

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

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

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Aleksandar Kojic

From: Safouh Soufi [safouh@smsenergy-engineering.com]
Sent: January 7, 2011 2:22 PM
To: Michael Killeavy
Subject: Re: MPS Summary of Issues

First I confirm type then I confirm size. If I blend the two together and they answer "No" I couldn't tell if no is in reference to size. Wrote this with a view that if they may play on language, I still get a meaningful answer.

Thanks,
Safouh

From: "Michael Killeavy" <Michael.Killeavy@powerauthority.on.ca>
Date: Fri, 7 Jan 2011 13:52:58 -0500
To: Safouh Soufi<safouh@smsenergy-engineering.com>
Subject: RE: MPS Summary of Issues

Did you mean "... SFC starting device rated at 4MW ..." and not "staring device" in the first sentence?

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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) normal and maximum 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.

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Safouh

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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.

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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

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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. Price: 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. Fast Start: 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. SFC: 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. Start-up Curve: 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. Purge Credit: MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and need more clarification.
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Thanks,
Safouh

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 7, 2011 2:24 PM
To: 'safouh@smsenergy-engineering.com'
Subject: Re: MPS Summary of Issues

Was it "staring" or "starting"?

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

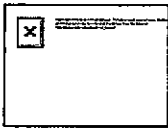
From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: January 7, 2011 2:30 PM
To: Ivanoff, Paul; Michael Killeavy
Cc: Susan Kennedy; Deborah Langelaan
Subject: RE: Fasken Martineau letters - scanned

I am a bit confused. These letters were signed and dated December 30, 2010 and in fact, one of them referred to a prehearing conference scheduled for today. I suspect that these have already been sent out by Fasken.

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Sent: Friday, January 07, 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.

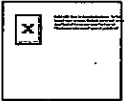
Regards,
Paul



Paul Ivanoff
Partner

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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
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Rocco and Paul,

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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
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yvonne.cuellar@powerauthority.on.ca



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Aleksandar Kojic

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Subject: RE: Fasken Martineau letters - scanned

I think they were supposed to be sent, but because they've not yet completed the settlements they didn't go out. That's my understanding.

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Regards,
Paul

OSLER

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

osler.com

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yvonne.cuellar@powerauthority.on.ca



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Aleksandar Kojic

From: Michael Killeavy
Sent: January 7, 2011 3:49 PM
To: 'John Mikkelsen'
Cc: Deborah Langelaan; Susan Kennedy; 'Sebastiano, Rocco'; 'Ivanoff, Paul'; 'Smith, Elliot'; 'Safouh Soufi'
Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Importance: High

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Thank 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
416-520-9788 (CELL)
416-967-1947 (FAX)

Aleksandar Kojic

From: John Mikkelsen [john_mikkelsen@transcanada.com]
Sent: January 7, 2011 6:16 PM
To: Michael Killeavy
Cc: Deborah Langelaan; safouh@smsenergy-engineering.com
Subject: Re: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

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Many thanks,

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Sent: Friday, January 07, 2011 01:48 PM
To: John Mikkelsen
Cc: Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>; Susan Kennedy <Susan.Kennedy@powerauthority.on.ca>; Sebastiano, Rocco <RSebastiano@osler.com>; Ivanoff, Paul <PIvanoff@osler.com>; Smith, Elliot <ESmith@osler.com>; Safouh Soufi <safouh@smsenergy-engineering.com>
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Aleksandar Kojic

From: Michael Killeavy
Sent: January 7, 2011 6:30 PM
To: 'safouh@smsenergy-engineering.com'
Cc: Deborah Langelaan
Subject: Re: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Please respond back to me. I think we do want simple cycle, don't we?

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120 Adelaide St. West, Suite 1600
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Michael.killeavy@powerauthority.on.ca

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Cc: Deborah Langelaan
Subject: Re: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Thank you for responding back so quickly.

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Michael.killeavy@powerauthority.on.ca

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]
Sent: Friday, January 07, 2011 06:37 PM
To: Michael Killeavy
Cc: Deborah Langelaan
Subject: RE: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Micheal,

Ramp rates for Simple Cycle operations.

Ramp rate:

1. To 100% speed no load,
2. To 60% load and;
3. From 60 to 100% load.

Thanks,
Safouh

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Sent: January 7, 2011 6:16 PM
To: michael.killeavy@powerauthority.on.ca
Cc: Deborah.Langelaan@powerauthority.on.ca; safouh@smsenergy-engineering.com
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Subject: Re: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

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We would very much like the ramp rates for Simple Cycle operation.

More specifically, we'd like ramp rates for the following cases:

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120 Adelaide Street West, Suite 1600
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Aleksandar Kojic

From: Safouh Soufi [safouh@smsenergy-engineering.com]
Sent: January 7, 2011 6:45 PM
To: Michael Killeavy
Subject: Re: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Have a great weekend, Micheal.

From: "Michael Killeavy" <Michael.Killeavy@powerauthority.on.ca>
Date: Fri, 7 Jan 2011 18:41:41 -0500
To: <safouh@smsenergy-engineering.com>
Cc: Deborah Langelaan<Deborah.Langelaan@powerauthority.on.ca>
Subject: Re: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Thank you for responding back so quickly.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
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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: Friday, January 07, 2011 06:37 PM
To: Michael Killeavy
Cc: Deborah Langelaan
Subject: RE: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Micheal,

Ramp rates for Simple Cycle operations.

Ramp rate:

1. To 100% speed no load,
2. To 60% load and;
3. From 60 to 100% load.

Thanks,
Safouh

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: January 7, 2011 6:16 PM

To: michael.killeavy@powerauthority.on.ca

Cc: Deborah.Langelaan@powerauthority.on.ca; safouh@smsenergy-engineering.com

Subject: Re: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Michael,

Thanks for getting these questions to us. Can you please clarify question 5 per the following?

5. Additional Technical Information – Could MPS please provide the machine's (M501GAC) normal and maximum ramp up rates together with the baseload curve for a temperature range from 16 – 100oF?

Can you please clarify whether the ramp rates requested are for simple cycle or combined cycle operation? Also please confirm that the ramp rate requested is for operation from 60% load to base load.

Many thanks,

John Mikkelsen

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

Sent: Friday, January 07, 2011 01:48 PM

To: John Mikkelsen

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

<Susan.Kennedy@powerauthority.on.ca>; Sebastiano, Rocco <RSebastiano@osler.com>; Ivanoff, Paul

<PIvanoff@osler.com>; Smith, Elliot <ESmith@osler.com>; Safouh Soufi <safouh@smsenergy-engineering.com>

Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

John,

Deb is away from the office today, so I am filling in for her as contact person today. As promised yesterday, we've done our review of the limited technical information provided in connection with the above-mentioned documents and we've the following questions and comments:

1. Price – We have been given an aggregate price for a number of different items. It seems that the price stated in the December 2010 Fast Start Proposal ("the Proposal") includes some cost provisions related to project schedule change/delay/suspension. Further to your 31 December 2010 email to Deborah Langelaan, could you please itemize: (a) the cost of suspension from October 7, 2010 to 31 December 2010; (b) the cost of delayed delivery; (c) the cost of additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works); and (d) the cost of the conversion of the M501GAC to M501GAS Fast Start gas turbine;
2. Fast Start - The Equipment Supply Agreement ("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. Is this correct?

3. SFC - 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 indicate 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;
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5. Purge Credit - MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and needs more clarification;
6. Synchronisation Time - It would appear that 5 minutes to synchronize is used in the original start-up curve whereas the latest curve assumes 1 minute. We would like MPS to confirm this;
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Can you also please relay the proposed schedule for the Implementation Agreement Workshops you want to hold? I'd like to get them blocked off and folks assigned to attend from our side.

Thank you,
Michael

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 7, 2011 6:47 PM
To: 'safouh@smsenergy-engineering.com'
Subject: Re: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

You too!

Michael Killeavy, LL.B., MBA, P.Eng.
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Ontario Power Authority
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Michael.killeavy@powerauthority.on.ca

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]
Sent: Friday, January 07, 2011 06:45 PM
To: Michael Killeavy
Subject: Re: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

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Date: Fri, 7 Jan 2011 18:41:41 -0500
To: <safouh@smsenergy-engineering.com>
Cc: Deborah Langelaan<Deborah.Langelaan@powerauthority.on.ca>
Subject: Re: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

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Sent: January 7, 2011 6:16 PM
To: michael.killeavy@powerauthority.on.ca
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Sent: Friday, January 07, 2011 01:48 PM
To: John Mikkelsen
Cc: Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>; Susan Kennedy <Susan.Kennedy@powerauthority.on.ca>; Sebastiano, Rocco <RSebastiano@osler.com>; Ivanoff, Paul <PIvanoff@osler.com>; Smith, Elliot <ESmith@osler.com>; Safouh Soufi <safouh@smsenergy-engineering.com>
Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

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Thank you,
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Aleksandar Kojic

From: Michael Killeavy
Sent: January 11, 2011 2:52 PM
To: Deborah Langelaan; JoAnne Butler
Cc: Manuela Moellenkamp
Subject: RE: Potential Meeting Dates

I don't think we want counsel there. It might inhibit delivery of the message to MPS.

Michael Killeavy, LL.B., MBA, P.Eng.
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Ontario Power Authority
120 Adelaide Street West, Suite 1600
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From: Deborah Langelaan
Sent: January 11, 2011 2:46 PM
To: JoAnne Butler
Cc: Michael Killeavy; Manuela Moellenkamp
Subject: RE: Potential Meeting Dates

JoAnne;

Let's see if either of those dates work for MPS and once we confirm the meeting time and MPS/TCE attendees we can firm up the OPA attendees.

