanoff, Paul; Susan Kennedy; 'safouh@smsenergy-engineering.com' **Subject:** Re: MPS Update

I just received a draft letter agreement between TCE and MPS which I think you should review. The cover email from John Mikkelsen states the following:

"TransCanada and MPS have been working on the letter agreement for the release from suspension and now have agreed form. This letter agreement contains the language surrounding the not to exceed pricing and includes the proposal. I have attached the letter agreement to this e-mail. I know this does not answer your question directly but I believe this is more robust and reflects the current status. Does this address your concerns regarding the wording in the e-mail provided previously? Please don't hesitate to contact me should you have any questions today."

I have taken a quick look at it and the language on the not to exceed price states the following:

From: Sebastiano, Rocco

Sent: Thursday, December 30, 2010 11:24 AM

To: 'Michael.killeavy@powerauthority.on.ca' <Michael.killeavy@powerauthority.on.ca> **Cc:** 'deborah.langelaan@powerauthority.on.ca' <deborah.langelaan@powerauthority.on.ca>

Subject: Re: MPS Update

I sent John an email asking for the clarification, but there has not been a response yet.

Regards, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 11:08 AM

To: Sebastiano, Rocco

Cc: Deborah Langelaan < Deborah. Langelaan @powerauthority.on.ca >

Subject: Re: MPS Update

Rocco,

Did TCE ever clarify the "change" wording in the email yesterday where it's ostensibly agreed to a 25% cap on the fast start proposal?

Michael Killeavy, LL.B., MBA, P.Eng.

Director, Contract Management

Ontario Power Authority

120 Adelaide St. West, Suite 1600

Toronto, Ontario, M5H 1T1

416-969-6288 (office)

416-969-6071 (fax)

416-520-9788 (ceil)

Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thursday, December 30, 2010 09:49 AM

To: Deborah Langelaan

Cc: Lazaroff, Lara < LLazaroff@osler.com>; Michael Killeavy

Subject: RE: MPS Update

Deb, the five emails have been forwarded to Safouh. I have also asked Lara to print them out on case you and Michael would like to come over to take a look at them.

Regards, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 9:35 AM

To: Sebastiano, Rocco Subject: FW: MPS Update

Rocco;

Would you please let me know when the information has been forwarded to Safouh?

Thanks, Deb

Deborah Langelaan | Manager, Natural Gas Projects | OPA |
Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 |
T: 416.969.6052 | F: 416.967.1947 | | deborah.langelaan@powerauthority.on.ca |

From: Michael Killeavy

Sent: December 29, 2010 7:17 PM

To: 'john_mikkelsen@transcanada.com'; Deborah Langelaan

Cc: 'RSebastiano@osler.com' Subject: Re: MPS Update

Rocco has confirmed receipt of all five emails. His mailbox is full and he can't send any emails, so I am sending this confirmation on his behalf.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 07:00 PM

To: Michael Killeavy; Deborah Langelaan

Cc: RSebastiano@osler.com < RSebastiano@osler.com >

Subject: RE: MPS Update

All five e-mails now sent from my inbox. Some of the files were of the order of 10 MB. Let me know if this is a problem and I will find another way to get them to you.

Best Regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102
Fax:416.869.2056

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 6:42 PM

To: John Mikkelsen; Deborah Langelaan

Cc: RSebastiano@osler.com **Subject:** Re: MPS Update

Cell:416.559.1664

You've sent them to Osler, correct?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Wednesday, December 29, 2010 06:38 PM

To: Michael Killeavy; Deborah Langelaan

Subject: MPS Update

I just sent the first of what I expect to be several e-mails from MPS. The files are large. Please let me know if there are any issues in receiving them.

Regards,

John Mikkelsen, P.Eng. Director, Eastern Canada, Power Development TransCanada Royal Bank Plaza 200 Bay Street 24th Floor, South Tower Toronto, Ontario M5J 2J1 Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 30, 2010 2:53 PM

To:

'safouh@smsenergy-engineering.com'

Subject:

Re:

What is SFC?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: Thursday, December 30, 2010 02:48 PM To: Michael Killeavy; Deborah Langelaan

Cc: RSebastiano@osler.com <RSebastiano@osler.com>

Subject: RE:

Agreed.

Micheal - are you at Osler office?

If you are, please go to Appendix I, Page 4-7. In items 16 - 22 you will see that the gas turbines were originally specified with SFC which is used for Fast Start.

The revised proposal dated December 23, 2010 also includes SFC. If you go to page 4-7, item 16 refers to SFC with added Comment "7MW". So that we don't speculate, I suggest that the OPA asks TCE for an explanation.

Thanks, Safouh

----Original Message----

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: December 30, 2010 2:21 PM

To: safouh@smsenergy-engineering.com; RSebastiano@osler.com

Cc: Deborah Langelaan

Subject: Re:

Yes. I don't think it's of relevance in relation to tomorrow's decision, though.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management

Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: Thursday, December 30, 2010 02:05 PM

To: Michael Killeavy; RSebastiano@osler.com <RSebastiano@osler.com>

Cc: Deborah Langelaan

Subject: RE:

It is part of O&M which hasn't been sunk.

----Original Message----

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: December 30, 2010 2:03 PM

To: safouh@smsenergy-engineering.com; RSebastiano@osler.com

Cc: Deborah Langelaan

Subject: Re:

It would be a sunk cost perhaps.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: Thursday, December 30, 2010 02:01 PM

To: Michael Killeavy; RSebastiano@osler.com <RSebastiano@osler.com>

Cc: Deborah Langelaan

Subject: RE:

We should still need to see the original LTSA. It is needed to confirm "financial value" of OGS.

Thanks, Safouh

----Original Message----

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: December 30, 2010 1:58 PM

To: RSebastiano@osler.com; safouh@smsenergy-engineering.com

Subject: Fw:

FYI ...

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Thursday, December 30, 2010 01:15 PM

To: Deborah Langelaan

Cc: Terri Steeves <terri steeves@transcanada.com>; Michael Killeavy

Subject: Re:

Deborah and Michael,

I spoke to Terri last night and she stated that TC and MPS have done a preliminary review of both the LTSA and LOA and do not anticipate any significant changes. One change to LTSA, may be term to reflect the change to peaking service.

Detailed review is expected in the new year with the firm price so that all amendments are complete by Mar 1.

Please let me know if you have any further concerns in your review.

I will be on BB this afternoon but will check in periodically.

Best regards,

John Mikkelsen

---- Original Message -----

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Wednesday, December 29, 2010 02:21 PM

To: John Mikkelsen

Cc: Terri Steeves; Michael Killeavy <Michael.Killeavy@powerauthority.on.ca>

John;

Is there a particular reason why the discussion surrounding the Technology Risk Support Letter Agreement and LTSA needs to wait for a decision on the Fast start option? Presumably the scope of work is known now.

Thanks, Deb This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged,

confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited.

If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

From:

Michael Killeavy

Sent:

December 30, 2010 3:36 PM

To:

'RSebastiano@osler.com'

Cc: Subject:

'Plvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langelaan RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Here is draft #3 with Paul's comment as new point #2:

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comments:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering consenting to proceed with the fixed pricing for these FastStart GTs only.
- 2. We don't think it's correct to say that the OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. TCE should delete the remainder of the sentence following "multiple sites."
- 3. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 4. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs. The drafting of the not-to-exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s. 1. Why can't it just say that the 125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?
- 5. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 6. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng.

Director, Contract Management

Ontario Power Authority

120-Adelaide-St.-West, Suite-1600----

Toronto, Ontario, M5H 1T1

416-969-6288 (office)

416-969-6071 (fax)

416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Thu 12/30/2010 3:24 PM To: 'RSebastiano@osler.com'

Cc: 'PIvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langelaan

Subject: RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Here is draft #2:

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comment:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering consenting to proceed with the fixed pricing for these FastStart GTs only.
- 2. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 3. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs. The drafting of the not to exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s. 1. Why can't it just say that the 125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?
- 4. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 5. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. They should delete the words following "multiple sites

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Thu 12/30/2010 2:51 PM To: 'RSebastiano@osler.com'

Cc: 'PIvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langelaan **Subject:** Response to MPS-TCE Draft Letter Agreement 31 Dec 2010

Rocco,

Based on our review and discussions, here's how we propose to respond to TCE:

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comment:

1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering consenting to proceed with the fixed pricing for these GTs only.

- 2. I don't it's correct to say that the OPA has accepted the Budgetary Proposal. It's been to TCE by MPS, and not the OPA.
- 3. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these GTs.
- 4. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the GTs is made, MPS will not have incurred any commitments with regard to the GTs.
- 5. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Deb"

Do you have any comments on this proposed email?

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From:

Michael Killeavy

Sent:

December 30, 2010 3:44 PM

To:

Michael Killeavy; 'RSebastiano@osler.com'

Cc: Subject: 'Plvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langelaan RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

...

Importance:

High

Draft #4 incorporating Rocco's latest comments:

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comments:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering whether to request TCE to obtain from MPS a fixed price for these FastStart GTs only.
- 2. We don't think it's correct to say that the OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. TCE should delete the remainder of the sentence following "multiple sites."
- 3. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 4. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs.
- 5. The drafting of the not-to-exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s.

 1. Why can't it just say that the 125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?
- 6. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 6. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Thu 12/30/2010 3:35 PM

To: 'RSebastiano@osler.com'

Cc: 'PIvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langelaan

Subject: RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Here is draft #3 with Paul's comment as new point #2:

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comments:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering consenting to proceed with the fixed pricing for these FastStart GTs only.
- 2. We don't think it's correct to say that the OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. TCE should delete the remainder of the sentence following "multiple sites."
- 3. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 4. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs. The drafting of the not-to-exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s. 1. Why can't it just say that the 125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?
- 5. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 6. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Thu 12/30/2010 3:24 PM To: 'RSebastiano@osler.com'

Cc: 'PIvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langelaan

Subject: RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Here is draft #2:

"John.

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comment:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering consenting to proceed with the fixed pricing for these FastStart GTs only.
- 2. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 3. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs. The drafting of the not to exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s. 1. Why can't it just say that the 125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?
- 4. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 5. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. They should delete the words following "multiple sites

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Michael Killeavv

Sent: Thu 12/30/2010 2:51 PM **To:** 'RSebastiano@osler.com'

Cc: 'PIvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langelaan

Subject: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010

Rocco.

Based on our review and discussions, here's how we propose to respond to TCE:

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comment:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering consenting to proceed with the fixed pricing for these GTs only.
- 2. I don't it's correct to say that the OPA has accepted the Budgetary Proposal. It's been to TCE by MPS, and not the OPA.
- 3. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these GTs.

- 4. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the GTs is made, MPS will not have incurred any commitments with regard to the GTs.
- 5. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Deb"

Do you have any comments on this proposed email?

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From:

Michael Killeavy

Sent:

December 30, 2010 3:52 PM

To:

Sebastiano, Rocco

Subject:

RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

• • • •

It was a test. You passed.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thu 12/30/2010 3:50 PM

To: Michael Killeavy

Subject: Re: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Minor edit, have two #6's.

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 03:43 PM

To: Michael Killeavy < Michael. Killeavy @powerauthority.on.ca>; Sebastiano, Rocco

Cc: Ivanoff, Paul; Susan Kennedy < Susan. Kennedy @powerauthority.on.ca>; JoAnne Butler < joanne.butler @powerauthority.on.ca>;

Deborah Langelaan < Deborah. Langelaan @powerauthority.on.ca>

Subject: RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Draft #4 incorporating Rocco's latest comments:

"John.

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comments:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering whether to request TCE to obtain from MPS a fixed price for these FastStart GTs only.
- 2. We don't think it's correct to say that the OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. TCE should delete the remainder of the sentence following "multiple sites."
- 3. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 4. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs.
- 5. The drafting of the not-to-exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s.

- 1. Why can't it just say that the 125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?
- 6. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 6. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Thu 12/30/2010 3:35 PM To: 'RSebastiano@osler.com'

Cc: 'PIvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langelaan

Subject: RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Here is draft #3 with Paul's comment as new point #2:

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comments:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering consenting to proceed with the fixed pricing for these FastStart GTs only.
- 2. We don't think it's correct to say that the OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. TCE should delete the remainder of the sentence following "multiple sites."
- 3. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 4. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs. The drafting of the not-to-exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s. 1. Why can't it just say that the 125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?
- 5. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 6. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Thu 12/30/2010 3:24 PM To: 'RSebastiano@osler.com'

Cc: 'PIvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langelaan

Subject: RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Here is draft #2:

"John.

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comment:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering consenting to proceed with the fixed pricing for these FastStart GTs only.
- 2. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 3. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs. The drafting of the not to exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s. 1. Why can't it just say that the 125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?
- 4. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 5. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. They should delete the words following "multiple sites

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Thu 12/30/2010 2:51 PM To: 'RSebastiano@osler.com'

Cc: 'PIvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langeiaan

Subject: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010

Rocco,

Based on our review and discussions, here's how we propose to respond to TCE:

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comment:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering consenting to proceed with the fixed pricing for these GTs only.
- 2. I don't it's correct to say that the OPA has accepted the Budgetary Proposal. It's been to TCE by MPS, and not the OPA.
- 3. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these GTs.
- 4. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the GTs is made, MPS will not have incurred any commitments with regard to the GTs.
- 5. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Deb"

Do you have any comments on this proposed email?

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1Tl 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From:

Michael Killeavy

Sent:

December 30, 2010 3:52 PM

To: Subject:

Deborah Langelaan FINAL DRAFT ...

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comments:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering whether to request TCE to obtain from MPS a fixed price for these FastStart GTs only.
- 2. We don't think it's correct to say that the OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. TCE should delete the remainder of the sentence following "multiple sites."
- 3. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 4. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs.
- 5. The drafting of the not-to-exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s.

 1. Why can't it just say that the 125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?
- 6. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 7. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Deb:-)

Michael Killeavy, LL.B., MBA, P.Eng.

Director, Contract Management

Ontario Power Authority

120-Adelaide-St.-West,-Suite-1600-

Toronto, Ontario, M5H 1T1

416-969-6288 (office)

416-969-6071 (fax)

416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

From:

Michael Killeavy

Sent:

December 30, 2010 4:16 PM

To:

'Safouh Soufi'; 'RSebastiano@osler.com'

Cc: Subject: Deborah Langelaan RE: Further Info from TCE

I believe so.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

----Original Message----

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 30, 2010 4:15 PM

To: RSebastiano@osler.com

Cc: Michael Killeavy; Deborah Langelaan

Subject: Further Info from TCE

Hello Rocco:

I promised earlier to get back to you if there is additional info that we need to get from TCE. For now I think we are OK and I will continue my review.

Just so that I am clear, the Budgetary Proposal that was referred to in the last Letter Agreement between TCE and MPS (received today) forming Attachment 1 is the one dated December 2010 and titled "Budgetary Technical Proposal". Would this be correct?

Thanks,
Safouh

From:

Michael Killeavv

Sent:

December 30, 2010 4:19 PM

To:

'Safouh Soufi'; 'RSebastiano@osler.com'

Cc:

Deborah Langelaan

Subject:

RE: Further Info from TCE

Can we teleconference tomorrow morning before 9:30am to go over your findings? Deb and I got tied up on the other matter this afternoon. Sorry about that.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

----Original Message----

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 30, 2010 4:15 PM

To: RSebastiano@osler.com

Cc: Michael Killeavy; Deborah Langelaan

Subject: Further Info from TCE

Hello Rocco:

I promised earlier to get back to you if there is additional info that we need to get from TCE. For now I think we are OK and I will continue my review.

Just so that I am clear, the Budgetary Proposal that was referred to in the last Letter Agreement between TCE and MPS (received today) forming Attachment 1 is the one dated December 2010 and titled "Budgetary Technical Proposal". Would this be correct?

Thanks, Safouh

From:

Michael Killeavy

Sent:

December 30, 2010 5:14 PM

To:

'safouh@smsenergy-engineering.com'; 'RSebastiano@osler.com'

Cc:

Deborah Langelaan

Subject:

Re: Further Info from TCE

Yes. Unfortunately we need to reach a decision tomorrow. I'm sorry for ruining your evening Safouh.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: Thursday, December 30, 2010 05:12 PM

To: Michael Killeavy; RSebastiano@osler.com < RSebastiano@osler.com >

Cc: Deborah Langelaan

Subject: RE: Further Info from TCE

We can have call at 9:30 am tomorrow.

Just so that you know, I will be leaving the office shortly for a dinner engagement which will go on till 11:30 pm. I don't mind continuing my review once the party is over; if the purpose of the 9:30 am is to have gone through sufficient information to help you make a decision on Fast Start by tomorrow.

Please let me know if I should do more review before the call tomorrow.

Thanks, Safouh

----Original Message----

From: Michael Killeavy [mailto:Michael-Killeavy@powerauthority.on.ca]

Sent: December 30, 2010 4:19 PM

To: Safouh Soufi; RSebastiano@osler.com

Cc: Deborah Langelaan

Subject: RE: Further Info from TCE

Can we teleconference tomorrow morning before 9:30am to go over your findings? Deb and I got tied up on the other matter this afternoon.

Sorry about that.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

----Original Message----

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 30, 2010 4:15 PM

To: RSebastiano@osler.com

Cc: Michael Killeavy; Deborah Langelaan

Subject: Further Info from TCE

Hello Rocco:

I promised earlier to get back to you if there is additional info that we

need to get from TCE. For now I think we are OK and I will continue my review.

Just so that I am clear, the Budgetary Proposal that was referred to in the

last Letter Agreement between TCE and MPS (received today) forming Attachment 1 is the one dated December 2010 and titled "Budgetary Technical

Proposal". Would this be correct?

Thanks, Safouh

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged,

confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited.

If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From:

Michael Killeavv

Sent:

December 30, 2010 5:18 PM

To:

Deborah Langelaan

Subject:

Fw: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

...

JoAnne's dialling into the briefing tomorrow.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: JoAnne Butler

Sent: Thursday, December 30, 2010 05:16 PM

To: Michael Killeavy

Subject: Re: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Yes, I will dial in...please send the details...

JCB

From: Michael Killeavy

Sent: Thursday, December 30, 2010 05:04 PM

To: JoAnne Butler

Subject: Re: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

I'll be briefing Kim (as Colin's delegate) and Mike Lyle tomorrow. We need a decision on whetehr to proceed with pricing the fast start or continue suspension. Do you want to dial into the briefing?

Michael Killeavy, LL.B., MBA, P.Eng.

Director, Contract Management

Ontario Power Authority

120 Adelaide St. West, Suite 1600

Toronto, Ontario, M5H 1T1

416-969-6288 (office)

416-969-6071 (fax)

416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Thursday, December 30, 2010 04:15 PM

To: JoAnne Butler

Subject: RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

It was sent to you for information. It was sent. I imagine they will be upset, but what they've agreed to with MPS doesn't help us.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: JoAnne Butler

Sent: December 30, 2010 4:10 PM

To: Michael Killeavy

Subject: Re: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

I think that you have enough quality input from others closer to this than me at this point. If you are comfortable, ok to send.

I am around tomorrow...

JCB

From: Michael Killeavy

Sent: Thursday, December 30, 2010 03:43 PM

To: Michael Killeavy; 'RSebastiano@osler.com' <RSebastiano@osler.com>

Cc: 'PIvanoff@osler.com' <PIvanoff@osler.com>; Susan Kennedy; JoAnne Butler; Deborah Langelaan Subject: RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Draft #4 incorporating Rocco's latest comments:

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comments:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering whether to request TCE to obtain from MPS a fixed price for these FastStart GTs only.
- 2. We don't think it's correct to say that the OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. TCE should delete the

remainder of the sentence following "multiple sites."

- 3. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 4. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs.
- 5. The drafting of the not-to-exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s.

 1. Why can't it just say that the 125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?
- 6. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 6. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Thu 12/30/2010 3:35 PM To: 'RSebastiano@osler.com'

Cc: 'PIvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langelaan

Subject: RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Here is draft #3 with Paul's comment as new point #2:

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comments:

- -- 1.—The OPA has not agreed with TCE to deploy the Fast Start-GTs.—We are considering consenting to proceed with the fixed pricing for these FastStart GTs only.
 - 2. We don't think it's correct to say that the OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. TCE should delete the remainder of the sentence following "multiple sites."
 - 3. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
 - 4. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs. The drafting of the not-to-exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s. 1. Why can't it just say that the

125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?

- 5. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 6. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Thu 12/30/2010 3:24 PM To: 'RSebastiano@osler.com'

Cc: 'PIvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langelaan

Subject: RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Here is draft #2:

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comment:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering consenting to proceed with the fixed pricing for these FastStart GTs only.
- 2. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 3. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs. The drafting of the not to exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s. 1. Why can't it just say that the 125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?
- 4. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 5. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. They should delete the words following "multiple sites

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Thu 12/30/2010 2:51 PM To: 'RSebastiano@osler.com'

Cc: 'PIvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langelaan **Subject:** Response to MPS-TCE Draft Letter Agreement 31 Dec 2010

Rocco,

Based on our review and discussions, here's how we propose to respond to TCE:

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comment:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering consenting to proceed with the fixed pricing for these GTs only.
- 2. I don't it's correct to say that the OPA has accepted the Budgetary Proposal. It's been to TCE by MPS, and not the OPA.
- 3. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these GTs.
- 4. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the GTs is made, MPS will not have incurred any commitments with regard to the GTs.
- 5. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Deb"

Do you have any comments on this proposed email?

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From:

Michael Killeavy

Sent:

December 30, 2010 5:19 PM

To:

JoAnne Butler

Subject:

Re: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

....

It's 9:30am tomorrow. I'll tee up the teleconf when I'm in tomorrow.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: JoAnne Butler

Sent: Thursday, December 30, 2010 05:16 PM

To: Michael Killeavy

Subject: Re: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Yes, I will dial in...please send the details...

JCB

From: Michael Killeavy

Sent: Thursday, December 30, 2010 05:04 PM

To: JoAnne Butler

Subject: Re: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

I'll be briefing Kim (as Colin's delegate) and Mike Lyle tomorrow. We need a decision on whetehr to proceed with pricing the fast start or continue suspension. Do you want to dial into the briefing?

Michael Killeavy, LL.B., MBA, P.Eng.

Director, Contract Management

Ontario Power Authority

120 Adelaide St. West, Suite 1600

Toronto, Ontario, M5H 1T1

416-969-6288 (office)

416-969-6071 (fax)

416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Thursday, December 30, 2010 04:15 PM

To: JoAnne Butler

Subject: RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

It was sent to you for information. It was sent. I imagine they will be upset, but what they've agreed to with MPS doesn't help us.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: JoAnne Butler

Sent: December 30, 2010 4:10 PM

To: Michael Killeavy

Subject: Re: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

I think that you have enough quality input from others closer to this than me at this point. If you are comfortable, ok to send.

I am around tomorrow...

JCB -

From: Michael Killeavy

Sent: Thursday, December 30, 2010 03:43 PM

To: Michael Killeavy; 'RSebastiano@osler.com' <RSebastiano@osler.com>

Cc: 'PIvanoff@osler.com' <PIvanoff@osler.com>; Susan Kennedy; JoAnne Butler; Deborah Langelaan **Subject**: RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Draft #4 incorporating Rocco's latest comments:

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comments:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering whether to request TCE to obtain from MPS a fixed price for these FastStart GTs only.
- 2. We don't think it's correct to say that the OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. TCE should delete the

remainder of the sentence following "multiple sites."

- 3. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 4. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs.
- 5. The drafting of the not-to-exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s.

 1. Why can't it just say that the 125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?
- 6. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 6. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Thu 12/30/2010 3:35 PM To: 'RSebastiano@osler.com'

Cc: 'PIvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langelaan

Subject: RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Here is draft #3 with Paul's comment as new point #2:

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comments:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering consenting to proceed with the fixed pricing for these FastStart GTs only.
- 2. We don't think it's correct to say that the OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. TCE should delete the remainder of the sentence following "multiple sites."
- 3. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 4. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs. The drafting of the not-to-exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s. 1. Why can't it just say that the

125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?

- 5. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 6. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Thu 12/30/2010 3:24 PM To: 'RSebastiano@osler.com'

Cc: 'PIvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langelaan

Subject: RE: Response to MPS-TCE Draft Letter Agreement 31 Dec 2010 - Once More With Feeling

Here is draft #2:

"John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comment:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering consenting to proceed with the fixed pricing for these FastStart GTs only.
- 2. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 3. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs. The drafting of the not to exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s. 1. Why can't it just say that the 125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?
- 4. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 5. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. They should delete the words following "multiple sites

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy

Sent: Thu 12/30/2010 2:51 PM To: 'RSebastiano@osler.com'

Cc: 'PIvanoff@osler.com'; Susan Kennedy; JoAnne Butler; Deborah Langelaan **Subject:** Response to MPS-TCE Draft Letter Agreement 31 Dec 2010

Rocco,

Based on our review and discussions, here's how we propose to respond to TCE:

"John.

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comment:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering consenting to proceed with the fixed pricing for these GTs only.
- 2. I don't it's correct to say that the OPA has accepted the Budgetary Proposal. It's been to TCE by MPS, and not the OPA.
- 3. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these GTs.
- 4. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the GTs is made, MPS will not have incurred any commitments with regard to the GTs.
- 5. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Deb"

Do you have any comments on this proposed email?

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From:

Michael Killeavy

Sent:

December 30, 2010 5:20 PM

To:

Deborah Langelaan

Cc:

'safouh@smsenergy-engineering.com'

Subject:

Re: Further Info from TCE

Right. I said before 9:30am originally.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message ----

From: Deborah Langelaan

Sent: Thursday, December 30, 2010 05:18 PM

To: Michael Killeavy

Cc: 'safouh@smsenergy-engineering.com' <safouh@smsenergy-engineering.com>

Subject: Re: Further Info from TCE

Michael;

We have a 9:30 meeting with Kim Marshall and Michael Lyle tomorrow.

Deb

---- Original Message -----

From: Michael Killeavy

Sent: Thursday, December 30, 2010 05:14 PM

To: 'safouh@smsenergy-engineering.com' <safouh@smsenergy-engineering.com>;

'RSebastiano@osler.com' < RSebastiano@osler.com>

Cc: Deborah Langelaan

Subject: Re: Further Info from TCE

Yes. Unfortunately we need to reach a decision tomorrow. I'm sorry for ruining your evening Safouh.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: Thursday, December 30, 2010 05:12 PM

To: Michael Killeavy; RSebastiano@osler.com <RSebastiano@osler.com>

Cc: Deborah Langelaan

Subject: RE: Further Info from TCE

We can have call at 9:30 am tomorrow.

Just so that you know, I will be leaving the office shortly for a dinner engagement which will go on till 11:30 pm. I don't mind continuing my review once the party is over; if the purpose of the 9:30 am is to have gone through sufficient information to help you make a decision on Fast Start by tomorrow.

Please let me know if I should do more review before the call tomorrow.

Thanks, Safouh

----Original Message----

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: December 30, 2010 4:19 PM

To: Safouh Soufi; RSebastiano@osler.com

Cc: Deborah Langelaan

Subject: RE: Further Info from TCE

Can we teleconference tomorrow morning before 9:30am to go over your findings? Deb and I got tied up on the other matter this afternoon. Sorry about that.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

----Original Message----

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 30, 2010 4:15 PM

To: RSebastiano@osler.com

Cc: Michael Killeavy; Deborah Langelaan

Subject: Further Info from TCE

Hello Rocco:

I promised earlier to get back to you if there is additional info that we

need to get from TCE. For now I think we are OK and I will continue my review.

Just so that I am clear, the Budgetary Proposal that was referred to in the

last Letter Agreement between TCE and MPS (received today) forming Attachment 1 is the one dated December 2010 and titled "Budgetary Technical

Proposal". Would this be correct?

Thanks, Safouh

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged,

confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited.

If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From:

Michael Killeavy

Sent:

December 30, 2010 5:21 PM

To:

'safouh@smsenergy-engineering.com'; 'RSebastiano@osler.com'

Cc:

Deborah Langelaan

Subject:

Re: Further Info from TCE

Safouh,

We need to teleconference before 9:30am. How is 9am?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: Thursday, December 30, 2010 05:12 PM

To: Michael Killeavy; RSebastiano@osler.com < RSebastiano@osler.com >

Cc: Deborah Langelaan

Subject: RE: Further Info from TCE

We can have call at 9:30 am tomorrow.

Just so that you know, I will be leaving the office shortly for a dinner engagement which will go on till 11:30 pm. I don't mind continuing my review once the party is over; if the purpose of the 9:30 am is to have gone through sufficient information to help you make a decision on Fast Start by tomorrow.

Please let me know if I should do more review before the call tomorrow.

Thanks, Safouh

----Original-Message----

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: December 30, 2010 4:19 PM

To: Safouh Soufi; RSebastiano@osler.com

Cc: Deborah Langelaan

Subject: RE: Further Info from TCE

Can we teleconference tomorrow morning before 9:30am to go over your findings? Deb and I got tied up on the other matter this afternoon. Sorry about that.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

----Original Message----

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 30, 2010 4:15 PM

To: RSebastiano@osler.com

Cc: Michael Killeavy; Deborah Langelaan

Subject: Further Info from TCE

Hello Rocco:

I promised earlier to get back to you if there is additional info that we need to get from TCE. For now I think we are OK and I will continue my

Just so that I am clear, the Budgetary Proposal that was referred to in the

last Letter Agreement between TCE and MPS (received today) forming Attachment 1 is the one dated December 2010 and titled "Budgetary Technical

Proposal". Would this be correct?

Thanks, Safouh

review.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged,

confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited.

If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From:

Michael Killeavy

Sent:

December 30, 2010 5:42 PM

To:

'safouh@smsenergy-engineering.com'; 'RSebastiano@osler.com'

Cc:

Deborah Langelaan

Subject:

Re: Further Info from TCE

Yes.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: Thursday, December 30, 2010 05:29 PM

To: Michael Killeavy; Rocco Sebastiano <RSebastiano@osler.com>

Cc: Deborah Langelaan

Subject: Re: Further Info from TCE

Sounds exciting. I take it you or Deborah will send an invite with phone number.

Thanks, Safouh

----Original Message----

From: "Michael Killeavy" < Michael.Killeavy@powerauthority.on.ca>

Date: Thu, 30 Dec 2010 17:20:45

To: <safouh@smsenergy-engineering.com>; <RSebastiano@osler.com> Cc: Deborah Langelaan
Deborah.Langelaan@powerauthority.on.ca>

Subject: Re: Further Info from TCE

Safouh,

We need to teleconference before 9:30am. How is 9am?

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

---- Original Message -----

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: Thursday, December 30, 2010 05:12 PM

To: Michael Killeavy; RSebastiano@osler.com <RSebastiano@osler.com>

Cc: Deborah Langelaan

Subject: RE: Further Info from TCE

We can have call at 9:30 am tomorrow.

Just so that you know, I will be leaving the office shortly for a dinner engagement which will go on till 11:30 pm. I don't mind continuing my review once the party is over; if the purpose of the 9:30 am is to have gone through sufficient information to help you make a decision on Fast Start by tomorrow.

Please let me know if I should do more review before the call tomorrow.

Thanks, Safouh

----Original Message----

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: December 30, 2010 4:19 PM

To: Safouh Soufi; RSebastiano@osler.com

Cc: Deborah Langelaan

Subject: RE: Further Info from TCE

Can we teleconference tomorrow morning before 9:30am to go over your findings? Deb and I got tied up on the other matter this afternoon. Sorry about that.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

----Original Message----

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: December 30, 2010 4:15 PM

To: RSebastiano@osler.com

Cc: Michael Killeavy; Deborah Langelaan

Subject: Further Info from TCE

Hello Rocco:

I promised earlier to get back to you if there is additional info that

need to get from TCE. For now I think we are OK and I will continue my

review.

Just so that I am clear, the Budgetary Proposal that was referred to in the last Letter Agreement between TCE and MPS (received today) forming Attachment 1 is the one dated December 2010 and titled "Budgetary Technical

Proposal". Would this be correct?

Thanks, Safouh

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged,

confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited.

If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From:

Michael Killeavv

Sent:

December 30, 2010 9:01 PM

To:

Deborah Langelaan; Sebastiano, Rocco; Plvanoff@osler.com

Cc:

Susan Kennedy

Subject: Attachments: M501GAC Fast Start Conversion - Presentation ... OGS - MPS Turbine Decision 31 Dec 2010.ppt

Importance:

High

Deb, Rocco and Paul,

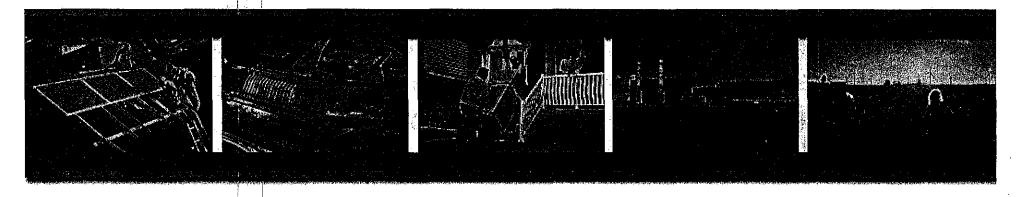
I have attempted to analyze the situation we find ourselves in and I've prepared the attached brief PPT presentation for tomorrow's Executive briefing. I am not wedded to the conclusion and welcome feedback and advice from all of you. Much depends on Safouh's analysis as you'll see, and if his final conclusions are different from what he's said based on his preliminary review, the conclusion gets changed.

Please don't circulate this beyond our little group. I haven't circulated it to Safouh because he's got enough to do and I only want him thinking about technical matters.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca





M501GAC Fast Start Gas Turbine Conversion

December 31, 2010

Privileged and Confidential – Prepared in Contemplation of Litigation

Background

- OPA is negotiating with TransCanada Energy Ltd. ("TCE") to develop a replacement plant in Cambridge.
- It has been determined that the plant will be a peaking generation plant with a capacity of 450 MW.
- The two (2) gas turbines ("GT") purchased and intended for the Oakville GS are Mitsubishi Power Systems ("MPS") M501GAC machines. These have a start time of 43 minutes. We confirmed this by reviewing the startup curve.



Background

- The 43 start up time is too slow for a peaking generation plant, which ideally ought to be within 10 minutes, but has to be within 30 minutes to qualify for the 30-minute Operating Reserve ("OR") that the IESO has.
- It is highly desirable to use the already-purchased GTs in order to minimize the cost to the ratepayer.
- The two (2) M501GAC GT can be converted to start faster, i.e., M501GAC Fast Start GTs. The faster start time is 18 minutes. There is an incremental cost involved in doing this.

GT Technical Analysis

- We have reviewed certain technical information about the M501GAC and M501GAC Fast Start GT provided by TCE and MPS.
- Our technical expert retained for this file confirms that original M501GAC cannot be de-rated, or otherwise modified, to start faster to qualify the GT for 30-minute OR. [NTD: Safouh to confirm]
- Consequently, to re-use the GTs we need to have TCE purchase the Fast Start conversion package.



Price of Fast Start Conversion

- The incremental price for this conversion is estimated at \$33 million (US).
- MPS indicates to TCE that the final price will be no more that 25% higher than this estimated price. The wording of this not-to-exceed price guarantee from MPS to TCE is not the most comforting, as it somewhat conditional.
- We will in any event pass this risk on to TCE in the commercial negotiations since they believe they have a cap on the price.



Status of MPS Work Now

- At this point in time, MPS work on the GTs has been suspended by TCE until 31 December 2010.
- The TCE-MPS Equipment Supply Agreement ("ESA")
 provides for TCE to suspend work, subject to a notice
 period and indemnity for costs associated with the
 suspension.
- TCE has indicated that it can continue the suspension for an addition period of time if requested by the OPA.



Status of MPS Work Now

- If the suspension is lifted and work is permitted to begin again in January 2011, MPS has undertaken to TCE to provide the final pricing on the GT fast start conversion in February 2011.
- We have been told by the government that the negotiations with TCE for the replacement plant need to be completed by March/April 2011.



Value of Continued Suspension

- TCE has requested in the MOU we executed that the OPA decide on whether it wants TCE to proceed with fixing the final price for the fast start conversion by today, 31 December 2010.
- There seems to us little value in a further suspension. It doesn't improve the OPA bargaining position.
- We have done the technical analysis we needed to do and we don't really need more time.



Value of Continued Suspension

- MPS has made a significant concession by providing a price cap of sorts – it had initially not done so – at the request of the OPA. This helps mitigate the risk of runaway costs.
- We may put the March/April 2011 deadline to finalize commercial terms if we suspended further.



- We recommend that we tell TCE to lift the suspension and MPS proceed with fixing the final price for the M501GAC Fast Start conversion.
- This is not without risk, as MPS could attempt to resile from its commitment to a price guarantee of no more than 25% increase over the price estimate of \$33 million, i.e., the final price will not be more that 125% of the initial price estimate. It could also inflate other prices, such as the Long-term Services Agreement ("LTSA") price.



- Unfortunately we need to have the conversion done to re-use the GTs in the proposed peaking plant.
 Cancellation of the GTs now will result in a cancellation fee of 75% of the ESA price of \$145 million (US), roughly \$109 million.
- We need to proceed with finalization of the commercial terms with TCE in order to meet the March/April 2011 government-imposed deadline.



 We will need to monitor other MPS prices during the finalization of the commercial terms to make sure that they are not inflated.



Aleksandar Kojic

From:

Michael Killeavy

Sent:

December 31, 2010 4:02 AM

To:

Sebastiano, Rocco; Deborah Langelaan

Cc:

Susan Kennedy; Ivanoff, Paul

Subject:

RE: OPA Comments - Proposed Letter Agreement dated Dec. 31/10

Rocco,

I agree. I think that continuing the suspension is possible under the ESA if TCE provides notice of continued suspension. TCE has said that MPS will lay down it's tools on further developing the fixed price if the suspension isn't lifted. I think TCE is saying that if we want the fixed price in February, then the suspension needs to be lifted. I think talking with TCE today is advisable. We will arrange it for this morning.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

----Original Message----

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Thu 12/30/2010 10:16 PM

To: Deborah Langelaan; Michael Killeavy

Cc: Susan Kennedy; Ivanoff, Paul

Subject: Re: OPA Comments - Proposed Letter Agreement dated Dec. 31/10

Not sure that I follow John's email. What does he mean by "This is one of two options for tomorrow"? I thought that TCE said last week that a further suspension was not in the cards because it meant that MPS would then not provide a fixed price until March.