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: JoAnne Butler
Sent: January 11, 2011 2:36 PM
To: Deborah Langelaan
Cc: Michael Killeavy; Manuela Moellenkamp
Subject: RE: Potential Meeting Dates

How about leaving the night of the 17th, meeting on Tuesday morning and returning that afternoon? This is preferred. Other option is leaving the night of the 18th for meeting on the Wednesday morning?

Should I take anyone with me? Legal counsel?

JCB

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: Deborah Langelaan
Sent: Martes, 11 de Enero de 2011 10:02 a.m.
To: JoAnne Butler
Cc: Michael Killeavy; Manuela Moellenkamp
Subject: Potential Meeting Dates

Hi JoAnne;

TransCanada has asked that we provide them with potential dates for your upcoming meeting with Mitsubishi in Orlando. TransCanada will be speaking with the folks at Mitsubishi this morning and they would like to present them with potential meeting dates at that time.

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 |

Aleksandar Kojic

From: Michael Killeavy
Sent: January 11, 2011 5:04 PM
To: 'RSebastiano@osler.com'; 'Pivanoff@osler.com'; 'ESmith@osler.com'
Cc: Deborah Langelaan; Susan Kennedy
Subject: Fw: TransCanada - Oakville GS - Ford-TCE Settlement Agreement
Attachments: Ford TCE Settlement Agreement Dec 21 2010.pdf

FYI

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
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Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Tuesday, January 11, 2011 05:01 PM
To: Michael Killeavy; Deborah Langelaan
Cc: John Cashin <john_cashin@transcanada.com>; Terry Bennett <terry_bennett@transcanada.com>; Terri Steeves <terri_steeves@transcanada.com>
Subject: TransCanada - Oakville GS - Ford-TCE Settlement Agreement

Michael/Deborah,

Further to last weeks meeting please find attached settlement agreement between Ford and TransCanada regarding the Option Agreement for the property at 1500 Royal Windsor Drive. Please note 4(a) with respect to our request to the OPA to keep the contents of this agreement confidential.

Best regards,

John Mikkelsen

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SETTLEMENT AND TERMINATION AGREEMENT

THIS AGREEMENT dated as of the 21st day of December, 2010

BETWEEN:

TRANSCANADA ENERGY LTD.
("TCE")

- and -

FORD MOTOR COMPANY OF CANADA,
LIMITED
("Ford")

WHEREAS TCE and Ford entered into an Option Agreement made as of the 6th day of July, 2009 (the "Option Agreement") pursuant to which, *inter alia*, TCE was granted an option to purchase certain lands in the Town of Oakville, Province of Ontario, as more particularly described in the Option Agreement;

AND WHEREAS by letter dated October 9, 2009 from TCE to Ford, TCE exercised the Option contained in the Option Agreement;

AND WHEREAS TCE and Ford wish to terminate the Option Agreement and otherwise settle all matters between them with respect to the matters set out in the Option Agreement on the terms and conditions set out in this Agreement.

NOW THEREFORE in consideration of the sum of Ten Dollars and the covenants and agreements contained herein, the receipt and sufficiency of which consideration is hereby acknowledged, the parties agree as follows:

1. **Definitions.** Terms initially capitalized in this Agreement and not defined herein shall have the meaning given to them in the Option Agreement, provided that for the purposes of this Agreement, the term "Option Agreement" shall also include the Confirmation Agreement entered into between the parties dated July 6, 2009, the agreement of purchase and sale created by the exercise of the Option, the short form of Option Agreement made as of July 6, 2009 between the parties to facilitate registration of notice of the Option, and the Option Confirmation Agreement made between the parties as of the 6th day of July, 2009.
2. **Settlement Funds.** TCE agrees to pay to Ford the sum of Cdn \$2,500,000 concurrently with execution of this Agreement pursuant to the invoice attached hereto as Schedule "A".

3. **Termination of Option Agreement.** Notwithstanding that the Option has been exercised, the Option Agreement is hereby terminated and neither party shall have any further rights or obligations under the Option Agreement, except as expressly set out in this Agreement. The parties further confirm that the indemnity contained in Section 3.4 of the Option Agreement is of no further force and effect, notwithstanding that Section 3.4 of the Option Agreement states that such indemnity and the provisions of Section 3.4 are to survive termination of the Option Agreement.
4. **Provisions of Option Agreement Which Survive.** Notwithstanding termination of the Option Agreement pursuant to Section 3 hereof, the following provisions of the Option Agreement shall survive execution and delivery of this Agreement:
 - (a) the provisions of Section 4.1 of the Option Agreement which deals with confidentiality. Notwithstanding the foregoing, ICE may provide to the OPA a copy of this Agreement, proof that the Initial Payment was paid to Ford by way of wire transfer confirmation number and copies of invoices issued by Ford to ICE with respect to Site Clearance Costs paid by ICE to Ford pursuant to the terms of the Site Clearance Agreement; provided that ICE requests the OPA to respect the confidential nature of this Agreement, any agreement referred to herein and the other deliverables permitted by this Section 4(a); and
 - (b) the provisions of Section 9.6 of the Option Agreement with respect to publicity, except to the extent necessary to enable a party to comply with the provisions of Section 5(c).
5. **Applications.** Without limiting the generality of Section 3 of this Agreement, the parties specifically confirm the following:
 - (a) Landscaped Area Variance. ICE shall have no right or obligation to make application for the Landscaped Area Variance.
 - (b) Severance Consent. Ford shall have no further obligation to apply for or pursue the Severance Consent and Ford will, at its cost, forthwith withdraw the appeal presently before the Ontario Municipal Board with respect to the decision of the Committee of Adjustment for the Town of Oakville regarding Ford's application for the Severance Consent.
 - (c) ICE Applications. ICE shall have no further right to make any application or pursue any appeal to the Ontario Municipal Board on behalf of Ford with respect to the Option Parcel and will forthwith withdraw any and all such applications and appeals. In addition, ICE shall forthwith, at its expense, abandon all applications and actions commenced by ICE in Ontario Superior Court or Divisional Court or otherwise with respect to the Option Parcel. Without limiting the generality of the foregoing, ICE will, at its expense, forthwith after execution of this Agreement withdraw its appeals presently before the Ontario Municipal Board with respect to: (i) the decision of the Committee of Adjustment for the Town of Oakville with respect to various minor variances relating to the Option

Parcel; (ii) the Town of Oakville's refusal to approve TCE's site plan for the Option Parcel; and (iii) any other appeals before the Ontario Municipal Board with respect to the Town of Oakville's Official Plan and Zoning By-law or any amendment thereto.

6. **No Return of Funds.** Ford shall have no obligation to return to TCE the Initial Payment or the Site Clearance Costs which have been paid by TCE to Ford under the Site Clearance Agreement.
7. **Confidentiality Agreement to Survive.** The parties acknowledge and agree that the terms of the Confidentiality Agreement shall continue and remain in full force and effect notwithstanding the termination date stated in the Confidentiality Agreement and notwithstanding termination of the Option Agreement pursuant to Section 4 of this Agreement.
8. **Termination of Water System Agreement.** The Water System Agreement made between Ford and TCE as of the 6th day of July, 2009 is hereby terminated. The parties further confirm that the indemnity contained in section 11 of the Water System Agreement is of no further force and effect, notwithstanding that section 11 of the Water System Agreement states that such indemnity is to survive termination of the Water System Agreement.
9. **Termination of Site Clearance Agreement.** The Site Clearance Agreement made between Ford and TCE as of the 15th day of October, 2009, as amended by agreement made as of the 27th day of August, 2010, is hereby terminated. Without limiting the generality of the foregoing, Ford shall have no obligation to repay any Site Clearance Costs paid by TCE to Ford pursuant to the Site Clearance Agreement or to perform any further work as contemplated in the Site Clearance Agreement. The parties further confirm that the indemnity contained in section 8 of the Site Clearance Agreement is of no further force and effect, notwithstanding that section 8 of the Site Clearance Agreement states that such indemnity is to survive termination of the Site Clearance Agreement.
10. **No Obligation to Enter into Other Agreements.** Without limiting the generality of Section 3 of this Agreement, Ford and TCE confirm that they will not enter into the Lay-Down Area License, the Parking License, the Storm Drain Access Agreement, the Assignment or the easements contemplated in sections 4.10 and 4.11 of the Option Agreement.
11. **Representations and Warranties.**
 - (a) Ford represents and warrants to and in favour of TCE that it has not assigned or otherwise encumbered its interest in the Option Agreement, Water System Agreement or Site Clearance Agreement and has full power and authority to enter into this Agreement on the terms set out herein.
 - (b) TCE represents and warrants to and in favour of Ford that it has not assigned or otherwise encumbered its interest in the Option Agreement, Water System

Agreement or Site Clearance Agreement and has full power and authority to enter into this Agreement on the terms set out herein.

12. **Discharge of Registrations.** Forthwith after execution of this Agreement, TCE shall, at its expense, discharge the notice of Option filed by it against the Option Parcel as Instrument No. HR767937, as well as the notice of Option filed by it against the Pump House as Instrument No. HR767943, together with any other registrations made by it with respect to or arising from the Option Agreement, Water System Agreement or Site Clearance Agreement against any other lands owned by Ford.
13. **Ownership of Option Parcel.** Ford shall retain ownership of the Option Parcel, free and clear of any claim by TCE arising under the Option Agreement or otherwise, and TCE hereby acknowledges, covenants and agrees to and in favour of Ford that upon complete execution and delivery of this Agreement, TCE has no right, title or interest in the Option Parcel or the Ford Lands or any part thereof.
14. **Releases.**
 - (a) For and in consideration of the mutual covenants and agreements contained in this Agreement, TCE hereby releases and forever discharges Ford and its officers, directors, employees, agents, successors and assigns (collectively, the "Releasee") of and from any and all actions, causes of action, suits, debts, dues, accounts, obligations, costs, legal costs, claims and demands of every nature or kind which TCE, its officers, directors, shareholders, employees, agents, successors and assigns have or may have in any way arising from or relating to the Option Parcel, the Option Agreement, the Site Clearance Agreement or the Water System Agreement; provided, however, that this release shall not extend to:
 - (i) the rights and obligations of the parties under this Agreement;
 - (ii) any action, cause of action, claim or demand based on fraud or misrepresentation of the Releasee; and
 - (iii) the provisions of the Option Agreement which are expressly stated to survive termination as set out in Section 4 of this Agreement.
 - (b) For and in consideration of the mutual covenants and agreements contained in this Agreement, Ford hereby releases and forever discharges TCE and its officers, directors, employees, agents, successors and assigns (collectively, the "Releasee") of and from any and all actions, causes of action, suits, debts, dues, accounts, obligations, costs, legal costs, claims and demands of every nature or kind which Ford, its officers, directors, shareholders, employees, agents, successors and assigns have or may have in any way arising from or relating to the Option Parcel, the Option Agreement, the Site Clearance Agreement or the Water System Agreement; provided, however, that this release shall not extend to:
 - (i) the rights and obligations of the parties under this Agreement;

CONFIDENTIAL

- (ii) any action, cause of action, claim or demand based on fraud or misrepresentation of the Releasee; and
 - (iii) the provisions of the Option Agreement which are expressly stated to survive termination as set out in Section 4 of this Agreement.
15. **TCE Claim to the OPA.** ICE has advised Ford that ICE will attempt to recover the amount of the Initial Payment, the amount of the Site Clearance Costs paid by Ford to ICE and the amount of payment made by ICE to Ford pursuant to Section 2 of this Agreement, plus interest, from the OPA, and ICE covenants and agrees with Ford that it will not make any claim to the OPA for payments to Ford in excess of these amounts.
16. **Notice.** Any notice required or permitted to be given under this Agreement (a "Notice") shall be given by personal delivery or by facsimile transmission at the addresses set out below. Any Notice given prior to 5:00 p.m. (Toronto time) on a Business Day shall be deemed to have been received on that Business Day. Any Notice given after 5:00 p.m. (Toronto time) on a Business Day or on a day other than a Business Day shall be deemed to have been given on the next following Business Day. Notices shall be delivered or sent as follows:

(a) in the case of Ford to:

Address: c/o Ford Motor Company
Fairlane Plaza South
330 Town Centre Drive, Ste 1100
Dearborn, Michigan 48126-2738 USA

Fax: (313) 390-7488
Telephone: (313) 390-3423

For the Attention of: George Andraos, PE
Director, Energy & Manufacturing Services

With a copy to: Ford Motor Land Development Corporation
330 Town Centre Drive
Suite 1100
Dearborn, Michigan 48126 USA

Fax: (313) 390-7488
Telephone: (313) 323-7458

For the Attention of: Emily Smith-Sulfaro, General Counsel and
Secretary

With a copy to: Blake, Cassels & Graydon LLP
Barristers and Solicitors
199 Bay Street, Commerce Court West
Toronto, Ontario, Canada M5L 1A9

Fax: (416) 863-2653
Telephone: (416) 863-2587

For the Attention of: Joan C. G. Kennedy

(b) in the case of ICE to:

Address: TransCanada Energy Ltd.
Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
Toronto, ON
M5J 2J1 Canada

Fax: (416) 869-2056
Telephone: (416) 869-2133

For the attention of: Terry Bennett, Vice President

With a copy to: Fasken Martineau DuMoulin LLP
Barristers and Solicitors
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto, ON M5K 1N6 Canada

Fax: (416) 364-7813
Telephone: (416) 865-5122

For the Attention of: Neil M. Smiley

By giving to the other party at least ten (10) days' Notice, either party may, at any time and from time to time, change its address for delivery or communication for purposes of this Agreement.

17. **Further Assurances.** Each party shall promptly do, execute, deliver or cause to be done, executed and delivered all such further acts, documents and things in connection with this Agreement as any other party may reasonably require for the purposes of giving effect to this Agreement.
18. **Counterparts.** This Agreement may be executed by the parties in multiple counterparts, in original or by facsimile or other form of electronic transmission, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

19. **Governing Law.** This Agreement shall be governed by the laws of Ontario and the federal laws of Canada applicable therein.
20. **Successors and Assigns.** This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

(Signatures continued on next page)

IN WITNESS WHEREOF the parties have executed this Agreement as of the date indicated above.

TRANSCANADA ENERGY LTD.

Per: *Sean D. McMaster*
Name: Sean D. McMaster
Title: Director

LEGAL	<i>[Signature]</i>
CONTENT	<i>[Signature]</i>

Per: *Karl Johannson*
Name: Karl Johannson
Title: Sr. Vice President

I/We have authority to bind the Corporation

**FORD MOTOR COMPANY OF CANADA,
LIMITED**

Per: *George Andraos*
Name: GEORGE ANDRAOS
Title: DIRECTOR - ENERGY

I have authority to bind the Corporation

Schedule "A" - Invoice

SCHEDULE "A"

FORD MOTOR COMPANY OF CANADA, LIMITED

**Oakville Assembly Complex
PO Box 13000
Oakville, ON L6J 5C9**

December 21, 2010

TransCanada Energy Ltd.
55 Yonge Street
Toronto, ON M5E 1J4

Subject: Invoice for Settlement Funds pursuant to Settlement and Termination Agreement,
dated December 21, 2010

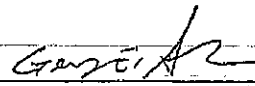
Pursuant to the Settlement and Termination Agreement dated as of the date hereof, please
forward funds in the amount of Cdn \$2,500,000 to Ford Motor Company of Canada, Limited,
such funds to be wired as follows:

Beneficiary: Ford Motor Company of Canada, Ltd.
Bank: Citibank Canada
123 Front St. West
Toronto, ON M5J 2M3
Account No. 2016179004
BIC: CITICAT XXX
Transit No. 026000082

Yours truly,

**FORD MOTOR COMPANY OF CANADA,
LTD.**

Per:


Name: GEORGE ANDRUS
Title: DIRECTOR - ENERGY

Aleksandar Kojic

From: John Mikkelsen [john_mikkelsen@transcanada.com]
Sent: January 13, 2011 10:59 AM
To: Deborah Langelaan; Michael Killeavy; Terri Steeves; Larry Scheuerman; Chris Cinnamon; Chris Breen
Subject: TransCanada / OPA Meeting - Proposed Agenda for today
Attachments: OPA Cambridge Technical Design Requirements.doc; OPA-TCE Cambridge Negotiation Plan.doc

As a guide to today's discussion we propose the following agenda. Please let us know if this is appropriate.

TransCanada / OPA Meeting

January 13, 2011

Proposed Agenda

1. Oakville Update
2. Mitsubishi Update
 - a. Timing on responses to questions and price break-out
 - b. Meeting with Mitsubishi
 - c. Review of MPS information response (ensure alignment)
3. Review proposed Cambridge Technical Design Criteria
4. Review proposed Cambridge Community Benefits Package
5. Review summary table of discussion topics to support open book process
6. Hydro One – IESO
 - a. Alignment of messaging and responses wrt Cambridge need and solutions
 - b. Need for priority with respect to SIA/CIA queue
 - c. What is the OPA proposing wrt 230 kV line and Cambridge MTS#2? Hydro One build?
7. Cambridge Plan Forward
 - a. Update on Queen's Park meeting
 - b. Timing for approach to Mayor and release to public
8. Review Minutes of last meeting
9. Action List

See you at 2:30.

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.

DRAFT FOR DISCUSSION
Technical Design Requirements

Facility

The proposed Facility must:

- (a) be a Dispatchable Facility.
- (b) be a simple cycle configuration generating facility.
- (c) utilize Gas (which has been defined as natural gas supplied by pipeline) as the Fuel.
- (d) be designed, constructed and operated in compliance with all relevant requirements of the Market Rules, the Transmission System Code, the Distribution System Code and all other laws and regulations, as applicable
- (e) must comply with Section 6 (Generation Connection Criteria), as specified in the 'Ontario Resources and Transmission Assessment Criteria' document published by the IESO (and available at http://www.ieso.ca/imoweb/pubs/marketAdmin/IMO_REQ_0041_TransmissionAssessmentCriteria.pdf). For greater certainty, the proposed Facility must also comply with all other requirements referenced therein including that the proposed Facility must be in compliance with all applicable Generation Facility Requirements.

Contract Capacity

The proposed Contract Facility must be a single generating facility and must

- (a) be able to provide a minimum of xxx MW at 30 °C under both N-1 System Conditions and N-1 Generating Facility Conditions simultaneously. For further clarity, the proposed Contract Facility must be designed to supply either transmission circuit (M20D or M21D) at all times. Each unit must be able to supply either transmission circuit at all times;
- (b) [be able to provide a minimum of xxx MW at 30 °C under N-2 System Conditions;]
- (c) have a Season 3 Contract Capacity of no less than xxx[450] MW; and
- (d) have a Contract Capacity of no more than xxx[600] MW in any Season.
- (e) must have a Nameplate MVA Rating of no more than xxx [650] MVA

Electrical Connection

The proposed Contract Facility must be connected directly to the IESO-Controlled Grid via new double circuit 230 kV transmission lines. [Notwithstanding the foregoing, a proposed Contract Facility may connect to a Local Distribution System for the purpose of providing Islanding Capability and still be eligible.]