Is he also implying that the form of letter agreement that TCE sent over today was not negotiable? Without the commitment to the cap on the fast start price (i.e., 125% of budget price) as essentially set out in today's letter agreement (subject to our requested clarification), how can we properly consider whether to request the fixed price for the fast

I think that you should try to speak to John tomorrow morning before our 9 am call, otherwise, I am not sure that our discussion would be very productive. It seems to me that TCE has not provided us with all of the necessary details to make an informed decision.

Thanks, Rocco

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Thursday, December 30, 2010 09:17 PM

To: Deborah.Langelaan@powerauthority.on.ca < Deborah.Langelaan@powerauthority.on.ca>

Cc: michael.killeavy@powerauthority.on.ca <michael.killeavy@powerauthority.on.ca>; susan.kennedy@powerauthority.on.ca <susan.kennedy@powerauthority.on.ca>; Sebastiano, Rocco Subject: Re: OPA Comments - Proposed Letter Agreement dated Dec. 31/10

Deborah,

I was out this afternoon when this came in. Just wanted to let you know I have received it.

This is one of two options for tomorrow. We can suspend as we have previously and the letter agreement in this case would be similar to the previous ones.

Can I call you to discuss tomorrow?

John

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 01:54 PM

To: John Mikkelsen

Cc: Michael Killeavy <Michael.Killeavy@powerauthority.on.ca>; Susan Kennedy

<Susan.Kennedy@powerauthority.on.ca>; rsebastiano@osler.com <rsebastiano@osler.com>

Subject: OPA Comments - Proposed Letter Agreement dated Dec. 31/10

John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comments:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering whether to request TCE to obtain from MPS a fixed price for these FastStart GTs only.
- 2. We don't think it's correct to say that the OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. TCE should delete the remainder of the sentence following "multiple sites."
- 3. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 4. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs.
- 5. The drafting of the not-to-exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s. 1. Why can't it just say that the 125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?
- 6. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.

7.	Why	can't	we	receive	this	type	of	letter	agreement	directly?	We	have	been	sent	the	two
prev	/ious	ones.														

Kind Regards, Deb

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

Aleksandar Kojic

From:

Michael Killeavy

Sent:

December 31, 2010 4:03 AM

To:

Ivanoff, Paul

Cc: Subject: Sebastiano, Rocco; Deborah Langelaan; Susan Kennedy RE: M501GAC Fast Start Conversion - Presentation ...

Thank you Paul.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

----Original Message----

From: Ivanoff, Paul [mailto:PIvanoff@osler.com]

Sent: Thu 12/30/2010 10:44 PM

To: Michael Killeavy

Cc: Sebastiano, Rocco; Deborah Langelaan; Susan Kennedy
Subject: RE: M501GAC Fast Start Conversion - Presentation ...

Here are a few preliminary comments on the draft slides:

- Slide 3, first bullet should say "... 43 minute start up", not "...43 start up";
- Slide 5, second bullet should say "MPS indicated", not "MPS indicates"; should say "...will be no more than", not "...will be no more that"; should say "...as it is somewhat conditional";
- Slide 6, third bullet should say "... for an additional period", not "...for an addition period";
- Slide 8, first bullet the slide mentions that the December 31st date is in the MOU, but the reference to December 31st is in the Turbine letter, not the MOU (i.e. paragraph 2 of the Turbine letter states: The OPA agrees to advise TCE by December 31, 2010 of whether it wishes TCE to request MPS to provide a fixed price quotation for the M501GAC Fast Start option (in connection with the Potential Project) on or before February 11, 2011.);

- Slide 10, second bullet - should say "...not more than 125%", not "...not more that 125%";

Regards,

Paul

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: December-30-10 9:01 PM

To: Deborah Langelaan; Sebastiano, Rocco; Ivanoff, Paul

Cc: Susan Kennedy

Subject: M501GAC Fast Start Conversion - Presentation ...

Importance: High

Deb, Rocco and Paul,

I have attempted to analyze the situation we find ourselves in and I've prepared the attached brief PPT presentation for tomorrow's Executive briefing. I am not wedded to the conclusion and welcome feedback and advice from all of you. Much depends on Safouh's analysis as you'll see, and if his final conclusions are different from what he's said based on his preliminary review, the conclusion gets changed.

Please don't circulate this beyond our little group. I haven't circulated it to Safouh because he's got enough to do and I only want him thinking about technical matters.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited. Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.																	
											•						
						•											
	•		-														
				•													
					•												
							•										

Aleksandar Kojic

From:

Michael Killeavy

Sent:

December 31, 2010 6:31 AM

To:

Deborah Langelaan

Subject:

Re: OPA Comments - Proposed Letter Agreement dated Dec. 31/10

Good work. Thx for arranging this.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Deborah Langelaan

Sent: Friday, December 31, 2010 06:08 AM

To: 'John_mikkelsen@transcanada.com' < John_mikkelsen@transcanada.com>

Cc: Michael Killeavy; Susan Kennedy; 'rsebastiano@osler.com' < rsebastiano@osler.com >

Subject: Re: OPA Comments - Proposed Letter Agreement dated Dec. 31/10

John;

We're available at 8:30 this morning to discuss. What number should we call you at?

Deb

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Thursday, December 30, 2010 09:17 PM

To: Deborah Langelaan

Cc: Michael Killeavy; Susan Kennedy; rsebastiano@osler.com <resebastiano@osler.com>

Subject: Re: OPA Comments - Proposed Letter Agreement dated Dec. 31/10

Deborah,

I was out this afternoon when this came in. Just wanted to let you know I have received it.

This is one of two options for tomorrow. We can suspend as we have previously and the letter agreement in this case would be similar to the previous ones.

Can I call you to discuss tomorrow?

John

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Thursday, December 30, 2010 01:54 PM

To: John Mikkelsen

Cc: Michael Killeavy < Michael.Killeavy@powerauthority.on.ca>; Susan Kennedy

<Susan.Kennedy@powerauthority.on.ca>; rsebastiano@osler.com <re>rsebastiano@osler.com></re>

Subject: OPA Comments - Proposed Letter Agreement dated Dec. 31/10

John,

We have reviewed the latest proposed draft letter agreement between TCE and MPS ("the letter agreement"). We have the following comments:

- 1. The OPA has not agreed with TCE to deploy the Fast Start GTs. We are considering whether to request TCE to obtain from MPS a fixed price for these FastStart GTs only.
- 2. We don't think it's correct to say that the OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment. TCE should delete the remainder of the sentence following "multiple sites."
- 3. I don't think it's correct to say that the OPA has accepted the Budgetary Proposal. It's been sent to TCE by MPS, and not the OPA.
- 4. The commitment in s. 1 goes beyond the OPA agreeing to having MPS proceed with fixing the price, as it refers to amending the Contract, which is premature since no decision has been made to proceed with these Fast Start GTs.
- 5. The drafting of the not-to-exceed 125% price limitation is unclear to us. Firstly, it needs to unequivocally refer to the estimated pricing set out in the Budetary Proposal. Secondly, it is not clear what assumptions are being referred to in the last sentence in this s.

 1. Why can't it just say that the 125% price limitation is based on the contents of the Budgetary Techincal Proposal, dated December 2010, or just delete this sentence in its entirety since it's self-evident that this is what the price is based upon?
- 6. In s. 3 we do not see why the termination payment is increased by amount of the Budgetary Proposal. Until the pricing is fixed and a decision on the Fast Start conversion to the GTs is made, MPS will not have incurred any commitments with regard to the Fast Start conversion of the GTs.
- 7. Why can't we receive this type of letter agreement directly? We have been sent the two previous ones.

Kind Regards, Deb

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

Aleksandar Kojic

From:

Michael Killeavy

Sent:

December 31, 2010 8:13 AM

To:

Deborah Langelaan

Subject:

RE: M501GAC Fast Start Conversion - Presentation ...

Thanks Deb-san. Let's talk before we speak to John M.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Deborah Langelaan

Sent: December 31, 2010 8:12 AM

To: Michael Killeavy

Subject: RE: M501GAC Fast Start Conversion - Presentation ...

Michael:

I have no additional comments to add. Nice job – you should leave today at noon and enjoy a looocoong weekend.

Deb-San

From: Ivanoff, Paul [mailto:PIvanoff@osler.com]
Sent: Thursday, December 30, 2010 10:44 PM

To: Michael Killeavy

Cc: Sebastiano, Rocco; Deborah Langelaan; Susan Kennedy **Subject:** RE: M501GAC Fast Start Conversion - Presentation ...

Here are a few preliminary comments on the draft slides:

- Slide 3, first bullet should say "... 43 minute start up", not "...43 start up";
 - Slide 5, second bullet should say "MPS indicated", not "MPS indicates"; should say "...will be no more than", not "...will be no more that"; should say "...as it is somewhat conditional", not"...as it somewhat conditional";
 - Slide 6, third bullet should say "... for an additional period", not "...for an addition period";
 - Slide 8, first bullet the slide mentions that the December 31st date is in the MOU, but the reference to December 31st is in the Turbine letter, not the MOU (i.e. paragraph 2 of the Turbine letter states: The OPA agrees to advise TCE by December 31, 2010 of whether it wishes TCE to request MPS to provide a fixed price quotation for the M501GAC Fast Start option (in connection with the Potential Project) on or before February 11, 2011.);

- Slide 10, second bullet -- should say "...not more than 125%", not "...not more that 125%";

Regards, Paul

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: December-30-10 9:01 PM

To: Deborah Langelaan; Sebastiano, Rocco; Ivanoff, Paul

Cc: Susan Kennedy

Subject: M501GAC Fast Start Conversion - Presentation ...

Importance: High

Deb, Rocco and Paul,

I have attempted to analyze the situation we find ourselves in and I've prepared the attached brief PPT presentation for tomorrow's Executive briefing. I am not wedded to the conclusion and welcome feedback and advice from all of you. Much depends on Safouh's analysis as you'll see, and if his final conclusions are different from what he's said based on his preliminary review, the conclusion gets changed.

Please don't circulate this beyond our little group. I haven't circulated it to Safouh because he's got enough to do and I only want him thinking about technical matters.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

Aleksandar Kojic

From:

Michael Killeavy

Sent:

December 31, 2010 8:27 AM

To:

Deborah Langelaan; JoAnne Butler

Subject:

Presentation

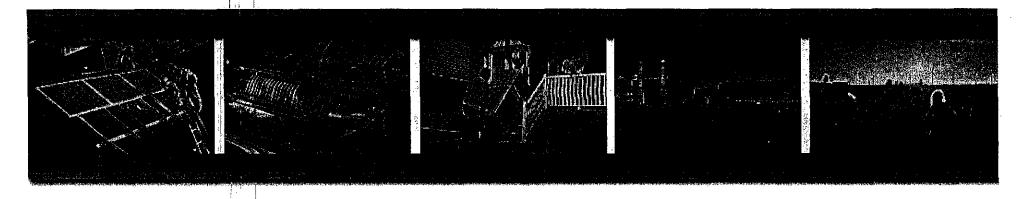
Attachments:

OGS - MPS Turbine Decision 31 Dec 2010 v2.ppt

Here is a draft presentation for today. It may change depending on our discussion with Safouh at 9am.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)





M501GAC Fast Start Gas Turbine Conversion

December 31, 2010

Privileged and Confidential – Prepared in Contemplation of Litigation

Background

- OPA is negotiating with TransCanada Energy Ltd.
 ("TCE") to develop a replacement plant in Cambridge.
- It has been determined that the plant will be a peaking generation plant with a capacity of 450 MW.
- The two (2) gas turbines ("GT") purchased and intended for the Oakville GS are Mitsubishi Power Systems ("MPS") M501GAC machines. These have a start time of 43 minutes. We confirmed this by reviewing the startup curve.



Background

- The 43 minute start up time is too slow for a peaking generation plant, which ideally ought to be within 10 minutes, but has to be within 30 minutes to qualify for the 30-minute Operating Reserve ("OR") that the IESO has.
- It is highly desirable to use the already-purchased GTs in order to minimize the cost to the ratepayer.
- The two (2) M501GAC GT can be converted to start faster, i.e., M501GAC Fast Start GTs. The faster start time is 18 minutes. There is an incremental cost involved in doing this.

GT Technical Analysis

- We have reviewed certain technical information about the M501GAC and M501GAC Fast Start GT provided by TCE and MPS.
- Our technical expert retained for this file confirms that original M501GAC cannot be de-rated, or otherwise modified, to start faster to qualify the GT for 30-minute OR. [NTD: Safouh to confirm]
- Consequently, to re-use the GTs we need to have TCE purchase the Fast Start conversion package.



Price of Fast Start Conversion

- The incremental price for this conversion is estimated at \$33 million (US).
- MPS indicated to TCE that the final price will be no more than 25% higher than this estimated price. The wording of this not-to-exceed price guarantee from MPS to TCE is not the most comforting, as it is somewhat conditional.
- We will in any event pass this risk on to TCE in the commercial negotiations since they believe they have a cap on the price.



Status of MPS Work Now

- At this point in time, MPS work on the GTs has been suspended by TCE until 31 December 2010.
- The TCE-MPS Equipment Supply Agreement ("ESA")
 provides for TCE to suspend work, subject to a notice
 period and indemnity for costs associated with the
 suspension.
- TCE has indicated that it can continue the suspension for an additional period of time if requested by the OPA.



Status of MPS Work Now

- If the suspension is lifted and work is permitted to begin again in January 2011, MPS has undertaken to TCE to provide the final pricing on the GT fast start conversion in February 2011.
- We have been told by the government that the negotiations with TCE for the replacement plant need to be completed by March/April 2011.



Value of Continued Suspension

- The reliance letter to TCE that we provided requires us to provide TCE with an instruction on whether to proceed with fixing the final price for the fast start conversion by today, 31 December 2010.
- There seems to us little value in a further suspension. It doesn't improve the OPA bargaining position.
- We have done the technical analysis we needed to do and we don't really need more time.



Value of Continued Suspension

- MPS has made a significant concession by providing a price cap of sorts – it had initially not done so – at the request of the OPA. This helps mitigate the risk of runaway costs.
- We may put the March/April 2011 deadline to finalize commercial terms if we suspended further.



- We recommend that we tell TCE to lift the suspension and MPS proceed with fixing the final price for the M501GAC Fast Start conversion.
- This is not without risk, as MPS could attempt to resile from its commitment to a price guarantee of no more than 25% increase over the price estimate of \$33 million, i.e., the final price will not be more than 125% of the initial price estimate. It could also inflate other prices, such as the Long-term Services Agreement ("LTSA") price.



- Unfortunately we need to have the conversion done to re-use the GTs in the proposed peaking plant.
 Cancellation of the GTs now will result in a cancellation fee of 75% of the ESA price of \$145 million (US), roughly \$109 million.
- We need to proceed with finalization of the commercial terms with TCE in order to meet the March/April 2011 government-imposed deadline.



 We will need to monitor other MPS prices during the finalization of the commercial terms to make sure that they are not inflated.



Aleksandar Kojic

From:

Michael Killeavy

Sent: To: December 31, 2010 8:51 AM JoAnne Butler; Deborah Langelaan

Subject:

RE: Presentation

Attachments:

OGS - MPS Turbine Decision 31 Dec 2010 v2.ppt

Here's a version with slide numbers added for ease of reference.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: JoAnne Butler

Sent: December 31, 2010 8:32 AM **To:** Michael Killeavy; Deborah Langelaan

Subject: Re: Presentation

This is good and recomendations are clear. Subject to anything untoward from Safouh, I agree. Will call in at 9:30AM...

JCB

From: Michael Killeavy

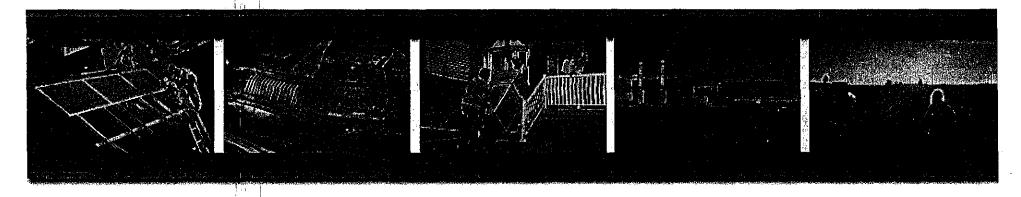
Sent: Friday, December 31, 2010 08:26 AM **To**: Deborah Langelaan; JoAnne Butler

Subject: Presentation

Here is a draft presentation for today. It may change depending on our discussion with Safouh at 9am.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide Street West, Suite 1600
Toronto, Ontario
M5H 1T1
416-969-6288
416-5209788 (CELL)
416-967-1947 (FAX)





M501GAC Fast Start Gas Turbine Conversion

December 31, 2010

Privileged and Confidential – Prepared in Contemplation of Litigation

Background

- OPA is negotiating with TransCanada Energy Ltd.
 ("TCE") to develop a replacement plant in Cambridge.
- It has been determined that the plant will be a peaking generation plant with a capacity of 450 MW.
- The two (2) gas turbines ("GT") purchased and intended for the Oakville GS are Mitsubishi Power Systems ("MPS") M501GAC machines. These have a start time of 43 minutes. We confirmed this by reviewing the startup curve.



Background

- The 43 minute start up time is too slow for a peaking generation plant, which ideally ought to be within 10 minutes, but has to be within 30 minutes to qualify for the 30-minute Operating Reserve ("OR") that the IESO has.
- It is highly desirable to use the already-purchased GTs in order to minimize the cost to the ratepayer.
- The two (2) M501GAC GT can be converted to start faster, i.e., M501GAC Fast Start GTs. The faster start time is 18 minutes. There is an incremental cost involved in doing this.

GT Technical Analysis

- We have reviewed certain technical information about the M501GAC and M501GAC Fast Start GT provided by TCE and MPS.
- Our technical expert retained for this file confirms that original M501GAC cannot be de-rated, or otherwise modified, to start faster to qualify the GT for 30-minute OR. [NTD: Safouh to confirm]
- Consequently, to re-use the GTs we need to have TCE purchase the Fast Start conversion package.



Price of Fast Start Conversion

- The incremental price for this conversion is estimated at \$33 million (US).
- MPS indicated to TCE that the final price will be no more than 25% higher than this estimated price. The wording of this not-to-exceed price guarantee from MPS to TCE is not the most comforting, as it is somewhat conditional.
- We will in any event pass this risk on to TCE in the commercial negotiations since they believe they have a cap on the price.



Status of MPS Work Now

- At this point in time, MPS work on the GTs has been suspended by TCE until 31 December 2010.
- The TCE-MPS Equipment Supply Agreement ("ESA")
 provides for TCE to suspend work, subject to a notice
 period and indemnity for costs associated with the
 suspension.
- TCE has indicated that it can continue the suspension for an additional period of time if requested by the OPA.



Status of MPS Work Now

- If the suspension is lifted and work is permitted to begin again in January 2011, MPS has undertaken to TCE to provide the final pricing on the GT fast start conversion in February 2011.
- We have been told by the government that the negotiations with TCE for the replacement plant need to be completed by March/April 2011.



Value of Continued Suspension

- The reliance letter to TCE that we provided requires us to provide TCE with an instruction on whether to proceed with fixing the final price for the fast start conversion by today, 31 December 2010.
- There seems to us little value in a further suspension. It doesn't improve the OPA bargaining position.
- We have done the technical analysis we needed to do and we don't really need more time.



Value of Continued Suspension

- MPS has made a significant concession by providing a price cap of sorts – it had initially not done so – at the request of the OPA. This helps mitigate the risk of runaway costs.
- We may put the March/April 2011 deadline to finalize commercial terms if we suspended further.