The proposed Contract Facility must have a Connection Point (the "**Required Connection Points**") located with a direct connection to the Hydro One circuits M20D and M21D between the xxxth transmission tower (Tower #xx) leaving the Preston TS connecting to the Galt TS. [Assumes TCE builds the transmission line to Boxwood]

Operation Following a N-2 Contingency (Load Restoration)[does OPA want this?]

Emissions Requirements

In addition to meeting all requirements set out in the *Environmental Protection Act* (Ontario) and regulations thereunder (including Ontario Regulation 419/05 Air Pollution – Local Air Quality), as well as the Ministry of the Environment's Guideline A-5, Atmospheric Emissions from Stationary Combustion Turbines (revised March 1994), and any other regulatory requirements to which the proposed Facility may be subject, the proposed Facility must meet the specific limitations regarding air emissions set out in this Section.

Specifically, the proposed Facility must not emit:

- (i) Nitrogen Oxides (NOx) in a concentration that exceeds 15 ppmv (based upon Reference Conditions and 15% O₂ in the exhaust gases on a dry volume basis) as measured using the KWCG Emissions Measurement Methodology, and all as more particularly set out in the

KWCG Peaking Generation Contract; or (ii) Carbon Monoxide (CO) in a concentration that exceeds 15 ppmv (based upon Reference Conditions and 15% O₂ in the exhaust gases on a dry volume basis) as measured using the KWCG Emissions Measurement Methodology, and all as more particularly set out in the KWCG Peaking Generation Contract.

TransCanada must provide evidence to support the stated emission levels of NO_x and CO in the form of a signed certificate by an authorized representative of any of: (1) the original equipment manufacturer of the proposed Facility's turbines, (2) the supplier or manufacturer of any post combustion emission control equipment utilized by the proposed Facility, or (3) the engineering company responsible for the design of the proposed Facility, which certificate must state that the proposed Facility, as designed, will operate within these stated limits for NO_x and CO.

The KWCG Peaking Generation Contract will require that the emission limits for NO_x and CO as specified in the Proposal, pursuant to this Section, be (i) incorporated into the proposed Facility's Environmental Review Report prepared as part of its environmental assessment process or otherwise reflected in its completed environmental assessment, and (ii) ultimately reflected in the proposed Facility's application to the Ministry of the Environment for a Certificate of Approval (Air & Noise) Operating Permit, together with a request that such limits be imposed as a condition in such certificate of approval.

The emission limits for NO_x and CO stated in the KWCG Peaking Generation Contract will form the basis of an ongoing operating requirement. For greater certainty, the OPA is not requiring TransCanada to adopt any specific facility design or utilize any particular control equipment with respect to air emissions, provided, however, that the proposed Facility must comply with the NO_x and CO limits specified in Sections

TransCanada – Ontario Power Authority
Oakville – Cambridge Negotiations
Proposed Summary of Discussion Topics and Assumed Sequence

Further to last week's preliminary discussion here is a tentative schedule of the key discussion topics with respect to the execution of the Implementation Agreement and the Peaking Generation Contract for Cambridge:

Prior to Completion of the Implementation Agreement		
Item	Topic	when
	OPA Technical Design Requirements	January 13
	Community Benefits	
	Open book negotiation process	
	Implementation Execution Strategy	January 18?
	Protocol for OPA input, and sign-off, due diligence and audit purposes	January 18?
	Development schedule – deliverables and milestones	
	Development Budget and AFE Process	
	Finalize Implementation Agreement	January 31
Prior to Completion of the Peaking Generation Contract		
	Project technical design requirements and SOW	February
	Oakville Termination Costs	February
	Commercial structure – sunk costs, financial value of contract, GD&M etc.	
	EA, Zoning, Permits and Approvals plan	
	Capex workshop	
	Opex workshop	
	Performance workshop	
	Negotiation of the KWCG Peaking generation contract	
	Gas Management and Delivery estimate	~May
	Implementation schedule	~May
	Review of Final Capex, Opex, performance	~May
	Convergence to economic parameters	~May
	Execution of Contract	June 30

Aleksandar Kojic

From: Ben Chin
Sent: January 13, 2011 11:35 AM
To: Deborah Langelaan
Cc: Michael Killeavy; JoAnne Butler
Subject: FW: for the morning
Attachments: Thursday morning 1.ppt; Thursdaymorning 2.pptx; Thursdaymorning 3; Thursdaymorning 4; Thursdaymorning 5 (2).doc

Guys, here are the materials we used to talk about outreach with our friends today. We're going to make some changes (requested changes, and changes I've requested)

On TC deck, I've asked them to add a slide on competitors' sites (currently there's only a deck for Eagle St and Boxwood).

They'll also be changing 515 MW to 450

On PSP's deck, we've been asked to take out Guelph, mention LTEP, and be more graphic on the residential impact of Tx alternatives.

So now we wait to get green light to go to Cambridge...perhaps as early as next week, but more likely the week after. And we have time to refine these products



Ben Chin | Vice President, Corporate Communications
120 Adelaide St W., Suite 1600 | Toronto, Ontario, M5H 1T1
Phone: 416.969.6007 | Fax: 416.967.1947 | Email: ben.chin@powerauthority.on.ca
🌱 Please consider your environmental responsibility before printing this email.

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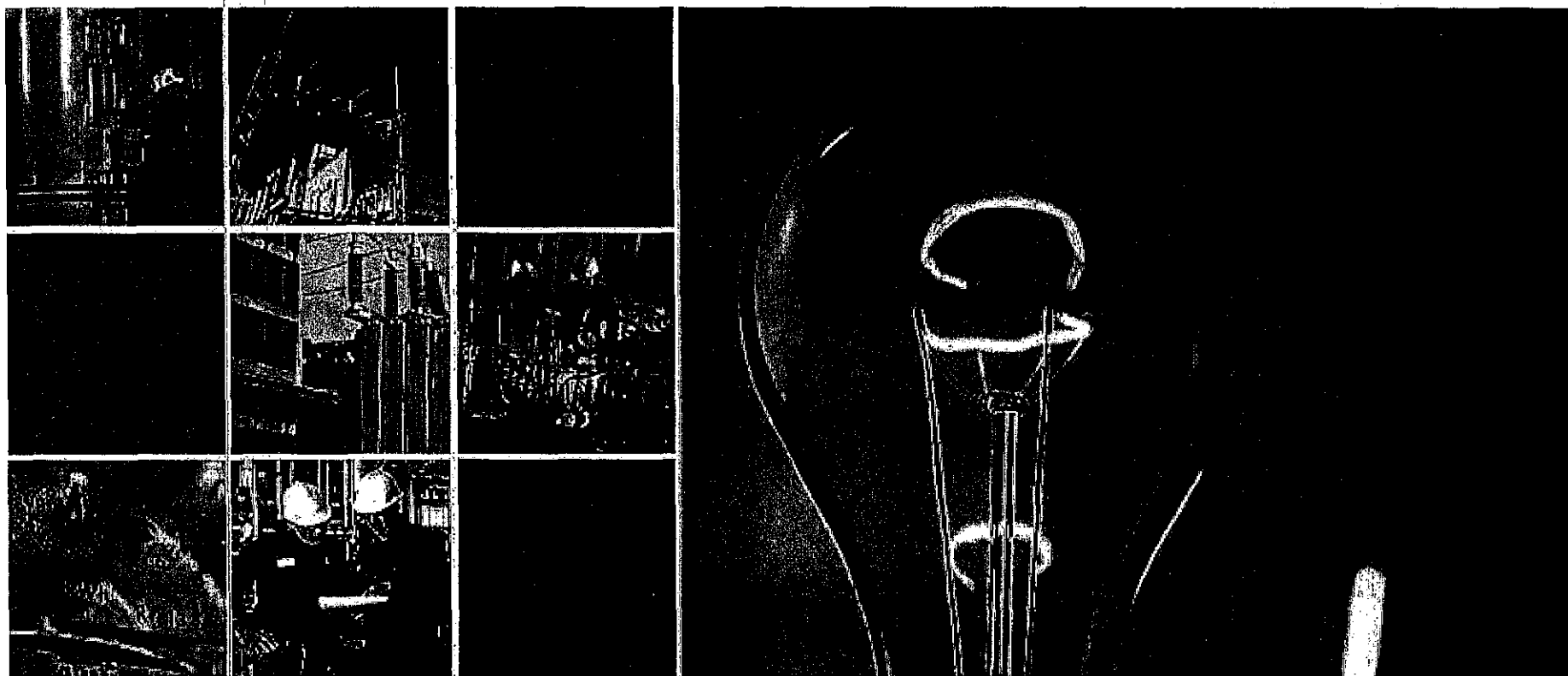
From: Ben Chin
Sent: January 12, 2011 5:17 PM
To: 'MacLennan, Craig (MEI)'; Johnston, Alicia (MEI); Mullin, Sean (OPO)
Subject: for the morning

Some bedside reading materials...Index: 1 their powerpoint, 2 our powerpoint, 3 their/our outreach plan, 4 their media advisory (to show you what it would look like IF they did one), 5 our key messages and q's and a's



Ben Chin | Vice President, Corporate Communications
120 Adelaide St W., Suite 1600 | Toronto, Ontario, M5H 1T1
Phone: 416.969.6007 | Fax: 416.967.1947 | Email: ben.chin@powerauthority.on.ca
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TransCanada Energy Ltd. KWCG Generating Station