Recommendation

- We recommend that we tell TCE to lift the suspension and MPS proceed with fixing the final price for the M501GAC Fast Start conversion.
- This is not without risk, as MPS could attempt to resile from its commitment to a price guarantee of no more than 25% increase over the price estimate of \$33 million, i.e., the final price will not be more than 125% of the initial price estimate. It could also inflate other prices, such as the Long-term Services Agreement ("LTSA") price.



Recommendation

- Unfortunately we need to have the conversion done to re-use the GTs in the proposed peaking plant.
 Cancellation of the GTs now will result in a cancellation fee of 75% of the ESA price of \$145 million (US), roughly \$109 million.
- We need to proceed with finalization of the commercial terms with TCE in order to meet the March/April 2011 government-imposed deadline.



Recommendation

 We will need to monitor other MPS prices during the finalization of the commercial terms to make sure that they are not inflated.



From:

Michael Killeavy

Sent:

December 31, 2010 10:54 AM

To:

'RSebastiano@osler.com'; 'Ivanoff, Paul'

Cc:

Deborah Langelaan; Susan Kennedy; JoAnne Butler; 'Safouh Soufi'

Subject:

TCE Matter - Email to TCE to Lift MPS Suspension

Rocco,

Here's the draft email we propose to send to TCE this morning:

"John,

Further to our letter of 21 December 2010 to TCE, the OPA requests that TCE obtain fixed pricing from MPS on or before 11 February 2011 for the M501GAC fast start conversion package, which also includes the conversion from combined cycle to simple cycle ("conversion package"). For greater certainty, this is not any OPA authorization to proceed with work on, or commitment to, the conversion package. Furthermore, this request does not imply any OPA consent to the terms of the proposed letter agreement between MPS and TCE that was sent to us yesterday, and should not be construed as such.

We request that the conversion package fixed pricing be itemized and that MPS provides substantiation for the prices it sets out in the final fixed pricing document. We will provide you with a list of prices we would like to see itemized early next week.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From:

Michael Killeavy

Sent:

December 31, 2010 11:23 AM

To:

Michael Killeavy; 'RSebastiano@osler.com'; 'Ivanoff, Paul'

Cc:

Deborah Langelaan; Susan Kennedy; JoAnne Butler; 'Safouh Souff'

Subject:

RE: TCE Matter - Email to TCE to Lift MPS Suspension

Here's draft #2 incorporating Rocco's and Safouh's comments:

"John,

Further to our letter of 21 December 2010 to TCE, the OPA requests that TCE obtain fixed pricing from MPS on or before 11 February 2011 for the M501GAC fast start conversion package, which also includes the conversion from combined cycle to simple cycle ("conversion package"). For greater certainty, this is not any OPA authorization agreement to proceed with work on, or commitment to, the conversion package. Furthermore, this request does not imply any OPA consent agreement to the terms of the proposed letter agreement between MPS and TCE that was sent to us yesterday, and should not be construed as such.

We request that MPS provides us with an itemized scope of work for the conversion package and that the itemization of the fixed pricing be based on this scope of work. the conversion package fixed pricing be itemized and that MPS provides substantiation for the prices it sets out in the final fixed pricing document. We will provide you with a list of prices we would like to see itemized early next week.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Michael Killeavy

Sent: December 31, 2010 10:54 AM **To:** RSebastiano@osler.com; Ivanoff, Paul

Cc: Deborah Langelaan; Susan Kennedy; JoAnne Butler; Safouh Soufi

Subject: TCE Matter - Email to TCE to Lift MPS Suspension

Rocco,

Here's the draft email we propose to send to TCE this morning:

"John,

Further to our letter of 21 December 2010 to TCE, the OPA requests that TCE obtain fixed pricing from MPS on or before 11 February 2011 for the M501GAC fast start conversion package, which also includes the conversion from combined cycle to simple cycle ("conversion package"). For greater certainty, this is not any OPA authorization to proceed with work on, or commitment to, the conversion package. Furthermore, this request does not imply any OPA consent to the terms of the proposed letter agreement between MPS and TCE that was sent to us yesterday, and should not be construed as such.

We request that the conversion package fixed pricing be itemized and that MPS provides substantiation for the prices it sets out in the final fixed pricing document. We will provide you with a list of prices we would like to see itemized early next week.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From:

Michael Killeavy

Sent: To: December 31, 2010 11:34 AM 'ivanoff, Paul'; 'Sebastiano, Rocco'

Cc:

Deborah Langelaan; Susan Kennedy; JoAnne Butler; 'Safouh Soufi'

Subject:

RE: TCE Matter - Email to TCE to Lift MPS Suspension

Thank you everyone for the comments. Here's the draft of the final email with all changes blacklined for convenience. We will send it to TCE shortly.

"John,

Further to our letter of 21 December 2010 to TCE, the OPA requests that TCE obtain fixed pricing from MPS on or before 11 February 2011 for the M501GAC fast start conversion package, which also includes the conversion from combined cycle to simple cycle ("conversion package"). For greater certainty, this is not any OPA authorization agreement to proceed with work on, or commitment to, the conversion package. Furthermore, this request does not imply any OPA consent agreement to the background or terms of the proposed letter agreement between MPS and TCE that was sent to us yesterday, and should not be construed as such.

We request that MPS provides us with an itemized scope of work for the conversion package and that the itemization of the fixed pricing be based on this scope of work. the conversion package fixed pricing be itemized and that MPS provides substantiation for the prices it sets out in the final fixed pricing document. We will provide you with a list of prices we would like to see itemized early next week.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Ivanoff, Paul [mailto:PIvanoff@osler.com]

Sent: December 31, 2010 11:30 AM **To:** Michael Killeavy; Sebastiano, Rocco

Cc: Deborah Langelaan; Susan Kennedy; JoAnne Butler; Safouh Soufi Subject: RE: TCE Matter - Email to TCE to Lift MPS Suspension

In the third sentence, for clarity we could add the words "background or" so that it reads ...this request does not imply any OPA consent agreement to the background or terms of the proposed letter agreement.... The Background section of the letter included inaccurate statements i.e. "OPA requested Purchaser's cooperation to seek a viable alternative site or multiple sites in order to avoid, at this time, paying cancellation fees and costs, including Supplier's Termination Payment."

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: December-31-10 11:23 AM

To: Michael Killeavy; Sebastiano, Rocco; Ivanoff, Paul

Cc: Deborah Langelaan; Susan Kennedy; JoAnne Butler; Safouh Soufi **Subject:** RE: TCE Matter - Email to TCE to Lift MPS Suspension

Here's draft #2 incorporating Rocco's and Safouh's comments:

"John,

Further to our letter of 21 December 2010 to TCE, the OPA requests that TCE obtain fixed pricing from MPS on or before 11 February 2011 for the M501GAC fast start conversion package, which also includes the conversion from combined cycle to simple cycle ("conversion package"). For greater certainty, this is not any OPA authorization agreement to proceed with work on, or commitment to, the conversion package. Furthermore, this request does not imply any OPA consent agreement to the terms of the proposed letter agreement between MPS and TCE that was sent to us yesterday, and should not be construed as such.

We request that MPS provides us with an itemized scope of work for the conversion package and that the itemization of the fixed pricing be based on this scope of work. the conversion package fixed pricing be itemized and that MPS provides substantiation for the prices it sets out in the final fixed pricing document. We will provide you with a list of prices we would like to see itemized early next week.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

From: Michael Killeavy

Sent: December 31, 2010 10:54 AM **To:** RSebastiano@osler.com; Ivanoff, Paul

Cc: Deborah Langelaan; Susan Kennedy; JoAnne Butler; Safouh Soufi **Subject:** TCE Matter - Email to TCE to Lift MPS Suspension

Rocco,

Here's the draft email we propose to send to TCE this morning:

"John,

Further to our letter of 21 December 2010 to TCE, the OPA requests that TCE obtain fixed pricing from MPS on or before 11 February 2011 for the M501GAC fast start conversion package, which also includes the conversion from combined cycle to simple cycle ("conversion package"). For greater certainty, this is not any OPA authorization to proceed with work on, or commitment to, the conversion package. Furthermore, this request does not imply any OPA consent to the terms of the proposed letter agreement between MPS and TCE that was sent to us yesterday, and should not be construed as such.

We request that the conversion package fixed pricing be itemized and that MPS provides substantiation for the prices it sets out in the final fixed pricing document. We will provide you with a list of prices we would like to see itemized early next week.

Deb"

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL) 416-967-1947 (FAX)

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

December 31, 2010 12:57 PM

To: Cc: JoAnne Butler Deborah Langelaan

Subject:

Re: MPS

Sure. Thx

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: JoAnne Butler

Sent: Friday, December 31, 2010 12:55 PM

To: Michael Killeavy Cc: Deborah Langelaan Subject: Re: MPS

Fair enough...let's see where it goes...

JCB

From: Michael Killeavy

Sent: Friday, December 31, 2010 11:57 AM

To: JoAnne Butler **Cc**: Deborah Langelaan **Subject**: MPS

TCE says that MPS is hung up on the lack of certainty associated with starting fixed pricing work, incurring costs, and not having a project to allocate them to if we say "no" to the conversion. I said we'd cover their reasonable costs to do the fixed pricing if this was all they were hung up on. Let's see what happens.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-5209788 (CELL)

From:

Michael Killeavy

Sent:

December 31, 2010 4:02 PM

To:

Deborah Langelaan

Subject:

Re: MPS Fixed Pricing for Conversion Package

Thx for the tip on the Peace Bridge.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Deborah Langelaan

Sent: Friday, December 31, 2010 03:59 PM

To: Michael Killeavy

Subject: Fw: MPS Fixed Pricing for Conversion Package

Initial thoughts?

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Friday, December 31, 2010 03:47 PM

To: Deborah Langelaan

Cc: Colin Andersen; JoAnne Butler; Michael Lyle; Kim Marshall; Michael Killeavy; Susan Kennedy; rsebastiano@osler.com

<rsebastiano@osler.com>; pivanoff@osler.com <pivanoff@osler.com>; Terry Bennett

<terry_bennett@transcanada.com>; John Cashin <john_cashin@transcanada.com>; Terri Steeves

<terri_steeves@transcanada.com>; Janine Watson <janine_watson@transcanada.com>; Brandon Anderson

<brandon anderson@transcanada.com>; Karl Johannson <karl_johannson@transcanada.com>; Bill Small

<william small@transcanada.com>; David Lever <DLEVER@MCCARTHY.CA>

Subject: RE: MPS Fixed Pricing for Conversion Package

Dear Deborah,

Thank you for your e-mail this morning (re MPS Fixed Pricing for Conversion Package) advising us that the OPA does not, as of this date, agree to deploy the Fast Start GTs.

As you aware, the contract with MPS Canada, Inc. places TransCanada under tight timelines, and we need to provide notification today (December 31, 2010) to MPS Canada, Inc. ("MPS") if we wish to extend the suspension from December 31, 2010 or else we will be deemed to have released MPS from suspension. Release from suspension will cause MPS to proceed with the original M501GACs, absent an agreement in principle to proceed with the conversion to the M501GAC Fast Start. Given that the OPA has not agreed to proceed with work on, or commitment to, the conversion package, and as there is no prospect of a project that could deploy the original M501GAC machines, we have notified MPS that we are extending suspension for another month to January 31, 2011.

In accordance with your e-mail, we are willing to again request fixed pricing from MPS for the M501GAC fast start conversion package and to ask to have it before February 11, 2011. As the provision of this information is at the discretion of MPS we cannot make any commitments on their behalf with respect to their agreement to provide such information. Further, while MPS indicated that they would be able to provide a firm price by February 10, 2011, their position to date has been that they would first require some fairly firm direction regarding the Fast Start. Therefore, we cannot guarantee the delivery of this information by MPS on your deadline.

Before we approach MPS for this firm pricing, we would like direction from the OPA as to the scope of information you are seeking in your request for firm pricing. TransCanada suggests that we ask MPS to provide the following breakdown of costs:

- 1. Cost of suspension from October 7, 2010 to February 17, 2011 (assumed notice to release from suspension date please confirm)
- 2. Cost of delayed delivery (per budgetary proposal)
- 3. Cost of additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works)
- 4. Cost of the conversion of the M501GAC to M501GAS Fast Start gas turbine

We ask that you indicate whether this breakdown meets the OPA's requirements at your nearest convenience. Please know that, in the event MPS cannot or will not supply information when and as requested, TransCanada will do our best to continue to work with the OPA to arrive at a mutually satisfactory solution.

We note that, since the suspension letter agreement signed today extends the suspension to January 31, 2011, a further suspension request will have to be made to MPS for the month (or part of the month) of February if TransCanada is not put in a position to commit to the Fast Start until the firm pricing is received.

Finally, we ask you to bear in mind that the cost of terminating under the Cancellation Schedule will increase from 75% to 90%, if Notice of Termination is not received by MPS before January 21, 2011.

We thank your for your efforts to date and look forward to continue working with you on this important project in the New Year.

Kind regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102
Fax:416.869.2056

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Friday, December 31, 2010 11:53 AM

To: John Mikkelsen

Cell:416.559.1664

Cc: Colin Andersen; JoAnne Butler; Michael Lyle; Kim Marshall; Michael Killeavy; Susan Kennedy; rsebastiano@osler.com;

pivanoff@osler.com

Subject: MPS Fixed Pricing for Conversion Package

John,

Further to our letter of 21 December 2010 to TCE, the OPA requests that TCE obtain fixed pricing from MPS on or before 11 February 2011 for the M501GAC fast start conversion package, which also includes the conversion from combined

cycle to simple cycle ("conversion package"). For greater certainty, this is not any OPA agreement to proceed with work on, or commitment to, the conversion package. Furthermore, this request does not imply any OPA agreement to the background or terms of the proposed letter agreement between MPS and TCE that was sent to us yesterday, and should not be construed as such.

We request that MPS provides us with an itemized scope of work for the conversion package and that the itemization of the fixed pricing be based on this scope of work.

Kind Regards, Deb

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

From:

Michael Killeavy

Sent:

December 31, 2010 7:55 PM

To:

'RSebastiano@osler.com'; Deborah Langelaan

Cc:

Susan Kennedy; 'Plvanoff@osler.com'; JoAnne Butler

Subject:

Re: MPS Fixed Pricing for Conversion Package

This is an infinite loop for TCE, MPS and us. I have a couple of ideas on how to break this impasse. Let's talk on Tuesday.

Sweden and Canada are tied at 4 all.

Michael Kilieavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide St. West, Suite 1600 Toronto, Ontario, M5H 1T1 416-969-6288 (office) 416-969-6071 (fax) 416-520-9788 (cell) Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Friday, December 31, 2010 04:24 PM **To**: Deborah Langelaan; Michael Killeavy

Cc: Susan Kennedy; Ivanoff, Paul <PIvanoff@osler.com> **Subject:** Re: MPS Fixed Pricing for Conversion Package

I guess the game of chicken continues... Who'll blink first?

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]

Sent: Friday, December 31, 2010 03:47 PM

To: Deborah Langelaan < Deborah. Langelaan @powerauthority.on.ca>

Cc: Colin Andersen <Colin.Andersen@powerauthority.on.ca>; JoAnne Butler <joanne.butler@powerauthority.on.ca>; Michael Lyle <Michael.Lyle@powerauthority.on.ca>; Kim Marshall <Kim.Marshall@powerauthority.on.ca>; Michael

Killeavy < Michael.Killeavy@powerauthority.on.ca>; Susan Kennedy < Susan.Kennedy@powerauthority.on.ca>;

Sebastiano, Rocco; Ivanoff, Paul; Terry Bennett <terry_bennett@transcanada.com>; John Cashin

<john_cashin@transcanada.com>; Terri Steeves <terri_steeves@transcanada.com>; Janine Watson

<janine watson@transcanada.com>; Brandon Anderson <brandon_anderson@transcanada.com>; Kari Johannson

<karl_johannson@transcanada.com>; Bill Small <william_small@transcanada.com>; David Lever

<DLEVER@MCCARTHY.CA>

Subject: RE: MPS Fixed Pricing for Conversion Package

Dear Deborah,

Thank you for your e-mail this morning (re MPS Fixed Pricing for Conversion Package) advising us that the OPA does not, as of this date, agree to deploy the Fast Start GTs.

As you aware, the contract with MPS Canada, Inc. places TransCanada under tight timelines, and we need to provide notification today (December 31, 2010) to MPS Canada, Inc. ("MPS") if we wish to extend the suspension from December 31, 2010 or else we will be deemed to have released MPS from suspension. Release from suspension will cause MPS to proceed with the original M501GACs, absent an agreement in principle to proceed with the conversion to the M501GAC Fast Start. Given that the OPA has not agreed to proceed with work on, or commitment to, the conversion package, and as there is no prospect of a project that could deploy the original M501GAC machines, we have notified MPS that we are extending suspension for another month to January 31, 2011.

In accordance with your e-mail, we are willing to again request fixed pricing from MPS for the M501GAC fast start conversion package and to ask to have it before February 11, 2011. As the provision of this information is at the discretion of MPS we cannot make any commitments on their behalf with respect to their agreement to provide such information. Further, while MPS indicated that they would be able to provide a firm price by February 10, 2011, their position to date has been that they would first require some fairly firm direction regarding the Fast Start. Therefore, we cannot guarantee the delivery of this information by MPS on your deadline.

Before we approach MPS for this firm pricing, we would like direction from the OPA as to the scope of information you are seeking in your request for firm pricing. TransCanada suggests that we ask MPS to provide the following breakdown of costs:

- 1. Cost of suspension from October 7, 2010 to February 17, 2011 (assumed notice to release from suspension date please confirm)
- 2. Cost of delayed delivery (per budgetary proposal)
- 3. Cost of additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works)
- 4. Cost of the conversion of the M501GAC to M501GAS Fast Start gas turbine

We ask that you indicate whether this breakdown meets the OPA's requirements at your nearest convenience. Please know that, in the event MPS cannot or will not supply information when and as requested, TransCanada will do our best to continue to work with the OPA to arrive at a mutually satisfactory solution.

We note that, since the suspension letter agreement signed today extends the suspension to January 31, 2011, a further suspension request will have to be made to MPS for the month (or part of the month) of February if TransCanada is not put in a position to commit to the Fast Start until the firm pricing is received.

Finally, we ask you to bear in mind that the cost of terminating under the Cancellation Schedule will increase from 75% to 90%, if Notice of Termination is not received by MPS before January 21, 2011.

We thank your for your efforts to date and look forward to continue working with you on this important project in the New Year.

Kind regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development
TransCanada
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, Ontario M5J 2J1
Tel: 416.869.2102
Fax:416.869.2056
Cell:416.559.1664

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Friday, December 31, 2010 11:53 AM

To: John Mikkelsen

Cc: Colin Andersen; JoAnne Butler; Michael Lyle; Kim Marshall; Michael Killeavy; Susan Kennedy; rsebastiano@osler.com;

pivanoff@osler.com **Subject:** MPS Fixed Pricing for Conversion Package

John,

Further to our letter of 21 December 2010 to TCE, the OPA requests that TCE obtain fixed pricing from MPS on or before 11 February 2011 for the M501GAC fast start conversion package, which also includes the conversion from combined cycle to simple cycle ("conversion package."). For greater certainty, this is not any OPA agreement to proceed with work on, or commitment to, the conversion package. Furthermore, this request does not imply any OPA agreement to the background or terms of the proposed letter agreement between MPS and TCE that was sent to us yesterday, and should not be construed as such.

We request that MPS provides us with an itemized scope of work for the conversion package and that the itemization of the fixed pricing be based on this scope of work.

Kind Regards, Deb

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du prsent courriel est privilgi, confidentiel et soumis des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

JoAnne Butler

Sent:

January 1, 2011 9:10 AM

To:

Michael Killeavy

Subject:

Re: MPS Fixed Pricing for Conversion Package

I agree with you, Michael...

Happy New Year!

JCB

From: Michael Killeavy

Sent: Friday, December 31, 2010 07:55 PM

To: 'RSebastiano@osler.com' <RSebastiano@osler.com>; Deborah Langelaan **Cc**: Susan Kennedy; 'PIvanoff@osler.com' <PIvanoff@osler.com>; JoAnne Butler

Subject: Re: MPS Fixed Pricing for Conversion Package

This is an infinite loop for TCE, MPS and us. I have a couple of ideas on how to break this impasse. Let's talk on Tuesday.

Sweden and Canada are tied at 4 all.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: Friday, December 31, 2010-04:24-PM——

To: Deborah Langelaan; Michael Killeavy

Cc: Susan Kennedy; Ivanoff, Paul <PIvanoff@osler.com> Subject: Re: MPS Fixed Pricing for Conversion Package

I guess the game of chicken continues... Who'll blink first?

From: John Mikkelsen [mailto:john mikkelsen@transcanada.com]

Sent: Friday, December 31, 2010 03:47 PM

To: Deborah Langelaan < Deborah. Langelaan@powerauthority.on.ca>

Cc: Colin Andersen <Colin.Andersen@powerauthority.on.ca>; JoAnne Butler <joanne.butler@powerauthority.on.ca>; Michael Lyle <Michael.Lyle@powerauthority.on.ca>; Kim Marshall <Kim.Marshall@powerauthority.on.ca>; Michael Killeavy <Michael.Killeavy@powerauthority.on.ca>; Susan Kennedy <Susan.Kennedy@powerauthority.on.ca>;

Subject: RE: MPS Fixed Pricing for Conversion Package

Dear Deborah,

Thank you for your e-mail this morning (re MPS Fixed Pricing for Conversion Package) advising us that the OPA does not, as of this date, agree to deploy the Fast Start GTs.

As you aware, the contract with MPS Canada, Inc. places TransCanada under tight timelines, and we need to provide notification today (December 31, 2010) to MPS Canada, Inc. ("MPS") if we wish to extend the suspension from December 31, 2010 or else we will be deemed to have released MPS from suspension. Release from suspension will cause MPS to proceed with the original M501GACs, absent an agreement in principle to proceed with the conversion to the M501GAC Fast Start. Given that the OPA has not agreed to proceed with work on, or commitment to, the conversion package, and as there is no prospect of a project that could deploy the original M501GAC machines, we have notified MPS that we are extending suspension for another month to January 31, 2011.

In accordance with your e-mail, we are willing to again request fixed pricing from MPS for the M501GAC fast start conversion package and to ask to have it before February 11, 2011. As the provision of this information is at the discretion of MPS we cannot make any commitments on their behalf with respect to their agreement to provide such information. Further, while MPS indicated that they would be able to provide a firm price by February 10, 2011, their position to date has been that they would first require some fairly firm direction regarding the Fast Start. Therefore, we cannot guarantee the delivery of this information by MPS on your deadline.

Before we approach MPS for this firm pricing, we would like direction from the OPA as to the scope of information you are seeking in your request for firm pricing. TransCanada suggests that we ask MPS to provide the following breakdown of costs:

- 1. Cost of suspension from October 7, 2010 to February 17, 2011 (assumed notice to release from suspension date please confirm)
- 2. Cost of delayed delivery (per budgetary proposal)
- 3. Cost of additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works)
- 4. Cost of the conversion of the M501GAC to M501GAS Fast Start gas turbine

We ask that you indicate whether this breakdown meets the OPA's requirements at your nearest convenience. Please know that, in the event MPS cannot or will not supply information when and as requested, TransCanada will do our best to continue to work with the OPA to arrive at a mutually satisfactory solution.

We note that, since the suspension letter agreement signed today extends the suspension to January 31, 2011, a further suspension request will have to be made to MPS for the month (or part of the month) of February if TransCanada is not put in a position to commit to the Fast Start until the firm pricing is received.

Finally, we ask you to bear in mind that the cost of terminating under the Cancellation Schedule will increase from 75% to 90%, if Notice of Termination is not received by MPS before January 21, 2011.

We thank your for your efforts to date and look forward to continue working with you on this important project in the New Year.

Kind regards,

John Mikkelsen, P.Eng.
Director, Eastern Canada, Power Development **Trans**Canada

Royal Bank Plaza 200 Bay Street 24th Floor, South Tower Toronto, Ontario M5J 2J1 Tel: 416.869.2102

Fax:416.869.2056 Cell:416.559.1664

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Friday, December 31, 2010 11:53 AM

To: John Mikkelsen

Cc: Colin Andersen; JoAnne Butler; Michael Lyle; Kim Marshall; Michael Killeavy; Susan Kennedy; rsebastiano@osler.com;

pivanoff@osler.com

Subject: MPS Fixed Pricing for Conversion Package

John,

Further to our letter of 21 December 2010 to TCE, the OPA requests that TCE obtain fixed pricing from MPS on or before 11 February 2011 for the M501GAC fast start conversion package, which also includes the conversion from combined cycle to simple cycle ("conversion package"). For greater certainty, this is not any OPA agreement to proceed with work on, or commitment to, the conversion package. Furthermore, this request does not imply any OPA agreement to the background or terms of the proposed letter agreement between MPS and TCE that was sent to us yesterday, and should not be construed as such.

We request that MPS provides us with an itemized scope of work for the conversion package and that the itemization of the fixed pricing be based on this scope of work.

Kind Regards, Deb

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This electronic message and any attached documents are intended only for the named addressee(s). This communication from TransCanada may contain information that is privileged, confidential or otherwise protected from disclosure and it must not be disclosed, copied, forwarded or distributed without authorization. If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du prsent courriel est privilgi, confidentiel et soumis des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Safouh Soufi [safouh@smsenergy-engineering.com]

Sent:

January 4, 2011 10:00 PM

To:

Michael Killeavy; Deborah Langelaan

Subject:

MPS Summary of Issues

As requested earlier today, below you will find a list of gas turbine issues arising from our review of MPS original and the more recent proposals to TCE. Please treat this as a "work in progress" list.

Background

OPA has had discussions with TCE on the use of OGS gas turbines for another project with simple cycle configuration. Since fast start is required (preferred) for simple cycle, the OPA asked TCE to advise if there are costs associated with a fast start option. It is understood that TCE has had discussions with MPS on the cost of simple cycle conversion including fast start which culminated among other things in an indicative budgetary non-binding proposal from MPS to TCE in December 2010. TCE provided a copy of the December proposal together with MPS original proposal to OPA for review through Osler and at Osler's offices. SMS received copies of TCE submissions from Osler and reviewed it on fast track basis. Issues resulting from this review that require further clarifications from TCE/MPS are noted below (Summary of Issues) for further action.

MPS Original Proposal

In July 2009 TCE signed a Gas Turbine Equipment Supply Agreement (ESA) with MPS for the supply of two (2) M501GAC gas turbines. The turbines were to be deployed in a combined cycle application at OGS. The ESA included a detailed scope of supply and division of responsibilities along with performance guarantees, schedule and commercial terms.

MPS Non-Binding Proposal of December 2010

MPS December 2010 proposal for a (non-binding price) of US\$33,000,000 was made (according to MPS) for:

- 1. Project Schedule Change and
- 2. Specification/Scope change to July 2009 ESA

Summary of Issues

- 1. <u>Price</u>: It is not clear if the price stated in the December 2010 proposal includes some cost provisions related to project schedule change/delay. This should be confirmed.
- 2. <u>Fast Start</u>: The ESA of July 2009 shows in Appendix I that the main equipment includes a Static Frequency Converter (SFC) for starting device. SFC is an option provided by equipment suppliers for applications requiring fast start. The alternative would be a starting system based on AC electric motor or diesel engine that will take more time to complete the start-up process. SFC is used to run-up the machine quickly by using the generator itself as motor from push button to ignition speed. We concluded, subject to Item 3 below, that the equipment as originally purchased by TCE from MPS includes fast start capability.
- 3. <u>SFC</u>: We noted from page 4-7 of the December 2010 proposal in the comment section of line item 16 the inclusion of "7MW". The original ESA includes a SFC with a rated output of 4MW. The reference to 7MW may suggest, but not sure, that the SFC has been up-rated and the proposed price is for the size increase and not for the installation of a complete system. Further information and explanation is required. The original SFC rating of 4MW may add few minutes to start time of 7MW SFC but may still be acceptable for the purpose of offering 30-

- min OR. This is the most important issue for which we require further information and cooperation from MPS.
- 4. <u>Start-up Curve</u>: We have compared the original and latest (December 2010) start up curves from MPS. The original may have been composed for a combined cycle where ramping of the gas turbine is restricted by HRSG thermal stress considerations. The benefit of faster ramping in start-up is not specifically discussed in the December 2010 proposal and additional information on this subject is required.
- 5. <u>Purge Credit</u>: MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and need more clarification.
- 6. <u>Synchronisation Time</u>: It would appear that 5 minutes to sync is used in the original start-up curve whereas the latest curve assumes 1 minute. MPS confirmation is required.
- 7. Scope of Supply: In addition to fast start, TCE has asked MPS to quote for a closed cooling water heater, pump, pipes, valves and tank. A 100 ft stack w/t expansion joints was also added to the scope. No breakdown in cost is provided but required.

TCE advised that MPS cannot confirm the proposed price until February 11, 2010. Given the lack of clarity, at this point, we are not in a position to rationalise US\$33,000,000 for the proposed additional scope of work as we understand the work involved. The fact that the project has fast start capability and is not replacing another starting system with SFC and not being penalised for the cost of the replaced alternative system (e.g. AC motor or diesel engine) suggest that the proposed budget price is high or it includes other cost items that weren't delineated in the proposal document. One example is the cost associated with delayed delivery.

Thanks, Safouh

<u>Highly Confidential</u>: This record contains information provided to or obtained by the OPA and that is designated by the OPA as highly confidential and intended, for the purpose of section 17 of the *Freedom of Information and Protection of Privacy Act*, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

From:

Michael Killeavy

Sent:

January 5, 2011 4:57 AM

To:

'safouh@smsenergy-engineering.com'; Deborah Langelaan

Subject:

Re: MPS Summary of Issues

Thank you Safouh.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael killeavy@powerauthority.on.ca

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: Tuesday, January 04, 2011 09:59 PM **To**: Michael Killeavy; Deborah Langelaan **Subject**: MPS Summary of Issues

As requested earlier today, below you will find a list of gas turbine issues arising from our review of MPS original and the more recent proposals to TCE. Please treat this as a "work in progress" list.

Background

OPA has had discussions with TCE on the use of OGS gas turbines for another project with simple cycle configuration. Since fast start is required (preferred) for simple cycle, the OPA asked TCE to advise if there are costs associated with a fast start option. It is understood that TCE has had discussions with MPS on the cost of simple cycle conversion including fast start which culminated among other things in an indicative budgetary non-binding proposal from MPS to TCE in December 2010. TCE provided a copy of the December proposal together with MPS original proposal to OPA for review through Osler and at Osler's offices. SMS received copies of TCE submissions from Osler and reviewed it on fast track basis. Issues resulting from this review that require further clarifications from TCE/MPS are noted below (Summary of Issues) for further action.

MPS Original Proposal

In July 2009 TCE signed a Gas Turbine Equipment Supply Agreement (ESA) with MPS for the supply of two (2) M501GAC gas turbines. The turbines were to be deployed in a combined cycle application at OGS. The ESA included a detailed scope of supply and division of responsibilities along with performance guarantees, schedule and commercial terms.

MPS Non-Binding Proposal of December 2010

MPS December 2010 proposal for a (non-binding price) of US\$33,000,000 was made (according to MPS) for:

1. Project Schedule Change and

2. Specification/Scope change to July 2009 ESA

Summary of Issues

- 1. <u>Price</u>: It is not clear if the price stated in the December 2010 proposal includes some cost provisions related to project schedule change/delay. This should be confirmed.
- 2. <u>Fast Start</u>: The ESA of July 2009 shows in Appendix I that the main equipment includes a Static Frequency Converter (SFC) for starting device. SFC is an option provided by equipment suppliers for applications requiring fast start. The alternative would be a starting system based on AC electric motor or diesel engine that will take more time to complete the start-up process. SFC is used to run-up the machine quickly by using the generator itself as motor from push button to ignition speed. We concluded, subject to Item 3 below, that the equipment as originally purchased by TCE from MPS includes fast start capability.
- 3. <u>SFC</u>: We noted from page 4-7 of the December 2010 proposal in the comment section of line item 16 the inclusion of "7MW". The original ESA includes a SFC with a rated output of 4MW. The reference to 7MW may suggest, but not sure, that the SFC has been up-rated and the proposed price is for the size increase and not for the installation of a complete system. Further information and explanation is required. The original SFC rating of 4MW may add few minutes to start time of 7MW SFC but may still be acceptable for the purpose of offering 30-min OR. This is the most important issue for which we require further information and cooperation from MPS.
- 4. <u>Start-up Curve</u>: We have compared the original and latest (December 2010) start up curves from MPS. The original may have been composed for a combined cycle where ramping of the gas turbine is restricted by HRSG thermal stress considerations. The benefit of faster ramping in start-up is not specifically discussed in the December 2010 proposal and additional information on this subject is required.
- 5. <u>Purge Credit</u>: MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and need more clarification.
- 6. <u>Synchronisation Time</u>: It would appear that 5 minutes to sync is used in the original start-up curve whereas the latest curve assumes 1 minute. MPS confirmation is required.
- 7. <u>Scope of Supply</u>: In addition to fast start, TCE has asked MPS to quote for a closed cooling water heater, pump, pipes, valves and tank. A 100 ft stack w/t expansion joints was also added to the scope. No breakdown in cost is provided but required.

TCE advised that MPS cannot confirm the proposed price until February 11, 2010. Given the lack of clarity, at this point, we are not in a position to rationalise US\$33,000,000 for the proposed additional scope of work as we understand the work involved. The fact that the project has fast start capability and is not replacing another starting system with SFC and not being penalised for the cost of the replaced alternative system (e.g. AC motor or diesel engine) suggest that the proposed budget price is high or it includes other cost items that weren't delineated in the proposal document. One example is the cost associated with delayed delivery.

Thanks, Safouh

<u>Highly Confidential</u>: This record contains information provided to or obtained by the OPA and that is designated by the OPA as highly confidential and intended, for the purpose of section 17 of the *Freedom of Information and Protection of Privacy Act*, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

From:

Michael Killeavy

Sent:

January 5, 2011 9:42 AM

To:

'Sebastiano, Rocco'; 'Ivanoff, Paul'; 'Smith, Elliot'

Cc:

Deborah Langelaan; JoAnne Butler

Subject:

FW: MPS Summary of Issues

Gentlemen,

Here's a list of some of the issues that Safouh's identified with the M501GAC Fast Start proposal from MPS.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management **Ontario Power Authority** 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 . 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: January 4, 2011 10:00 PM

To: Michael Killeavy; Deborah Langelaan

Subject: MPS Summary of Issues

As requested earlier today, below you will find a list of gas turbine issues arising from our review of MPS original and the more recent proposals to TCE. Please treat this as a "work in progress" list.

Background

OPA has had discussions with TCE on the use of OGS gas turbines for another project with simple cycle configuration. Since fast start is required (preferred) for simple cycle, the OPA asked TCE to advise if there are costs associated with a fast start option. It is understood that TCE has had discussions with MPS on the cost of simple cycle conversion including fast start which culminated among other things in an indicative budgetary non-binding proposal from MPS to TCE in December 2010. TCE provided a copy of the December proposal together with MPS original proposal to OPA for review through Osler and at Osler's offices. SMS received copies of TCE submissions from Osler and reviewed it on fast track basis. Issues resulting from this review that require further clarifications from TCE/MPS are noted below (Summary of Issues) for further action.

MPS Original Proposal

In July 2009 TCE signed a Gas Turbine Equipment Supply Agreement (ESA) with MPS for the supply of two (2) M501GAC gas turbines. The turbines were to be deployed in a combined cycle application at OGS. The ESA included a detailed scope of supply and division of responsibilities along with performance guarantees, schedule and commercial terms.

MPS Non-Binding Proposal of December 2010

MPS December 2010 proposal for a (non-binding price) of US\$33,000,000 was made (according to MPS) for:

- 1. Project Schedule Change and
- Specification/Scope change to July 2009 ESA

Summary of Issues

- 1. <u>Price</u>: It is not clear if the price stated in the December 2010 proposal includes some cost provisions related to project schedule change/delay. This should be confirmed.
- 2. <u>Fast Start</u>: The ESA of July 2009 shows in Appendix I that the main equipment includes a Static Frequency Converter (SFC) for starting device. SFC is an option provided by equipment suppliers for applications requiring fast start. The alternative would be a starting system based on AC electric motor or diesel engine that will take more time to complete the start-up process. SFC is used to run-up the machine quickly by using the generator itself as motor from push button to ignition speed. We concluded, subject to Item 3 below, that the equipment as originally purchased by TCE from MPS includes fast start capability.
- 3. <u>SFC</u>: We noted from page 4-7 of the December 2010 proposal in the comment section of line item 16 the inclusion of "7MW". The original ESA includes a SFC with a rated output of 4MW. The reference to 7MW may suggest, but not sure, that the SFC has been up-rated and the proposed price is for the size increase and not for the installation of a complete system. Further information and explanation is required. The original SFC rating of 4MW may add few minutes to start time of 7MW SFC but may still be acceptable for the purpose of offering 30-min OR. This is the most important issue for which we require further information and cooperation from MPS.
- 4. <u>Start-up Curve</u>: We have compared the original and latest (December 2010) start up curves from MPS. The original may have been composed for a combined cycle where ramping of the gas turbine is restricted by HRSG thermal stress considerations. The benefit of faster ramping in start-up is not specifically discussed in the December 2010 proposal and additional information on this subject is required.
- 5. <u>Purge Credit</u>: MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and need more clarification.
- 6. <u>Synchronisation Time</u>: It would appear that 5 minutes to sync is used in the original start-up curve whereas the latest curve assumes 1 minute. MPS confirmation is required.
- 7. <u>Scope of Supply</u>: In addition to fast start, TCE has asked MPS to quote for a closed cooling water heater, pump, pipes, valves and tank. A 100 ft stack w/t expansion joints was also added to the scope. No breakdown in cost is provided but required.

TCE advised that MPS cannot confirm the proposed price until February 11, 2010. Given the lack of clarity, at this point, we are not in a position to rationalise US\$33,000,000 for the proposed additional scope of work as we understand the work involved. The fact that the project has fast start capability and is not replacing another starting system with SFC and not being penalised for the cost of the replaced alternative system (e.g. AC motor or diesel engine) suggest that the proposed budget price is high or it includes other cost items that weren't delineated in the proposal document. One example is the cost associated with delayed delivery.