515 MW Simple Cycle Facility – Cambridge, Ontario

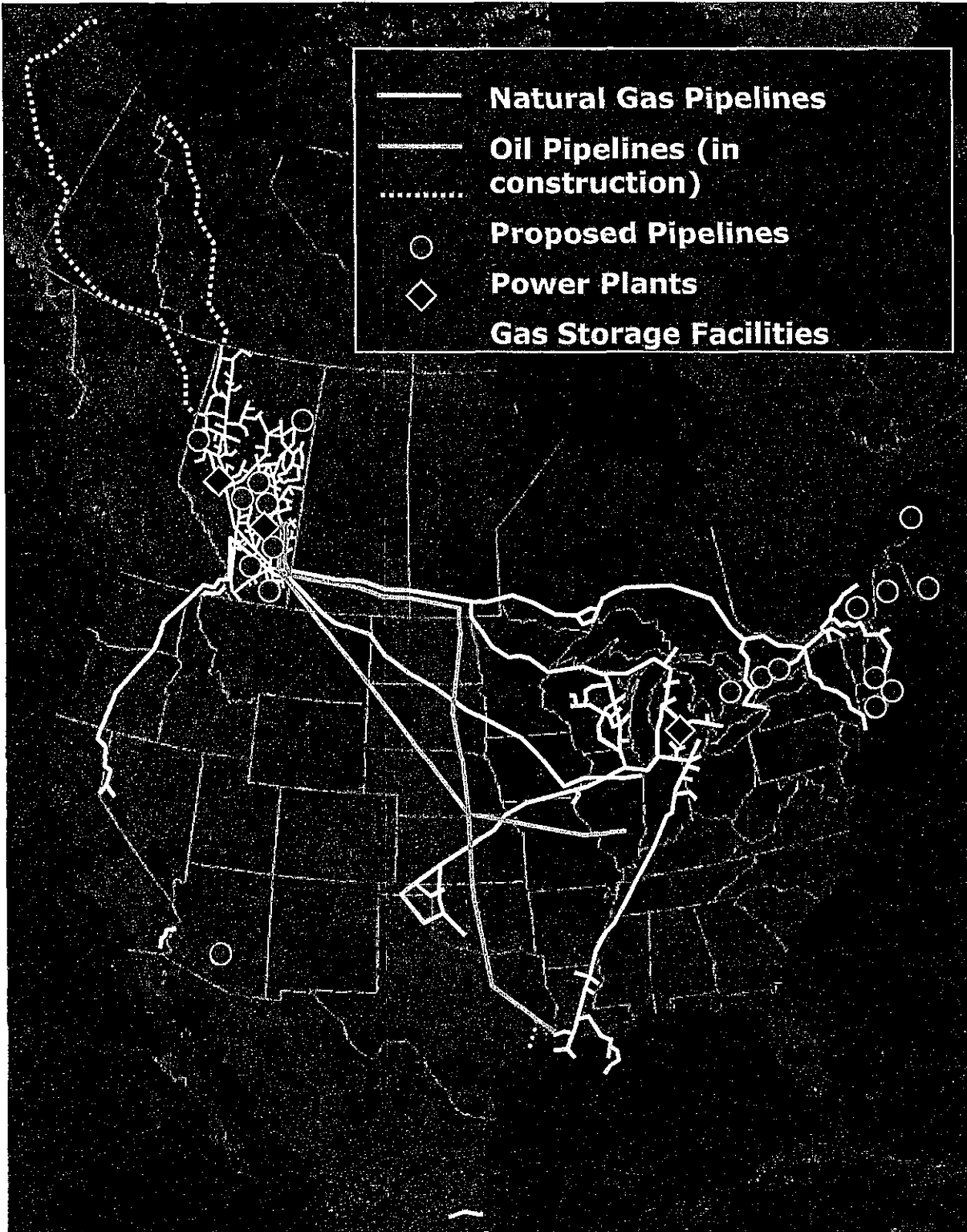
January 2011



Introductions



- *Terry Bennett, Vice President Power Development*
- *Chris Breen, Government Relations*
- *Christine Cinnamon, Environment*
- *John Mikkelsen, Director Business Development*

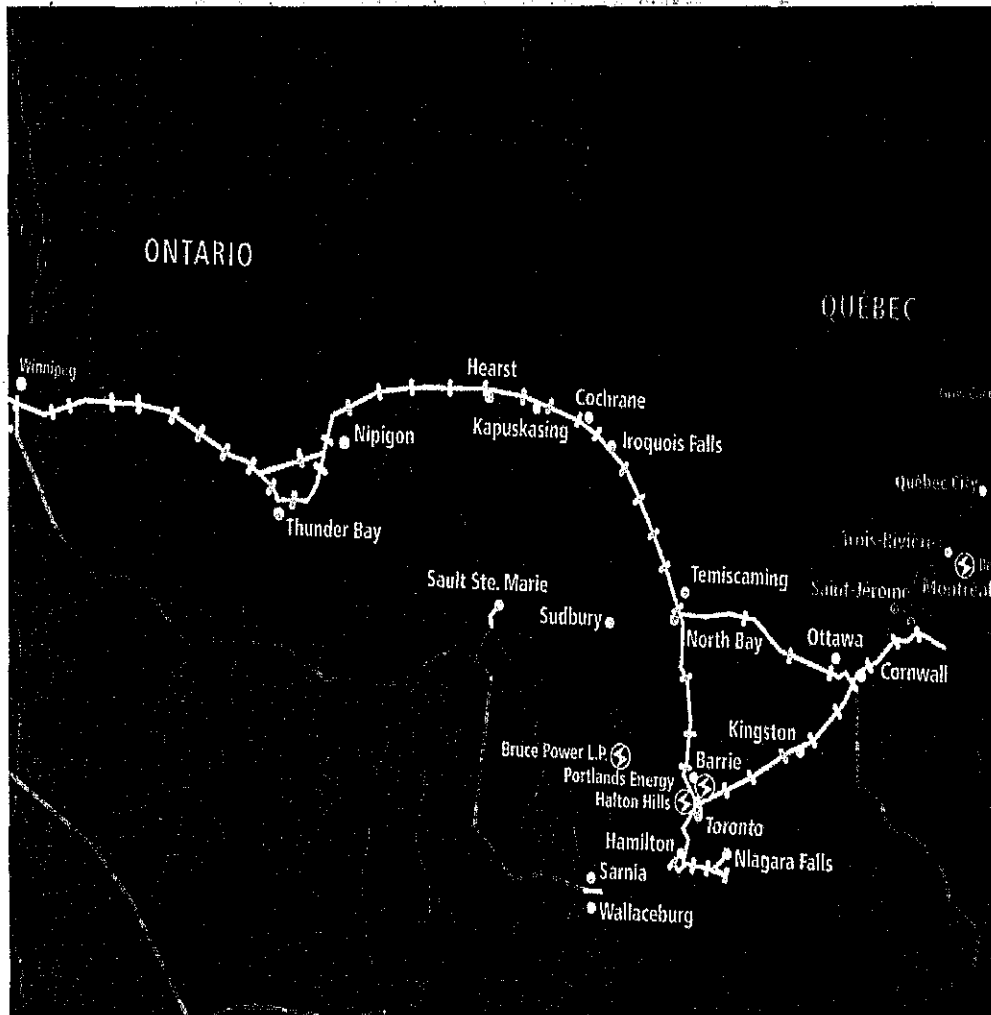


TransCanada Corporation (TSX/NYSE: TRP)

Portfolio of Quality Assets

- **60,000 km of wholly owned natural gas pipeline**
- **Interests in an additional 7,800 km of natural gas pipeline**
- **15 Bcf/d**
- **355 Bcf of natural gas storage capacity**
- **19 power plants**
- **10,900 megawatts**
- **Crude oil pipeline under construction**

Ontario's Largest Private Power Generator



Facilities:

7,997 km Pipeline

167 Meter Stations

78 Compressor Units

Bruce Nuclear Unit A (49%)

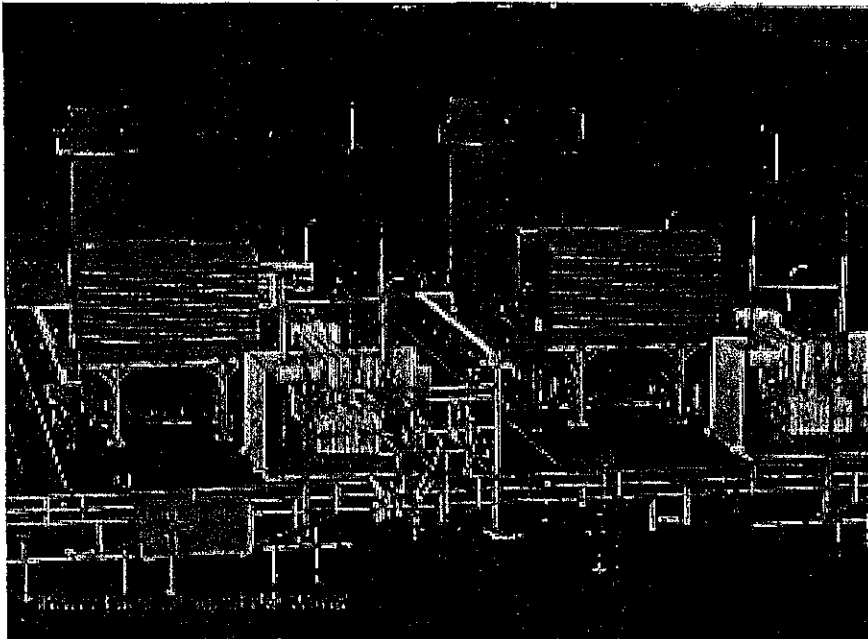
Bruce Nuclear Unit B (32%)

Portlands Energy Center (50%)