Thanks, Safouh

<u>Highly Confidential</u>: This record contains information provided to or obtained by the OPA and that is designated by the OPA as highly confidential and intended, for the purpose of section

17 of the Freedom of Information and Protection of Privacy Act, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

From:

Sebastiano, Rocco [RSebastiano@osler.com]

Sent:

January 5, 2011 9:55 AM

To:

Michael Killeavy; Deborah Langelaan

Cc:

Ivanoff, Paul; Smith, Elliot

Subject:

OPA/TCE/MPS Speaking Notes

Attachments:

5055907_1.doc

Michael and Deb,

Further to our call of yesterday morning, please find a draft set of speaking notes for a meeting with TCE and MPS for your review.

Regards, Rocco

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

SPEAKING NOTES FOR A MEETING BETWEEN THE OPA, TCE AND MPS

- As you know, the OPA and TCE have been working together in good faith to negotiate
 an agreement in respect of the development of a simple cycle natural gas-fired project in
 the Kitchener-Waterloo-Cambridge area. We are discussing the use of the M501GAC
 turbines originally ordered for the Oakville Generating Station, but we may want to
 convert them to M501GAC Fast Start turbines for the project in Kitchener-WaterlooCambridge.
- To that end, we have requested TCE reach out to MPS to provide a fixed-price quote for the conversion to Fast Start turbines. We have received and reviewed the "Indicative budgetary non-binding proposal" along with the proposed "Letter Agreement" to implement it. The Proposal contains a conversion price of US\$33MM, without any breakdown or substantiation and the possibility of an increase in conversion price by up to 25%. We understand from TCE that it has been MPS's position that it will not provide a major line item breakdown of the conversion price until there is a binding commitment to proceed with the Fast Start conversion.
- We are not, however, in a position to commit to Fast Start conversion until we have seen a major line item breakdown of the conversion price, so that we can evaluate its reasonableness. We cannot understand why, to date, MPS has refused to provide this information. [NTD: We could consider saying here that if MPS want us to backstop the reasonable costs to be incurred to develop a fixed price breakdown, we would, but perhaps we should not offer this unless asked.]
- As you are no doubt aware, the OPA has obligations to the Ontario ratepayers. We do not believe that it is in the ratepayers' interest to proceed with a Fast Start conversion without understanding the costs of doing so. Moreover, the OPA is not interested in having business partners involved in the Province who are inclined to obstruct the OPA from achieving its objectives. If MPS continues to refuse to provide the information we require for decision-making, we will find ourselves in a position where going forward we may need to consider not having MPS involved in future projects being developed in the Province.
- The OPA expects MPS to act reasonably and in good faith and respond to this and any other reasonable requests.

From:

Michael Killeavy

Sent:

January 5, 2011 10:28 AM

To:

JoAnne Butler

Cc: Subject: Susan Kennedy; Deborah Langelaan FW: OPA/TCE/MPS Speaking Notes

Attachments:

5055907_1.doc

JoAnne,

Here is a first draft of the message we'd like to deliver to MPS and TCE.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: January 5, 2011 9:55 AM

To: Michael Killeavy; Deborah Langelaan

Cc: Ivanoff, Paul; Smith, Elliot

Subject: OPA/TCE/MPS Speaking Notes

Michael and Deb,

Further to our call of yesterday morning, please find a draft set of speaking notes for a meeting with TCE and MPS for your review.

Regards, Rocco

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

SPEAKING NOTES FOR A MEETING BETWEEN THE OPA, TCE AND MPS

- As you know, the OPA and TCE have been working together in good faith to negotiate an agreement in respect of the development of a simple cycle natural gas-fired project in the Kitchener-Waterloo-Cambridge area. We are discussing the use of the M501GAC turbines originally ordered for the Oakville Generating Station, but we may want to convert them to M501GAC Fast Start turbines for the project in Kitchener-Waterloo-Cambridge.
- To that end, we have requested TCE reach out to MPS to provide a fixed-price quote for the conversion to Fast Start turbines. We have received and reviewed the "Indicative budgetary non-binding proposal" along with the proposed "Letter Agreement" to implement it. The Proposal contains a conversion price of US\$33MM, without any breakdown or substantiation and the possibility of an increase in conversion price by up to 25%. We understand from TCE that it has been MPS's position that it will not provide a major line item breakdown of the conversion price until there is a binding commitment to proceed with the Fast Start conversion.
- We are not, however, in a position to commit to Fast Start conversion until we have seen a major line item breakdown of the conversion price, so that we can evaluate its reasonableness. We cannot understand why, to date, MPS has refused to provide this information. [NTD: We could consider saying here that if MPS want us to backstop the reasonable costs to be incurred to develop a fixed price breakdown, we would, but perhaps we should not offer this unless asked.]
- As you are no doubt aware, the OPA has obligations to the Ontario ratepayers. We do not believe that it is in the ratepayers' interest to proceed with a Fast Start conversion without understanding the costs of doing so. Moreover, the OPA is not interested in having business partners involved in the Province who are inclined to obstruct the OPA from achieving its objectives. If MPS continues to refuse to provide the information we require for decision-making, we will find ourselves in a position where going forward we may need to consider not having MPS involved in future projects being developed in the Province.
- The OPA expects MPS to act reasonably and in good faith and respond to this and any other reasonable requests.

From:

Susan Kennedy

Sent:

January 5, 2011 4:37 PM

To:

Michael Lyle; JoAnne Butler; Michael Killeavy

Subject:

FW: Revised direction

Attachments:

KWC TransCanada Direction 20 12 2010 - OPA Comments 110105.docx

fyi

Susan H. Kennedy

Director, Corporate/Commercial Law Group

From: Susan Kennedy

Sent: January 5, 2011 4:34 PM **To:** 'Calwell, Carolyn (MEI)' **Subject:** RE: Revised direction

Carolyn,

I have completed the requisite "whip 'round", please see attached (which shows track changes from the version you sent) – essentially, de-selecting two suggested changes. I've included explanatory comment boxes to explain our concerns.

Thanks,

Susan H. Kennedy

Director, Corporate/Commercial Law Group

From: Calwell, Carolyn (MEI) [mailto:Carolyn.Calwell@ontario.ca]

Sent: December 23, 2010 3:28 PM

To: Susan Kennedy

Subject: Revised direction

Susan,

Attached are clean and black lined versions of the direction that we propose to send up through approvals. The direction has had policy input. I am reluctant to advance through our approvals processes until I have heard from you that the changes from the version that you sent to me do not create substantive issues for the OPA. Please let me know if there are show stoppers.

Thank you.

Carolyn

Carolyn-Calwell —

A/Deputy Director

Ministry of Energy - Legal Services Branch

Ministry of the Attorney General

416.212.5409

This communication may be solicitor/client privileged and contain confidential information only intended for the person(s) to whom it is addressed. Any dissemination or use of this information by others than the intended recipient(s) is prohibited. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

LEGAL ADVICE - PRIVILEGED AND CONFIDENTIAL - NOT FOR CIRCULATION

December ■, 2010

Mr. Colin Anderson Chief Executive Officer Ontario Power Authority Suite 1600 120 Adelaide Street West Toronto, ON M5H 1T1

Dear Mr. Anderson,

Re: Kitchener-Waterloo-Cambridge Area New Supply

I write in connection with my authority as the Minister of Energy in order to exercise the statutory power of ministerial direction that I have in respect of the Ontario Power Authority (the "OPA") under section 25.32 of the Electricity Act, 1998 (the "Act").

Background

The 2007 proposed Integrated Power System Plan forecast need for an additional gas plant in Kitchener-Waterloo-Cambridge (the "KWC Area"). In our Long Term Energy Plan, the Government identified the continued need for a peaking natural gas-fired plant in the—KWC Area where demand is growing at more than twice the provincial rate.

The Ministry has determined that it is prudent and necessary to build a simple cycle natural gasfired power plant that has a nameplate capacity of approximately 450MW for deployment in the KWC Area by [the spring of 2014] (the "KWC Project").

Pursuant to a direction dated August 18, 2008 (the "2008 Direction"), the OPA procured from TransCanada Energy Ltd. ("TransCanada") the design, construction and operation of a 900MW natural gas generating station in Oakville (the "Oakville Generating Station"). On October 7, 2010, I announced that the Oakville Generating Station would not proceed as changes in demand and supply have made the Oakville Generating station no longer necessary.

Procurement of Kitchener-Waterloo-Cambridge Area New Supply

In light of the foregoing, members of the Ministry of Energy staff have concluded that it is prudent to negotiate a project with TransCanada to replace its Oakville Generating Station project and meet the KWC Area supply requirement [by spring of 2014]. Ministry of Energy staff members have had discussions with TransCanada regarding such a project.



Direction

Therefore, pursuant to my authority under subsection 25.32(4) of the *Electricity Act, 1998*, I direct the OPA to proceed with negotiations with TransCanada related to the KWC Project with a view to:

- a) negotiating and executing an implementation agreement which would, among other things, provide that the OPA indemnify TransCanada pending the completion of a final contract with respect to certain costs that TransCanada must incur if an in service date of the [spring of 2014] is to be met;
- b) concluding and executing a definitive contract with TransCanada by [June 30, 2011], which will address the reliability needs described above.

In negotiating this contract, it is anticipated that the OPA will have regard to (i) a reasonable balance of risk and reward for TransCanada, and (ii) the costs reasonably incurred by TCE with respect to the Oakville Generating Station and the financial value of the SWGTA Contract to assess the appropriate economic value of the KWC Project. It is further expected that the contract provide for an in service date of no later than spring of 2014].

As with all electricity generation projects procured by the OPA, the KWC Project shall be required to undergo all local, municipal and environmental approvals to ensure it meets or exceeds regulated standards, including those for air quality, noise, odour and vibration.

For greater clarity, the OPA is not required by this direction to enter into a contract with TransCanada if it is unable to reach agreement with TransCanada on terms that satisfy the requirements of this direction.

I further direct that the 2008 Direction is hereby revoked.

This direction shall be effective and binding as of the date hereof.

Brad Duguid

Minister of Energy

Formatted: Keep with next

Formatted: Font: Italia

omment LSRK2 |: As per October iscussions and October 7 letter, this was greed to with TCE-Language is needed if his is to be considered as part of new letter trains.

_					
-	r	0	n	n	
	ь.	v			

Sebastiano, Rocco [RSebastiano@osler.com]

Sent:

January 5, 2011 6:56 PM

To:

Deborah Langelaan; Michael Killeavy

Cc:

Smith, Elliot

Subject:

RE:

& TCE Meeting Update

I am out a meeting on Friday morning. Could we move this meeting to 1 pm instead?

Thanks, Rocco

----Original Appointment----

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]

Sent: Wednesday, January 05, 2011 3:44 PM

To: Michael Killeavy; Smith, Elliot; Sebastiano, Rocco **Subject:** & TCE Meeting Update

When: Friday, January 07, 2011 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).

Where: 16 Meeting Room North

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

January 6, 2011 10:27 AM

To:

Ben Chin

Subject:

FW: MPS Summary of Issues

FYI

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: January 4, 2011 10:00 PM

To: Michael Killeavy; Deborah Langelaan **Subject:** MPS Summary of Issues

As requested earlier today, below you will find a list of gas turbine issues arising from our review of MPS original and the more recent proposals to TCE. Please treat this as a "work in progress" list.

Background

OPA has had discussions with TCE on the use of OGS gas turbines for another project with simple cycle configuration. Since fast start is required (preferred) for simple cycle, the OPA asked TCE to advise if there are costs associated with a fast start option. It is understood that TCE has had discussions with MPS on the cost of simple cycle conversion including fast start which culminated among other things in an indicative budgetary non-binding proposal from MPS to TCE in December 2010. TCE provided a copy of the December proposal together with MPS original proposal to OPA for review through Osler and at Osler's offices. SMS received copies of TCE submissions from Osler and reviewed it on fast track basis. Issues resulting from this review that require further clarifications from TCE/MPS are noted below (Summary of Issues) for further action.

MPS Original Proposal

In July 2009 TCE signed a Gas Turbine Equipment Supply Agreement (ESA) with MPS for the supply of two (2) M501GAC gas turbines. The turbines were to be deployed in a combined cycle application at OGS. The ESA included a detailed scope of supply and division of responsibilities along with performance guarantees, schedule and commercial terms.

MPS Non-Binding Proposal of December 2010

MPS December 2010 proposal for a (non-binding price) of US\$33,000,000 was made (according to MPS) for:

1. Project Schedule Change and

2. Specification/Scope change to July 2009 ESA

Summary of Issues

- 1. <u>Price</u>: It is not clear if the price stated in the December 2010 proposal includes some cost provisions related to project schedule change/delay. This should be confirmed.
- 2. <u>Fast Start</u>: The ESA of July 2009 shows in Appendix I that the main equipment includes a Static Frequency Converter (SFC) for starting device. SFC is an option provided by equipment suppliers for applications requiring fast start. The alternative would be a starting system based on AC electric motor or diesel engine that will take more time to complete the start-up process. SFC is used to run-up the machine quickly by using the generator itself as motor from push button to ignition speed. We concluded, subject to Item 3 below, that the equipment as originally purchased by TCE from MPS includes fast start capability.
- 3. <u>SFC</u>: We noted from page 4-7 of the December 2010 proposal in the comment section of line item 16 the inclusion of "7MW". The original ESA includes a SFC with a rated output of 4MW. The reference to 7MW may suggest, but not sure, that the SFC has been up-rated and the proposed price is for the size increase and not for the installation of a complete system. Further information and explanation is required. The original SFC rating of 4MW may add few minutes to start time of 7MW SFC but may still be acceptable for the purpose of offering 30-min OR. This is the most important issue for which we require further information and cooperation from MPS.
- 4. <u>Start-up Curve</u>: We have compared the original and latest (December 2010) start up curves from MPS. The original may have been composed for a combined cycle where ramping of the gas turbine is restricted by HRSG thermal stress considerations. The benefit of faster ramping in start-up is not specifically discussed in the December 2010 proposal and additional information on this subject is required.
- 5. <u>Purge Credit</u>: MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and need more clarification.
- 6. <u>Synchronisation Time</u>: It would appear that 5 minutes to sync is used in the original start-up curve whereas the latest curve assumes 1 minute. MPS confirmation is required.
- 7. <u>Scope of Supply</u>: In addition to fast start, TCE has asked MPS to quote for a closed cooling water heater, pump, pipes, valves and tank. A 100 ft stack w/t expansion joints was also added to the scope. No breakdown in cost is provided but required.

TCE advised that MPS cannot confirm the proposed price until February 11, 2010. Given the lack of clarity, at this point, we are not in a position to rationalise US\$33,000,000 for the proposed additional scope of work as we understand the work involved. The fact that the project has fast start capability and is not replacing another starting system with SFC and not being penalised for the cost of the replaced alternative system (e.g. AC motor or diesel engine) suggest that the proposed budget price is high or it includes other cost items that weren't delineated in the proposal document. One example is the cost associated with delayed delivery.

Thanks, Safouh

<u>Highly Confidential</u>: This record contains information provided to or obtained by the OPA and that is designated by the OPA as highly confidential and intended, for the purpose of section 17 of the *Freedom of Information and Protection of Privacy Act*, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

From:

Michael Killeavy

Sent:

January 7, 2011 9:39 AM

To:

'Sebastiano, Rocco'; 'Ivanoff, Paul' Susan Kennedy; Deborah Langelaan

Cc: Subject:

FW: Fasken Martineau letters - scanned

Attachments:

Fasken Martineau Itrto OMB-Dec 30-2010-#2.pdf; Fasken Martineau Itr to OMB-Dec

30-2010-#1.pdf

Rocco and Paul,

Once TCE settles with Ford and the Town of Oakville it intends on sending these letters. I don't see a problem with them since they don't state any position on the contract, but I thought I'd send them to you to see if you had any comments?

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Yvonne Cuellar

Sent: January 7, 2011 9:34 AM

To: Michael Killeavy

Subject: Fasken Martineau letters - scanned

Here they are.

Yvonne Cuellar

Administrative Assistant to

Michael Killeavy - Director, Contract Management and

Barbara Ellard - Director, Policy and Analysis

Electricity Resources

Ontario Power Authority_

120 Adelaide St. West, Suite 1600

Toronto, ON M5H 1T1 T: 416-969-6421 F: 416-967-1947

yyonne.cuellar@powerauthority.on.ca

소

Please consider your environmental responsibility before printing this email.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly

prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

www.fasken.com

FASKEN

Neil M. Smiley Direct 416 865 5122 nsmiley@fasken.com

Fasken Martineau DuMoulin LLP Barristers and Solicitors Patent and Trade-mark Agents

66 Wellington Street West Suite 4200, Toronto Dominion Bank Tower Box 20, Toronto-Dominion Centre Toronto, Ontario, Canada M5K 1N6

416 366 8381 Telephone 416 364 7813 Facsimile 800 268 8424 Toll free

December 30, 2010 File No.: 217716.00023

VIA EMAIL

Patrick Hennessy, Secretary Ontario Municipal Board 655 Bay Street, Suite 1500 Toronto, ON M5G 1E5

Dear Mr. Hennessy:

Re: OMB Case No. PL100058 & OMB File No. PL100058 TransCanada Energy Ltd. – Livable Oakville

We act as counsel for TransCanada Energy Ltd. and on its behalf we hereby give Notice of Withdrawal of the appeal which was filed on behalf of TransCanada Energy Ltd. in connection with the above-referenced matter.

Please be further advised that given the withdrawal, we do not intend to appear before the Board at the Prehearing Conference scheduled for Friday, January 7, 2011.

Should the Board require any additional information or documentation, please contact the undersigned as soon as possible.

Yours truly,

Neil M. Smiley

4 Ahy

NMS/te

cc: Denise Baker, Town of Oakville (via email)

Raymond Borja, OMB Case Planner

All Counsel (by email)

DM_TOR/217716-00023/4247033.1

Vancouver Calgary Toronto Ottawa Montréal Québec City London Paris Johannesburg

FASKEN

Neil M. Smiley Direct 416 865 5122 nsmiley@fasken.com

Fasken Martineau DuMoulin LLP Barristers and Solicitors Patent and Trade-mark Agents

66 Wellington Street West Suite 4200, Toronto Dominion Bank Tower Box 20, Toronto-Dominion Centre Toronto, Ontario, Canada M5K 1N6

416 366 8381 Telephone 416 364 7813 Facsimile 800 268 8424 Toll free

December 30, 2010 File No.: 217716.00023

VIA EMAIL

Patrick Hennessy, Secretary Ontario Municipal Board 655 Bay Street, Suite 1500 Toronto, ON M5G 1E5

Dear Mr. Hennessy:

OMB Case No. PL100299 & OMB File No. PL100299 Re:

> 1500 Royal Windsor Drive, Oakville, Ontario TransCanada Energy Ltd. - Site Plan Application

Municipal File No. SP 1506.005/01

OMB Case No. PL100299 & OMB File No. PL100370 Re:

1500 Royal Windsor Drive, Oakville, Ontario

TransCanada Energy Ltd. - Minor Variance Application

Municipal File No. C.A.V. A/023/2010

OMB Case No. PL100625 & OMB File No. PL100625 Re:

1500 Royal Windsor Drive, Oakville, Ontario

TransCanada Energy Ltd. - Interim Control By-law No. 2010-065

OMB Case No. PL101242 & OMB File No. PL101242 Re:

1500 Royal Windsor Drive, Oakville, Ontario

TransCanada Energy Ltd. - Official Plan Amendment No. 308

Municipal File No. 42.03.81

Re: OMB Case No. PL101242 & OMB File No. PL101243

1500 Royal Windsor Drive, Oakville, Ontario

TransCanada Energy Ltd. - Zoning Amendment By-law No. 2010-152

Municipal File No. 42.03.81

OMB Case No. PL101242 & OMB File No. PL101244 Re:

1500 Royal Windsor Drive, Oakville, Ontario

TransCanada Energy Ltd. - Zoning By-law Amendment No. 2010-153

Municipal File No. 42.03.81

DM TOR/217716-00023/4245416.1

Page 2

Re: OMB Case No. PL100299 & OMB File No. PL100369

1500 Royal Windsor Drive, Oakville, Ontario

Ford Motor Company of Canada Ltd. - Consent Application

Municipal File No. B-10/03 (1606)

We act as counsel for TransCanada Energy Ltd. and on its behalf, please accept this letter as Notice of Withdrawal of the appeals which were filed on behalf of TransCanada Energy Ltd. in connection with the above-noted matters referenced under OMB File Nos. PL100299, PL100370, PL100625, PL101242, PL101243 and PL101244 (the "TransCanada Appeals") We also confirm that TransCanada Energy Ltd. has no further interest in the application for consent of Ford Motor Company of Canada Ltd. under OMB File No. PL100369.