Halton Hills Generating Station

3,430 MW generating capacity

TransCanada Generation Solution



- 515 MW simple cycle generating facility
- Two high efficiency 257 MW natural gas fired industrial gas turbines with low NOx combustion systems
- 230 kV connection to Hydro One M20D & M21D circuits
- 16 min start-up capability to 60% load
- Ramp rate of 13%/min
- Gas delivered by Union Gas

Mitigating Potential Concerns



- Environmental/human health commitments:
 - NOISE: All major facilities enclosed; Silencers, sound attenuation; (45 dBA night / 50 dBA daytime)
 - EMISSIONS: Low NO_x technology
- Minimal Infrastructure Needs
 - Proximity to interconnections
 - Minimal construction disruption (24 months)
- Consistent with local land use
- Minimal water and sewer requirements

Eagle Street



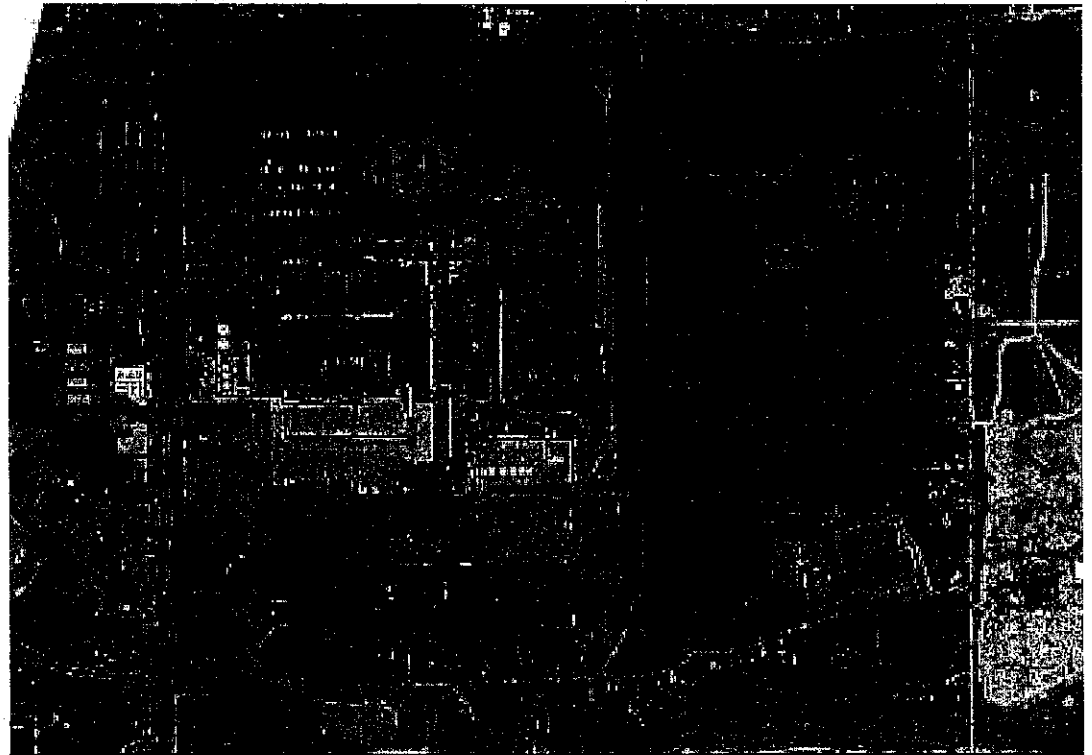
- Connection proximate at Preston TS (<2 km)
- 51 acres – room for construction and laydown
- Owned by TransCanada
- Industrial zoning
- Road and rail access
- Consistent with surrounding industrial activities
- Provincially significant wetlands bisect site
- Proximity to receptors:
 - closest resident ~250m
 - closest school ~475m



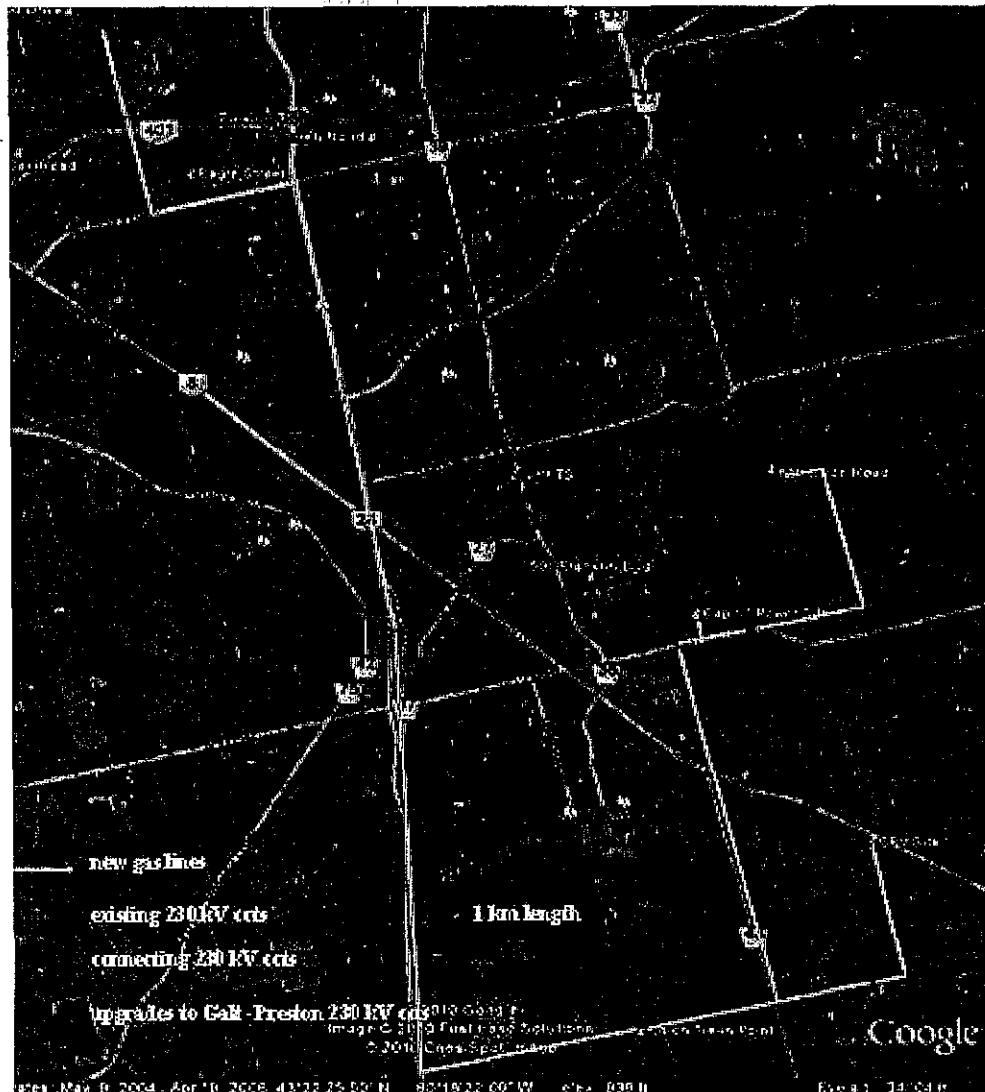
Boxwood Industrial Park



- ~3.5 km Connection to Preston TS under 401 (require Section 92) – possible point of supply to new TS
- 156 acres (30 for facility) – room for construction and laydown
- Owned by City of Cambridge
- Road and rail access
- Planned Industrial park (anchor tenant)
- Longer gas connection
- No nearby residential communities
- Proximity to receptors:
 - closest resident >1000m*
 - closest school > 2500m



Project Interconnections



1. Routes shown for illustrative purposes only
 - Final route selection subject to Environmental Assessment (gas line) and Section 92 leave to construct (power line) processes.

Positive Economic Impact

Short Term (Prior to Commercial Operation)

- \$ 700 million investment
- Up to 200 construction jobs over 24 mths
- Spin offs for local suppliers
- Development fees to the City

Long Term (After Commercial Operation)

- Strengthens electrical supply / reliability
- Industrial Park infrastructure
- 10 high technology careers
- 20 year operation and maintenance opportunities for local suppliers
- Annual municipal tax payment to the City



Community Benefits



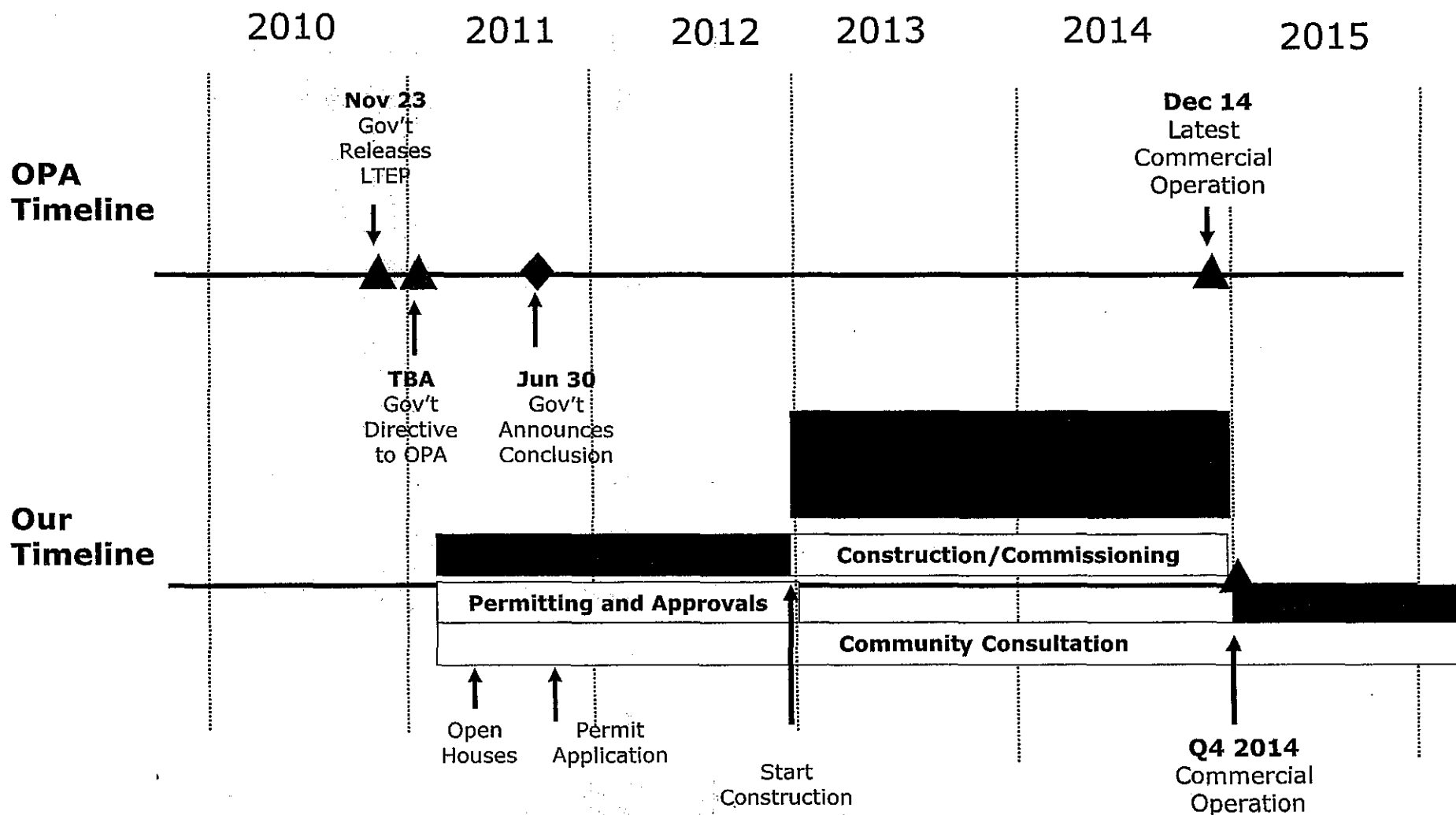
Typical Components

- Community Liaison Committee
- Community fund contribution to health, education, environment or civic investment projects
- Fund Peer review of ERR and extended review process

Project Specific Components (examples)

- Architectural treatment/Landscaping
- Front end financing of project related infrastructure (water / sewer, storm water)
- Purchase/ Leasing of municipal lands for project site construction and easements
- Road Improvements related to the project

Development Schedule



TransCanada Generating Station

Discussion



- City outlook on facility and location
- Supply and allocation of water and sewer services will be available for 2014 start-up in sufficient capacity
- Interpretation of M3 Zoning
- Process for seeking variance, if applicable
- Storm water management process
- City's permitting and approvals process

TransCanada Generating Station

Next Steps



We recognize need for early consultation with stakeholders including the City and First Nations

TransCanada commits to:

- Work with the City and stakeholders to mitigate issues related to this project
- Provide Site tour / visit of Halton Hills GS

TransCanada looks forward to working with the City on:

- Location
- Challenges and Opportunities
- Procedural requirements

Key Messages

Cambridge needs a secure supply of electricity to maintain reliability to families, businesses and communities in the region.

- Electricity infrastructure in the Cambridge area does not meet reliability standards set by IESO
- Cambridge area is vulnerable to outages which have occurred twice – Jan 2003 and in the 80's
- The 2003 incident affected 45,000 customers for 5 hours
- OPA has indicated need for a 450 MW peaking facility along with other investments in electricity infrastructure in 2007 IPSP – and is contained again in current LTEP

Investing in a secure supply of electricity in Cambridge is vital to attracting businesses to the area and to ensure the future growth of the community.

- Cambridge area (KWCG) is among Ontario's largest load centres with over 500,000 people
- Population and electricity demand growth was among highest in province before the recession, and is forecast to grow at a rate higher than provincial average over next 20 years
- Electricity demand in the area has already recovered to pre-recession levels in 2010 (approx 1400 MW)
- Future investments in Cambridge, including business parks, high-tech industry and manufacturing will drive further growth
- The area has been identified as a Prime Industrial/Strategic Reserve in the Region of Waterloo Official Plan

Power generation is one part of an integrated solution for the Cambridge area, which includes conservation and necessary upgrades to the electricity infrastructure.

- OPA is part of a working group that is working together to implement an integrated solution (includes 4 LDC's, the IESO and Hydro One)
- OPA designed Conservation programs currently being delivered by your local distributors include: Peaksaver, ERIP, Commercial Direct Install and Appliance Retirement
- Recent transmission reinforcement (addition of a new 230/115 kV transformer at Cambridge Preston TS in 2007 to reinforce the supply to Kitchener and to some extent Cambridge)
- New generation in Cambridge area include Bio Gas (4 MW), Solar (15 MW) Hydro (1 MW) and Wind (120 MW)
- These measures have limited ability to meet the needs of future growth

- 2007 IPSP indicated 450 MW peaking facility as preferred alternative to any major new transmission could be disruptive to many more people and neighbourhoods.

Q's and A's

Why now?

Cambridge needs a secure supply of electricity to restore reliability to families, businesses and communities in the region. The OPA indicated a need for a 450 MW peaking facility along with other investments in electricity infrastructure more than 3 years ago in the 2007 IPSP – and this is repeated in the current Long-Term Energy Plan.

Investing in a secure supply of electricity in Cambridge is vital to attracting businesses to the area and to ensure the future growth of the community.

What about emissions from a gas plant?

Natural gas generation is much cleaner than many other dispatchable types of generators like Coal or Oil. As well, a peaking facility typically runs only when there is a need, about 10-20% of the time.

TransCanada has a strong record of operating facilities that meet or exceed laws and standards in many jurisdictions and will be working with the Ministry of Environment and the community to ensure that the facility is fully compliant.

Aren't combined cycle gas plants cleaner than a simple cycle peaker like this proposed facility?

Both types of facilities offer a cleaner alternative to coal or oil-fired generators, and they provide different kinds of service to communities and their electricity needs. Peaking facilities have the ability to respond quickly to need, and typically run for shorter periods of time than combined cycle facilities.

How close will it be from homes/schools?

While TransCanada has acquired a site in Cambridge, they are looking to work with the community about how best to locate the facility.

What about a transmission alternative?

The 2007 IPSP did consider alternatives to generation. The preferred alternative was and remains a peaking facility because of several reasons. New generation

means there would not be a need for major new transmission lines which would be disruptive to many neighbourhoods and people.

When would it be built/operating?

The preferred timeline is for 2015. Cambridge needs a secure supply of electricity to restore reliability to families, businesses and communities in the region.

Electricity infrastructure in Cambridge area does not meet reliability standards set by IESO

Cambridge area is vulnerable to outages which have occurred twice – Jan 2003 and in the 80's

The 2003 incident affected 45,000 customers for 5 hours

Investing in a secure supply of electricity in Cambridge is vital to attracting businesses to the area and to ensure the future growth of the community.

Cambridge area (KWCG) is among Ontario's largest load centres with over 500,000 people

Population and electricity demand growth was among highest in province before the recession, and is forecast to grow at a rate higher than provincial average over next 20 years

Electricity demand in the area has already recovered to pre-recession levels in 2010 (approx 1400 MW)

Future investments in Cambridge, including business parks, high-tech industry and manufacturing will drive further growth

The area has been identified as a Prime Industrial/Strategic Reserve in the Region of Waterloo Official Plan

Why are you sole-sourcing with TCE? Is this plant being built to replace the cancelled OGS plant?

The OPA indicated a need for a 450 MW peaking facility along with other investments in electricity infrastructure in the Cambridge area in the 2007 IPSP. That requirement is spelled out in the latest Long-Term Energy Plan, as well.

That need is independent of other proposals.

On the contract side, we are working with TransCanada because they agreed to work with us on a needed project in the future, when the Minister of Energy announced that OGS would not be proceeding.

What is the cancellation of OGS and contracting of a power plant costing ratepayers?

The 2007 IPSP called for two facilities in both the Cambridge area and in the Southwest GTA. We are now proceeding with only one of those.

There will be transmission projects required in the SWGTA, and that's estimated to cost far less than OGS.

Why Cambridge and not Kitchener, Guelph or Waterloo?

There is value to the whole region as it is an interconnected system. However, there is particular value to Cambridge because of its electricity supply configuration which currently provides limited back-up from one line.

Investing in a secure supply of electricity in Cambridge is vital to attracting businesses to the area and to ensure the future growth of the community.

Cambridge area (KWCG) is among Ontario's largest load centres with over 500,000 people

Population and electricity demand growth was among highest in province before the recession, and is forecast to grow at a rate higher than provincial average over next 20 years

Electricity demand in the area has already recovered to pre-recession levels in 2010 (approx 1400 MW)

Future investments in Cambridge, including business parks, high-tech industry and manufacturing will drive further growth

The area has been identified as a Prime Industrial/Strategic Reserve in the Region of Waterloo Official Plan.

Is the deal done? How much will this plant cost? How much are you paying TransCanada? Will TransCanada be paid damages for sunk costs from OGS?

Both the OPA and TransCanada have publicly indicated we are working together on a project that is needed to ensure a secure supply of electricity, and we are continuing to make good progress in our talks with TransCanada and we are both working to ensure a fair deal for ratepayers.