Given the submission of the foregoing Notice of Withdrawal of appeals, we trust the Board will close its files in relation to the above noted TransCanada Appeals.

Please be further advised that given the foregoing withdrawal of the TransCanada Appeals, we do not intend to appear before the Board at the Joint-Prehearing Conference scheduled for January 28, 2011, which was to deal with the above-noted matters. By way of a copy of this letter, we give notice of the withdrawals to counsel for the parties and the participants.

Should the Board require any additional information or documentation, please contact the undersigned as soon as possible.

Yours truly,

Neil M. Smiley

NMS/te

cc: G. Swinkin (via email)

At Shing

J. Doherty and D. Sunday (via email)

R.D. Cheeseman (via email)

L.J. Townsend (via email)

D. Morawetz, Chartwell-Maple Grove Residents Association

J. Haslett Theall, Joshua Creek Ratepayers Association

P. Watson

Raymond Borja, OMB Case Planner (via email)

From:

Michael Killeavy

Sent:

January 7, 2011 10:27 AM

To: Cc: 'Safouh Soufi'; Deborah Langelaan 'Sebastiano, Rocco'; 'Ivanoff, Paul'

Subject:

RE: MPS Summary of Issues

Safouh,

I met with TCE yesterday and raised some of the points in your email to them to explain why we were not entirely satisfied with the position MPS is taking. I plan on sending these concerns to TCE (I'll summarize your comments) and was wondering if there is any additional information you might like to see that would help you assess the start time for the existing M501GAC GTs? This seems to me to be key – if we can get the GTs to start inside of 30 minutes, I don't think we need the Fast Start capability.

At yesterday's meeting TCE indicated that MPS would likely be very reluctant to provide an itemized scope of work with itemized pricing. I asked "why" and didn't get a satisfactory response back really. We may need to chip away at this wall they've thrown up and get at the specific information we need to make a determination as to the value of the Fast Start proposal of 16 December 2010.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: January 4, 2011 10:00 PM

To: Michael Killeavy; Deborah Langelaan **Subject:** MPS Summary of Issues

As requested earlier today, below you will find a list of gas turbine issues arising from our review of MPS original and the more recent proposals to TCE. Please treat this as a "work in progress" list.

Background

OPA has had discussions with TCE on the use of OGS gas turbines for another project with simple cycle configuration. Since fast start is required (preferred) for simple cycle, the OPA asked TCE to advise if there are costs associated with a fast start option. It is understood that TCE has had discussions with MPS on the cost of simple cycle conversion including fast start which culminated among other things in an indicative budgetary non-binding proposal from MPS to TCE in December 2010. TCE provided a copy of the December proposal together with MPS original proposal to OPA

for review through Osler and at Osler's offices. SMS received copies of TCE submissions from Osler and reviewed it on fast track basis. Issues resulting from this review that require further clarifications from TCE/MPS are noted below (Summary of Issues) for further action.

MPS Original Proposal

In July 2009 TCE signed a Gas Turbine Equipment Supply Agreement (ESA) with MPS for the supply of two (2) M501GAC gas turbines. The turbines were to be deployed in a combined cycle application at OGS. The ESA included a detailed scope of supply and division of responsibilities along with performance guarantees, schedule and commercial terms.

MPS Non-Binding Proposal of December 2010

MPS December 2010 proposal for a (non-binding price) of US\$33,000,000 was made (according to MPS) for:

- 1. Project Schedule Change and
- 2. Specification/Scope change to July 2009 ESA

Summary of Issues

- 1. <u>Price</u>: It is not clear if the price stated in the December 2010 proposal includes some cost provisions related to project schedule change/delay. This should be confirmed.
- 2. <u>Fast Start</u>: The ESA of July 2009 shows in Appendix I that the main equipment includes a Static Frequency Converter (SFC) for starting device. SFC is an option provided by equipment suppliers for applications requiring fast start. The alternative would be a starting system based on AC electric motor or diesel engine that will take more time to complete the start-up process. SFC is used to run-up the machine quickly by using the generator itself as motor from push button to ignition speed. We concluded, subject to Item 3 below, that the equipment as originally purchased by TCE from MPS includes fast start capability.
- 3. <u>SFC</u>: We noted from page 4-7 of the December 2010 proposal in the comment section of line item 16 the inclusion of "7MW". The original ESA includes a SFC with a rated output of 4MW. The reference to 7MW may suggest, but not sure, that the SFC has been up-rated and the proposed price is for the size increase and not for the installation of a complete system. Further information and explanation is required. The original SFC rating of 4MW may add few minutes to start time of 7MW SFC but may still be acceptable for the purpose of offering 30-min OR. This is the most important issue for which we require further information and cooperation from MPS.
- 4. <u>Start-up Curve</u>: We have compared the original and latest (December 2010) start up curves from MPS. The original may have been composed for a combined cycle where ramping of the gas turbine is restricted by HRSG thermal stress considerations. The benefit of faster ramping in start-up is not specifically discussed in the December 2010 proposal and additional information on this subject is required.
- 5. <u>Purge Credit</u>: MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and need more clarification.
- 6. <u>Synchronisation Time</u>: It would appear that 5 minutes to sync is used in the original start-up curve whereas the latest curve assumes 1 minute. MPS confirmation is required.
- 7. <u>Scope of Supply</u>: In addition to fast start, TCE has asked MPS to quote for a closed cooling water heater, pump, pipes, valves and tank. A 100 ft stack w/t expansion joints was also added to the scope. No breakdown in cost is provided but required.

TCE advised that MPS cannot confirm the proposed price until February 11, 2010. Given the lack of clarity, at this point, we are not in a position to rationalise US\$33,000,000 for the proposed additional scope of work as we understand the work involved. The fact that the project has fast start capability and is not replacing another starting system with SFC and not being penalised for the cost of the

replaced alternative system (e.g. AC motor or diesel engine) suggest that the proposed budget price is high or it includes other cost items that weren't delineated in the proposal document. One example is the cost associated with delayed delivery.

Thanks, Safouh

<u>Highly Confidential</u>: This record contains information provided to or obtained by the OPA and that is designated by the OPA as highly confidential and intended, for the purpose of section 17 of the *Freedom of Information and Protection of Privacy Act*, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

From:

Deborah Langelaan

Sent:

January 7, 2011 10:35 AM

To:

Michael Killeavy

Subject:

RE: MPS Summary of Issues

It's a good thing I wasn't at yesterday's meeting. I would have blown my lid when they told you that MPS would not want to provide an itemized scope and pricing.

Deb

From: Michael Killeavy

Sent: Fri 07/01/2011 10:27 AM **To:** Safouh Soufi; Deborah Langelaan **Cc:** Sebastiano, Rocco; Ivanoff, Paul **Subject:** RE: MPS Summary of Issues

Safouh,

I met with TCE yesterday and raised some of the points in your email to them to explain why we were not entirely satisfied with the position MPS is taking. I plan on sending these concerns to TCE (I'll summarize your comments) and was wondering if there is any additional information you might like to see that would help you assess the start time for the existing M501GAC GTs? This seems to me to be key—if we can get the GTs to start inside of 30 minutes, I don't think we need the Fast Start capability.

At yesterday's meeting TCE indicated that MPS would likely be very reluctant to provide an itemized scope of work with itemized pricing. I asked "why" and didn't get a satisfactory response back really. We may need to chip away at this wall they've thrown up and get at the specific information we need to make a determination as to the value of the Fast Start proposal of 16 December 2010.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600

Toronto, Ontario

M5H 1T1

416-969-6288

416-520-9788 (CELL)

416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: January 4, 2011 10:00 PM

To: Michael Killeavy; Deborah Langelaan **Subject:** MPS Summary of Issues

MPS Suffillially Of 1550C5

As requested earlier today, below you will find a list of gas turbine issues arising from our review of MPS original and the more recent proposals to TCE. Please treat this as a "work in progress" list.

Background

OPA has had discussions with TCE on the use of OGS gas turbines for another project with simple cycle configuration. Since fast start is required (preferred) for simple cycle, the OPA asked TCE to advise if there are costs associated with a fast start option. It is understood that TCE has had discussions with MPS on the cost of simple cycle conversion including fast start which culminated among other things in an indicative budgetary non-binding proposal from MPS to TCE in December 2010. TCE provided a copy of the December proposal together with MPS original proposal to OPA for review through Osler and at Osler's offices. SMS received copies of TCE submissions from Osler and reviewed it on fast track basis. Issues resulting from this review that require further clarifications from TCE/MPS are noted below (Summary of Issues) for further action.

MPS Original Proposal

In July 2009 TCE signed a Gas Turbine Equipment Supply Agreement (ESA) with MPS for the supply of two (2) M501GAC gas turbines. The turbines were to be deployed in a combined cycle application at OGS. The ESA included a detailed scope of supply and division of responsibilities along with performance guarantees, schedule and commercial terms.

MPS Non-Binding Proposal of December 2010

MPS December 2010 proposal for a (non-binding price) of US\$33,000,000 was made (according to MPS) for:

- 1. Project Schedule Change and
- 2. Specification/Scope change to July 2009 ESA

Summary of Issues

- 1. <u>Price</u>: It is not clear if the price stated in the December 2010 proposal includes some cost provisions related to project schedule change/delay. This should be confirmed.
- 2. <u>Fast Start</u>: The ESA of July 2009 shows in Appendix I that the main equipment includes a Static Frequency Converter (SFC) for starting device. SFC is an option provided by equipment suppliers for applications requiring fast start. The alternative would be a starting system based on AC electric motor or diesel engine that will take more time to complete the start-up process. SFC is used to run-up the machine quickly by using the generator itself as motor from push button to ignition speed. We concluded, subject to Item 3 below, that the equipment as originally purchased by TCE from MPS includes fast start capability.
- 3. <u>SFC</u>: We noted from page 4-7 of the December 2010 proposal in the comment section of line item 16 the inclusion of "7MW". The original ESA includes a SFC with a rated output of 4MW. The reference to 7MW may suggest, but not sure, that the SFC has been up-rated and the proposed price is for the size increase and not for the installation of a complete system. Further information and explanation is required. The original SFC rating of 4MW may add few minutes to start time of 7MW SFC but may still be acceptable for the purpose of offering 30-min OR. This is the most important issue for which we require further information and cooperation from MPS.
- 4. <u>Start-up Curve</u>: We have compared the original and latest (December 2010) start up curves from MPS. The original may have been composed for a combined cycle where ramping of the gas turbine is restricted by HRSG thermal stress considerations. The benefit of faster ramping in start-up is not specifically discussed in the December 2010 proposal and additional information on this subject is required.
- 5. <u>Purge Credit</u>: MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and need more clarification.

- 6. <u>Synchronisation Time</u>: It would appear that 5 minutes to sync is used in the original start-up curve whereas the latest curve assumes 1 minute. MPS confirmation is required.
- Scope of Supply: In addition to fast start, TCE has asked MPS to quote for a closed cooling water heater, pump, pipes, valves and tank. A 100 ft stack w/t expansion joints was also added to the scope. No breakdown in cost is provided but required.

TCE advised that MPS cannot confirm the proposed price until February 11, 2010. Given the lack of clarity, at this point, we are not in a position to rationalise US\$33,000,000 for the proposed additional scope of work as we understand the work involved. The fact that the project has fast start capability and is not replacing another starting system with SFC and not being penalised for the cost of the replaced alternative system (e.g. AC motor or diesel engine) suggest that the proposed budget price is high or it includes other cost items that weren't delineated in the proposal document. One example is the cost associated with delayed delivery.

Thanks, Safouh

Highly Confidential: This record contains information provided to or obtained by the OPA and that is designated by the OPA as highly confidential and intended, for the purpose of section 17 of the *Freedom of Information and Protection of Privacy Act*, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

From:

Michael Killeavy

Sent:

January 7, 2011 11:16 AM

To: Subject: Deborah Langelaan

RE: MPS Summary of Issues

In fact, I told John that he was lucky that you weren't there.

Do you see any issues with me paraphrasing Safouh's email and sending it to TCE in an attempt to get somewhere with these guys?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Deborah Langelaan Sent: January 7, 2011 10:35 AM

To: Michael Killeavy

Subject: RE: MPS Summary of Issues

It's a good thing I wasn't at yesterday's meeting. I would have blown my lid when they told you that MPS would not want to provide an itemized scope and pricing.

Deb

From: Michael Killeavy

Sent: Fri 07/01/2011 10:27 AM

To: Safouh Soufi; Deborah Langelaan Cc: Sebastiano, Rocco; Ivanoff, Paul Subject: RE: MPS Summary of Issues

Safouh,

I met with TCE yesterday and raised some of the points in your email to them to explain why we were not entirely satisfied with the position MPS is taking. I plan on sending these concerns to TCE (I'll summarize your comments) and was wondering if there is any additional information you might like to see that would help you assess the start time for the existing M501GAC GTs? This seems to me to be key – if we can get the GTs to start inside of 30 minutes, I don't think we need the Fast Start capability.

At yesterday's meeting TCE indicated that MPS would likely be very reluctant to provide an itemized scope of work with itemized pricing. I asked "why" and didn't get a satisfactory response back really. We may need to chip away at this wall they've thrown up and get at the specific information we need to make a determination as to the value of the Fast Start proposal of 16 December 2010.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: January 4, 2011 10:00 PM

To: Michael Killeavy; Deborah Langelaan **Subject:** MPS Summary of Issues

As requested earlier today, below you will find a list of gas turbine issues arising from our review of MPS original and the more recent proposals to TCE. Please treat this as a "work in progress" list.

Background

OPA has had discussions with TCE on the use of OGS gas turbines for another project with simple cycle configuration. Since fast start is required (preferred) for simple cycle, the OPA asked TCE to advise if there are costs associated with a fast start option. It is understood that TCE has had discussions with MPS on the cost of simple cycle conversion including fast start which culminated among other things in an indicative budgetary non-binding proposal from MPS to TCE in December 2010. TCE provided a copy of the December proposal together with MPS original proposal to OPA for review through Osler and at Osler's offices. SMS received copies of TCE submissions from Osler and reviewed it on fast track basis. Issues resulting from this review that require further clarifications from TCE/MPS are noted below (Summary of Issues) for further action.

MPS Original Proposal

In July 2009 TCE signed a Gas Turbine Equipment Supply Agreement (ESA) with MPS for the supply of two (2) M501GAC gas turbines. The turbines were to be deployed in a combined cycle application at OGS. The ESA included a detailed scope of supply and division of responsibilities along with performance guarantees, schedule and commercial terms.

MPS Non-Binding Proposal of December 2010

MPS December 2010 proposal for a (non-binding price) of US\$33,000,000 was made (according to MPS) for:

- 1. Project Schedule Change and
- 2. Specification/Scope change to July 2009 ESA

Summary of Issues

- 1. <u>Price</u>: It is not clear if the price stated in the December 2010 proposal includes some cost provisions related to project schedule change/delay. This should be confirmed.
- 2. <u>Fast Start</u>: The ESA of July 2009 shows in Appendix I that the main equipment includes a Static Frequency Converter (SFC) for starting device. SFC is an option provided by equipment suppliers for applications requiring fast start. The alternative would be a starting system based on AC electric motor or diesel engine that will take more time to complete the start-up process. SFC is used to run-up the machine quickly by using the generator itself as motor from push button to ignition speed. We concluded, subject to Item 3 below, that the equipment as originally purchased by TCE from MPS includes fast start capability.
- 3. <u>SFC</u>: We noted from page 4-7 of the December 2010 proposal in the comment section of line item 16 the inclusion of "7MW". The original ESA includes a SFC with a rated output of 4MW. The reference to 7MW may suggest, but not sure, that the SFC has been up-rated and the proposed price is for the size increase and not for the installation of a complete system. Further information and explanation is required. The original SFC rating of 4MW may add few minutes to start time of 7MW SFC but may still be acceptable for the purpose of offering 30-min OR. This is the most important issue for which we require further information and cooperation from MPS.
- 4. <u>Start-up Curve</u>: We have compared the original and latest (December 2010) start up curves from MPS. The original may have been composed for a combined cycle where ramping of the gas turbine is restricted by HRSG thermal stress considerations. The benefit of faster ramping in start-up is not specifically discussed in the December 2010 proposal and additional information on this subject is required.
- 5. <u>Purge Credit</u>: MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and need more clarification.
- 6. <u>Synchronisation Time</u>: It would appear that 5 minutes to sync is used in the original start-up curve whereas the latest curve assumes 1 minute. MPS confirmation is required.
- 7. <u>Scope of Supply</u>: In addition to fast start, TCE has asked MPS to quote for a closed cooling water heater, pump, pipes, valves and tank. A 100 ft stack w/t expansion joints was also added to the scope. No breakdown in cost is provided but required.

TCE advised that MPS cannot confirm the proposed price until February 11, 2010. Given the lack of clarity, at this point, we are not in a position to rationalise US\$33,000,000 for the proposed additional scope of work as we understand the work involved. The fact that the project has fast start capability and is not replacing another starting system with SFC and not being penalised for the cost of the replaced alternative system (e.g. AC motor or diesel engine) suggest that the proposed budget price is high or it includes other cost items that weren't delineated in the proposal document. One example is the cost associated with delayed delivery.

T	h	а	n	k	s,
S	a	ıfo	JC	ıŀ	

<u>Highly Confidential</u>: This record contains information provided to or obtained by the OPA and that is designated by the OPA as highly confidential and intended, for the purpose of section 17 of the *Freedom of Information and Protection of Privacy Act*, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

From:

Sebastiano, Rocco [RSebastiano@osler.com]

1 ...

Sent: To:

January 7, 2011 11:28 AM Michael Killeavy; Smith, Elliot

Cc:

Deborah Langelaan

Subject:

Re:

I am good with meeting briefly today to get an update on TCE. Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Friday, January 07, 2011 10:00 AM **To**: Sebastiano, Rocco; Smith, Elliot

Cc: Deborah Langelaan < Deborah.Langelaan@powerauthority.on.ca >

Subject:

. Could we use the time to discuss TCE perhaps?

Let me know.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du prsent courriel est privilgi, confidentiel et soumis des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

1

From:

Sebastiano, Rocco [RSebastiano@osler.com]

Sent:

January 7, 2011 11:28 AM Michael Killeavy; Smith, Elliot

To: Cc:

Deborah Langelaan

Subject:

Re:

I am good with meeting briefly today to get an update on TCE. Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Friday, January 07, 2011 10:00 AM **To**: Sebastiano, Rocco: Smith, Elliot

Cc: Deborah Langelaan < Deborah.Langelaan@powerauthority.on.ca>

Subject:

Could we use the time to discuss TCE perhaps?

Let me know.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du prsent courriel est privilgi, confidentiel et soumis des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Sebastiano, Rocco [RSebastiano@osler.com]

Sent:

January 7, 2011 11:30 AM Michael Killeavy; Smith, Elliot

To: Cc:

Deborah Langelaan

Subject:

Re:

OK, see you then.

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Friday, January 07, 2011 11:28 AM **To**: Sebastiano, Rocco; Smith, Elliot

Cc: Deborah Langelaan < Deborah.Langelaan@powerauthority.on.ca>

Subject: RE:

How about 2pm then in our offices?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: January 7, 2011 11:28 AM **To:** Michael Killeavy; Smith, Elliot

Cc: Deborah Langelaan

Subject: Re:

I am good with meeting briefly today to get an update on TCE. Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority:on:ca]

Sent: Friday, January 07, 2011 10:00 AM

To: Sebastiano, Rocco; Smith, Elliot

Cc: Deborah Langelaan < Deborah Langelaan @powerauthority.on.ca>

Subject:

Could we use the time to discuss TCE perhaps?

Let me know.

Michael Killeavy, LL.B., MBA, P.Eng.

Director, Contract Management
Ontario Power Authority
120 Adelaide Street West, Suite 1600
Toronto, Ontario
M5H 1T1
416-969-6288
416-520-9788 (CELL)
416-967-1947 (FAX)

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du prsent courriel est privilgi, confidentiel et soumis des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Safouh Soufi [safouh@smsenergy-engineering.com]

Sent: To: January 7, 2011 1:02 PM

Cc:

Michael Killeavy; Deborah Langelaan 'Sebastiano, Rocco'; 'Ivanoff, Paul'

Subject:

RE: MPS Summary of Issues

Hello Micheal:

You could ask MPS to provide the machine's (M501GAC) <u>normal</u> and <u>maximum</u> ramp up rates together with Baseload curve for a temperature range from 16 – 100°F. You can also ask MPS to confirm if the M501GAC package comes with SFC staring device rated at 4MW as a standard supply from Mitsubishi. If not, what is the standard supply for starting device. If SFC is standard supply but the rating of 4MW is not then what is the SFC standard supply rating.

It would be helpful if MPS can tell us if the start-up curve included in Appendix I of Agreement No. 6519 is typical for when the machine is operating in Combined Cycle configuration. If so, then it would be helpful if they can supply a start-up curve for the machine described in Appendix I, having SFC of 4MW, operating in Simple Cycle configuration.

I hope this is helpful and if you require further information please feel free to call at any time.

Thanks, Safouh

Highly Confidential: This record contains information provided to or obtained by the OPA and that is designated by the OPA as highly confidential and intended, for the purpose of section 17 of the Freedom of Information and Protection of Privacy Act, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: January 7, 2011 10:27 AM **To:** Safouh Soufi; Deborah Langelaan **Cc:** Sebastiano, Rocco; Ivanoff, Paul **Subject:** RE: MPS Summary of Issues

Safouh,

I met with TCE yesterday and raised some of the points in your email to them to explain why we were not entirely satisfied with the position MPS is taking. I plan on sending these concerns to TCE (I'll summarize your comments) and was wondering if there is any additional information you might like to see that would help you assess the start time for the existing M501GAC GTs? This seems to me to be key — if we can get the GTs to start inside of 30 minutes, I don't think we need the Fast Start capability.

At yesterday's meeting TCE indicated that MPS would likely be very reluctant to provide an itemized scope of work with itemized pricing. I asked "why" and didn't get a satisfactory response back really. We may need to chip away at this wall they've thrown up and get at the specific information we need to make a determination as to the value of the Fast Start proposal of 16 December 2010.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: January 4, 2011 10:00 PM

To: Michael Killeavy; Deborah Langelaan **Subject:** MPS Summary of Issues

As requested earlier today, below you will find a list of gas turbine issues arising from our review of MPS original and the more recent proposals to TCE. Please treat this as a "work in progress" list.

Background

OPA has had discussions with TCE on the use of OGS gas turbines for another project with simple cycle configuration. Since fast start is required (preferred) for simple cycle, the OPA asked TCE to advise if there are costs associated with a fast start option. It is understood that TCE has had discussions with MPS on the cost of simple cycle conversion including fast start which culminated among other things in an indicative budgetary non-binding proposal from MPS to TCE in December 2010. TCE provided a copy of the December proposal together with MPS original proposal to OPA for review through Osler and at Osler's offices. SMS received copies of TCE submissions from Osler and reviewed it on fast track basis. Issues resulting from this review that require further clarifications from TCE/MPS are noted below (Summary of Issues) for further action.

MPS Original Proposal

In July 2009 TCE signed a Gas Turbine Equipment Supply Agreement (ESA) with MPS for the supply of two (2) M501GAC gas turbines. The turbines were to be deployed in a combined cycle application at OGS. The ESA included a detailed scope of supply and division of responsibilities along with performance guarantees, schedule and commercial terms.

MPS Non-Binding Proposal of December 2010

MPS December 2010 proposal for a (non-binding price) of US\$33,000,000 was made (according to MPS) for:

- 1. Project Schedule Change and
- 2. Specification/Scope change to July 2009 ESA

Summary of Issues

- 1. <u>Price</u>: It is not clear if the price stated in the December 2010 proposal includes some cost provisions related to project schedule change/delay. This should be confirmed.
- 2. <u>Fast Start</u>: The ESA of July 2009 shows in Appendix I that the main equipment includes a Static Frequency Converter (SFC) for starting device. SFC is an option provided by equipment suppliers for applications requiring fast start. The alternative would be a starting

- system based on AC electric motor or diesel engine that will take more time to complete the start-up process. SFC is used to run-up the machine quickly by using the generator itself as motor from push button to ignition speed. We concluded, subject to Item 3 below, that the equipment as originally purchased by TCE from MPS includes fast start capability.
- 3. <u>SFC</u>: We noted from page 4-7 of the December 2010 proposal in the comment section of line item 16 the inclusion of "7MW". The original ESA includes a SFC with a rated output of 4MW. The reference to 7MW may suggest, but not sure, that the SFC has been up-rated and the proposed price is for the size increase and not for the installation of a complete system. Further information and explanation is required. The original SFC rating of 4MW may add few minutes to start time of 7MW SFC but may still be acceptable for the purpose of offering 30-min OR. This is the most important issue for which we require further information and cooperation from MPS.
- 4. <u>Start-up Curve</u>: We have compared the original and latest (December 2010) start up curves from MPS. The original may have been composed for a combined cycle where ramping of the gas turbine is restricted by HRSG thermal stress considerations. The benefit of faster ramping in start-up is not specifically discussed in the December 2010 proposal and additional information on this subject is required.
- 5. <u>Purge Credit</u>: MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and need more clarification.
- 6. <u>Synchronisation Time</u>: It would appear that 5 minutes to sync is used in the original start-up curve whereas the latest curve assumes 1 minute. MPS confirmation is required.
- 7. <u>Scope of Supply</u>: In addition to fast start, TCE has asked MPS to quote for a closed cooling water heater, pump, pipes, valves and tank. A 100 ft stack w/t expansion joints was also added to the scope. No breakdown in cost is provided but required.

TCE advised that MPS cannot confirm the proposed price until February 11, 2010. Given the lack of clarity, at this point, we are not in a position to rationalise US\$33,000,000 for the proposed additional scope of work as we understand the work involved. The fact that the project has fast start capability and is not replacing another starting system with SFC and not being penalised for the cost of the replaced alternative system (e.g. AC motor or diesel engine) suggest that the proposed budget price is high or it includes other cost items that weren't delineated in the proposal document. One example is the cost associated with delayed delivery.

Thanks, Safouh

<u>Highly Confidential</u>: This record contains information provided to or obtained by the OPA and that is designated by the OPA as highly confidential and intended, for the purpose of section 17 of the *Freedom of Information and Protection of Privacy Act*, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

F	rom	:
•	. ~	

Ivanoff, Paul [Plvanoff@osler.com]

Sent:

January 7, 2011 1:01 PM

To:

Michael Killeavy

Cc:

Susan Kennedy; Deborah Langelaan; Sebastiano, Rocco

Subject:

RE: Fasken Martineau letters - scanned

Thanks Michael. I agree with you and don't see a problem with them. They can send them if they deem it appropriate and I don't see a need for the OPA to approve or comment on the letters.

Regards, Paul



Paul Ivanoff Partner

416.862.4223 DIRECT 416.862.6666 FACSIMILE pivanoff@osler.com

Osler, Hoskin & Harcourt LLP Box 50, 1 First Canadian Place Toronto, Ontario, Canada M5X 1B8



From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Friday, January 07, 2011 9:39 AM **To:** Sebastiano, Rocco; Ivanoff, Paul **Cc:** Susan Kennedy; Deborah Langelaan

Subject: FW: Fasken Martineau letters - scanned

Rocco and Paul,

Once TCE settles with Ford and the Town of Oakville it intends on sending these letters. I don't see a problem with them since they don't state any position on the contract, but I thought I'd send them to you to see if you had any comments?

B #	•	
11.71	ות	hael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) From: Yvonne Cuellar

Sent: January 7, 2011 9:34 AM

To: Michael Killeavy

Subject: Fasken Martineau letters - scanned

Here they are.

Yvonne Cuellar Administrative Assistant to Michael Killeavy - Director, Contract Management and Barbara Ellard - Director, Policy and Analysis **Electricity Resources Ontario Power Authority** 120 Adelaide St. West, Suite 1600 Toronto, ON M5H 1T1

T: 416-969-6421 F: 416-967-1947

yvonne.cuellar@powerauthority.on.ca

Please consider your environmental responsibility before printing this email.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

This e-mail message is privileged, confidential and subject to copyright. Any unauthorized use or disclosure is prohibited.

Le contenu du présent courriel est privilégié, confidentiel et soumis à des droits d'auteur. Il est interdit de l'utiliser ou de le divulguer sans autorisation.

From:

Michael Killeavy

Sent:

January 7, 2011 1:53 PM

To:

'Safouh Soufi'

Subject:

RE: MPS Summary of Issues

Did you mean ".... SFC starting device rated at 4MW" and not "staring device" in the first sentence?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: January 7, 2011 1:02 PM

To: Michael Killeavy; Deborah Langelaan **Cc:** 'Sebastiano, Rocco'; 'Ivanoff, Paul' **Subject:** RE: MPS Summary of Issues

Hello Micheal:

You could ask MPS to provide the machine's (M501GAC) <u>normal</u> and <u>maximum</u> ramp up rates together with Baseload curve for a temperature range from 16 – 100°F. You can also ask MPS to confirm if the M501GAC package comes with SFC staring device rated at 4MW as a standard supply from Mitsubishi. If not, what is the standard supply for starting device. If SFC is standard supply but the rating of 4MW is not then what is the SFC standard supply rating.

It would be helpful if MPS can tell us if the start-up curve included in Appendix I of Agreement No. 6519 is typical for when the machine is operating in Combined Cycle configuration. If so, then it would be helpful if they can supply a start-up curve for the machine described in Appendix I, having SFC of 4MW, operating in Simple Cycle configuration.

I hope this is helpful and if you require further information please feel free to call at any time.

Thanks,

Highly Confidential: This record contains information provided to or obtained by the OPA and that is designated by the OPA as highly confidential and intended, for the purpose of section 17 of the Freedom of Information and Protection of Privacy Act, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: January 7, 2011 10:27 AM **To:** Safouh Soufi; Deborah Langelaan **Cc:** Sebastiano, Rocco; Ivanoff, Paul **Subject:** RE: MPS Summary of Issues

Safouh,

I met with TCE yesterday and raised some of the points in your email to them to explain why we were not entirely satisfied with the position MPS is taking. I plan on sending these concerns to TCE (I'll summarize your comments) and was wondering if there is any additional information you might like to see that would help you assess the start time for the existing M501GAC GTs? This seems to me to be key – if we can get the GTs to start inside of 30 minutes, I don't think we need the Fast Start capability.

At yesterday's meeting TCE indicated that MPS would likely be very reluctant to provide an itemized scope of work with itemized pricing. I asked "why" and didn't get a satisfactory response back really. We may need to chip away at this wall they've thrown up and get at the specific information we need to make a determination as to the value of the Fast Start proposal of 16 December 2010.

Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]

Sent: January 4, 2011 10:00 PM

To: Michael Killeavy; Deborah Langelaan Subject: MPS Summary of Issues

As requested earlier today, below you will find a list of gas turbine issues arising from our review of MPS original and the more recent proposals to TCE. Please treat this as a "work in progress" list.

Background

OPA has had discussions with TCE on the use of OGS gas turbines for another project with simple cycle configuration. Since fast start is required (preferred) for simple cycle, the OPA asked TCE to advise if there are costs associated with a fast start option. It is understood that TCE has had discussions with MPS on the cost of simple cycle conversion including fast start which culminated among other things in an indicative budgetary non-binding proposal from MPS to TCE in December 2010. TCE provided a copy of the December proposal together with MPS original proposal to OPA for review through Osler and at Osler's offices. SMS received copies of TCE submissions from Osler and reviewed it on fast track basis. Issues resulting from this review that require further clarifications from TCE/MPS are noted below (Summary of Issues) for further action.

MPS Original Proposal

In July 2009 TCE signed a Gas Turbine Equipment Supply Agreement (ESA) with MPS for the supply of two (2) M501GAC gas turbines. The turbines were to be deployed in a combined cycle application at OGS. The ESA included a detailed scope of supply and division of responsibilities along with performance guarantees, schedule and commercial terms.

MPS Non-Binding Proposal of December 2010

MPS December 2010 proposal for a (non-binding price) of US\$33,000,000 was made (according to MPS) for:

- 1. Project Schedule Change and
- 2. Specification/Scope change to July 2009 ESA

Summary of Issues

- 1. <u>Price</u>: It is not clear if the price stated in the December 2010 proposal includes some cost provisions related to project schedule change/delay. This should be confirmed.
- 2. <u>Fast Start</u>: The ESA of July 2009 shows in Appendix I that the main equipment includes a Static Frequency Converter (SFC) for starting device. SFC is an option provided by equipment suppliers for applications requiring fast start. The alternative would be a starting system based on AC electric motor or diesel engine that will take more time to complete the start-up process. SFC is used to run-up the machine quickly by using the generator itself as motor from push button to ignition speed. We concluded, subject to Item 3 below, that the equipment as originally purchased by TCE from MPS includes fast start capability.
- 3. <u>SFC</u>: We noted from page 4-7 of the December 2010 proposal in the comment section of line item 16 the inclusion of "7MW". The original ESA includes a SFC with a rated output of 4MW. The reference to 7MW may suggest, but not sure, that the SFC has been up-rated and the proposed price is for the size increase and not for the installation of a complete system. Further information and explanation is required. The original SFC rating of 4MW may add few minutes to start time of 7MW SFC but may still be acceptable for the purpose of offering 30-min OR. This is the most important issue for which we require further information and cooperation from MPS.
- 4. <u>Start-up Curve</u>: We have compared the original and latest (December 2010) start up curves from MPS. The original may have been composed for a combined cycle where ramping of the gas turbine is restricted by HRSG thermal stress considerations. The benefit of faster ramping in start-up is not specifically discussed in the December 2010 proposal and additional information on this subject is required.
- 5. <u>Purge Credit</u>: MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and need more clarification.
- 6. <u>Synchronisation Time</u>: It would appear that 5 minutes to sync is used in the original start-up curve whereas the latest curve assumes 1 minute. MPS confirmation is required.
- 7. Scope of Supply: In addition to fast start, TCE has asked MPS to quote for a closed cooling water heater, pump, pipes, valves and tank. A 100 ft stack w/t expansion joints was also added to the scope. No breakdown in cost is provided but required.

TCE advised that MPS cannot confirm the proposed price until February 11, 2010. Given the lack of clarity, at this point, we are not in a position to rationalise US\$33,000,000 for the proposed additional scope of work as we understand the work involved. The fact that the project has fast start capability and is not replacing another starting system with SFC and not being penalised for the cost of the replaced alternative system (e.g. AC motor or diesel engine) suggest that the proposed budget price is high or it includes other cost items that weren't delineated in the proposal document. One example is the cost associated with delayed delivery.

and the state of

Thanks, Safouh

<u>Highly Confidential</u>: This record contains information provided to or obtained by the OPA and that is designated by the OPA as highly confidential and intended, for the purpose of section 17 of the *Freedom of Information and Protection of Privacy Act*, to be a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, the disclosure of which could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From:

Sebastiano, Rocco [RSebastiano@osler.com]

Sent: To: January 7, 2011 2:08 PM Michael Killeavy; Smith, Elliot

Cc:

Deborah Langelaan

Subject:

RE:

Can we call you instead at 2:30 or could you come over here as I have another meeting for 3 pm? Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Friday, January 07, 2011 1:49 PM **To:** Sebastiano, Rocco; Smith, Elliot

Cc: Deborah Langelaan

Subject: RE:

Rocco,

Something's just come up and I wonder if we might delay the TCE update until 2:30pm today? Sorry about this. Michael

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: January 7, 2011 11:30 AM **To:** Michael Killeavy; Smith, Elliot

Cc: Deborah Langelaan

Subject: Re:

OK, see you then.

From: Michael Killeavy [mailto:Michael Killeavy@powerauthority.on.ca]

Sent: Friday, January 07, 2011 11:28 AM **To:** Sebastiano, Rocco; Smith, Elliot

Cc: Deborah Langelaan < Deborah Langelaan @powerauthority.on.ca >

Subject: RE:

How about 2pm then in our offices?

alean in a company and a company of the company of

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: January 7, 2011 11:28 AM **To:** Michael Killeavy; Smith, Elliot

Cc: Deborah Langelaan

Subject: Re:

I am good with meeting briefly today to get an update on TCE. Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Friday, January 07, 2011 10:00 AM **To:** Sebastiano, Rocco; Smith, Elliot

Cc: Deborah Langelaan < Deborah.Langelaan@powerauthority.on.ca >

Subject:

Could we use the time to discuss TCE

perhaps? Let me know.

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

This e-mail message and any files transmitted with it are intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From:

Sebastiano, Rocco [RSebastiano@osler.com]

Sent: To: January 7, 2011 2:22 PM Michael Killeavy; Smith, Elliot

Cc:

Deborah Langelaan

Subject:

RE:

Yes, thanks.

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Friday, January 07, 2011 2:09 PM **To:** Sebastiano, Rocco; Smith, Elliot

Cc: Deborah Langelaan

Subject: RE:

I'll call then. Shall I dial your office number?

Michael Killeavy, LL.B., MBA, P.Eng. Director, Contract Management Ontario Power Authority 120 Adelaide Street West, Suite 1600 Toronto, Ontario M5H 1T1 416-969-6288 416-520-9788 (CELL) 416-967-1947 (FAX)

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]

Sent: January 7, 2011 2:08 PM To: Michael Killeavy; Smith, Elliot

Cc: Deborah Langelaan

Subject: RE:

Can we call you instead at 2:30 or could you come over here as I have another meeting for 3 pm?

Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]

Sent: Friday, January 07, 2011 1:49 PM

To: Sebastiano, Rocco; Smith, Elliot

Cc: Deborah Langelaan

Subject:

Rocco,

Something's just come up and I wonder if we might delay the TCE update until 2:30pm today? Sorry about this.

Michael