Aleksandar Kojic

From: John Mikkelsen [john_mikkelsen@transcanada.com]
Sent: January 13, 2011 4:39 PM
To: Deborah Langelaan; Michael Killeavy
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deborah,
Michael,

Following please find the answers to the questions provided to Mitsubishi.

Thanks,

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: Terri Steeves
Sent: Thursday, January 13, 2011 4:30 PM
To: John Mikkelsen
Cc: Mark Brache
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Please forward to the OPA.

From: PPrigge@mpshq.com [mailto:PPrigge@mpshq.com]
Sent: Thursday, January 13, 2011 2:25 PM
To: Terri Steeves; 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; ryotaro_kanai@mhi.co.jp; pprigge@mpshq.com; jin_taniguchi@mhi.co.jp; yasuihiro_kawabe@mhi.co.jp; KYoshi@mpshq.com; Minoru.Yoshida@mpshq.com; Daisuke.Hiura@mpshq.com; Kazuki.Ishikura@mpshq.com; Akimasa.Muyama@mpshq.com; KHasegawa@mpshq.com; sueki@mpshq.com; mcdeedd@osc.mpsHQ.com; pyrosg@osc.mpsHQ.com; mulligang@osc.mpsHQ.com; Shigeki.Takasugi@mpshq.com; koenekec@osc.mpsHQ.com; newsomb@osc.mpsHQ.com; wakaba_yoshimoto@mhi.co.jp; southwestgtaproject@mpshq.com; F_hcommon@mhi.co.jp
Subject: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Date : January 13,2011
Ref. No : MPS/TCS-General-11-E-0001

To : Attention : Terri Steeves, Joseph P. Miller
: Company : 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), Ryotaro Kanai(TransCanada/SW GTA PJ - MHI TGO Team Member), Phil Prigge(TransCanada/SW GTA PJ - MPSA Team Member), Jin Taniguchi(TransCanada/SW GTA PJ - MHI TGO Team Member), YASUHIRO KAWABE(TransCanada/SW GTA PJ - MHI TGO Team Member), Kazuo Yoshi(), Minoru Yoshida(), Daisuke Hiura(Lake Mary Headquarters), Kazuki Ishikura(), Akimasa Muiyama(), Koji Hasegawa(Lake Mary Headquarters), Shinichi Ueki(), David Mcdeed(Lake Mary Headquarters), George Pyros(Lake Mary), George Mulligan(Lake Mary Headquarters), Shigeki Takasugi(), Carlos Koenekke(Orlando Service Center), Bill Newsom(), WAKABA YOSHIMOTO(TransCanada/SW GTA PJ - MHI TGO Team Member)

From : Phil Prigge, Project Manager
MPSA Headquarters
Person in Charge : phil prigge (pprigge@mpshq.com)
Phone No. : 407-688-6351 Fax No. : 407-688-6487

Project : TransCanada/Southwest-General
Subject : Technical Reply to OPA Questions from TCE dated January 10, 2011

Approved by :
p.prigge ,p.prigge

Dear All,

Please see MPS Canada's reply to the OPA's questions copied below.

1. Price Breakdown
(Later)

2. GT Start-Up Device

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1) From Ignition to 100% speed no load: Approx. 170 rpm/min.

2) To 60% load: 6.67%/min.

3) From 60 to 100% load: 6.67%/min.

Best regards,

Phil Prigge
Project Manager

MPS Canada, Inc.
200 Bay Street, Suite No.3220, Toronto, Ontario
M5J 2J1, Canada

Request from TCE/OPA-----

From: Terri Steeves [mailto:terri_steeves@transcanada.com]

Sent: Monday, January 10, 2011 11:18 AM

To: Prigge, Phil; Namba, Kotaro

Cc: Papaioanou, George; Bill Small; Mark Brache; jpm-tec@comcast.net; John Mikkelsen; Bill Small

Subject: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Phil / Namba-san,

Please find attached the request for additional information from the OPA. As I suspected, the OPA is looking for a more detailed breakdown of the costs. I believe the OPA needs to be able to reconcile the estimate and demonstrate to their decision makers that the cost is justified. Without the

breakdown, they are having difficulty with their justification. I believe the breakdown would demonstrate further that the fast start conversion is very economic (versus going simple cycle with the original GAC machine).

If you have any questions, please let me know, otherwise we can discuss tomorrow.

Thank you,
Terri

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

Sent: Friday, January 07, 2011 3:49 PM

To: John Mikkelsen

Cc: Deborah Langelaan; Susan Kennedy; Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot; Safouh Soufi

Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Importance: High

John,

We've the following questions and comments:

Price – We have been given an aggregate price for a number of different items. It seems that the price stated in the December 2010 Fast Start Proposal ("the Proposal") includes some cost provisions related to project schedule change/delay/suspension.

Could you please itemize:

(a) suspension from October 7, 2010 to 31 December 2010;

(b) delayed delivery;

(c) additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works); and

(d) conversion of the M501GAC to M501GAS Fast Start gas turbine;

Fast Start - The Equipment Supply Agreement ("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. Is this correct?

SFC - 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. MPS to confirm if the M501GAC package comes with SFC starting device rated at 4MW as a standard supply from Mitsubishi? If not, what is the standard supply for starting device? The reference to 7MW may indicate 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;

Start-up Curve - 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;

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Additional Technical Information – We would very much like the ramp rates for Simple Cycle operation. Could MPS please provide the machine's (M501GAC) normal and maximum ramp up rates together with the baseload curve for a temperature range from 16 – 100°F? More specifically, we'd like ramp rates for the following cases:

1. To 100% speed no load,
2. To 60% load and;
3. From 60 to 100% load

Thank 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
416-520-9788 (CELL)
416-967-1947 (FAX)

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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 13, 2011 5:01 PM
To: 'Rocco Sebastiano (rsebastiano@osler.com)'; 'Elliot Smith (esmith@osler.com)'
Cc: Michael Killeavy
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Rocco and Elliot;

Please find below MPS's responses to our technical questions.

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: January 13, 2011 4:39 PM
To: Deborah Langelaan; Michael Killeavy
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deborah,
Michael,

Following please find the answers to the questions provided to Mitsubishi.

Thanks,

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: Terri Steeves
Sent: Thursday, January 13, 2011 4:30 PM
To: John Mikkelsen

Cc: Mark Brache

Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Please forward to the OPA.

From: PPrigge@mpshq.com [mailto:PPrigge@mpshq.com]

Sent: Thursday, January 13, 2011 2:25 PM

To: Terri Steeves; 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; ryotaro_kanai@mhi.co.jp; pprigge@mpshq.com; jin_taniguchi@mhi.co.jp; yasuihiro_kawabe@mhi.co.jp; KYoshi@mpshq.com; Minoru.Yoshida@mpshq.com; Daisuke.Hiura@mpshq.com; Kazuki.Ishikura@mpshq.com; Akimasa.Muyama@mpshq.com; KHasegawa@mpshq.com; sueki@mpshq.com; mcdeedd@osc.mpsq.com; pyrosg@osc.mpsq.com; mulligan@osc.mpsq.com; Shigeki.Takasugi@mpshq.com; koeneke@osc.mpsq.com; newsomb@osc.mpsq.com; wakaba_yoshimoto@mhi.co.jp; southwestgtaproject@mpshq.com; F_hcommon@mhi.co.jp

Subject: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Date : January 13,2011

Ref. No : MPS/TCS-General-11-E-0001

To : Attention : Terri Steeves,Joseph P. Miller

: Company : 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),Ryotaro Kanai(TransCanada/SW GTA PJ - MHI TGO Team Member),Phil Prigge(TransCanada/SW GTA PJ - MPSA Team Member),Jin Taniguchi(TransCanada/SW GTA PJ - MHI TGO Team Member),YASUHIRO KAWABE(TransCanada/SW GTA PJ - MHI TGO 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 Headquaters),George Pyros(Lake Mary),George Mulligan(Lake Mary Headquaters),Shigeki Takasugi(),Carlos Koeneke(Orlando Service Center),Bill Newsom(),WAKABA YOSHIMOTO(TransCanada/SW GTA PJ - MHI TGO Team Member)

From : Phil Prigge,Project Manager

MPSA Headquarters

Person in Charge : phil prigge (pprigge@mpshq.com)

Phone No. : 407-688-6351 Fax No. : 407-688-6487

Project : TransCanada/Southwest-General

Subject : Technical Reply to OPA Questions from TCE dated January 10, 2011

Approved by :

p.prigge ,p.prigge

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(Later)

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200 Bay Street, Suite No.3220, Toronto, Ontario
M5J 2J1, Canada

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From: Terri Steeves [mailto:terri_steeves@transcanada.com]
Sent: Monday, January 10, 2011 11:18 AM
To: Prigge, Phil; Namba, Kotaro
Cc: Papaioanou, George; Bill Small; Mark Brache; jpm-tec@comcast.net; John Mikkelsen; Bill Small
Subject: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

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From: Michael Killeavy [<mailto:Michael.Killeavy@powerauthority.on.ca>]
Sent: Friday, January 07, 2011 3:49 PM
To: John Mikkelsen
Cc: Deborah Langelaan; Susan Kennedy; Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot; Safouh Soufi
Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...
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Thank 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

416-520-9788 (CELL)

416-967-1947 (FAX)

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Aleksandar Kojic

From: Smith, Elliot [ESmith@osler.com]
Sent: January 13, 2011 7:40 PM
To: Michael Killeavy; Sebastiano, Rocco; Ivanoff, Paul
Cc: Susan Kennedy
Subject: RE: Auditor-General Information Request
Attachments: #5074238v2_TOR_P2Z_ - MEM_AuditorGeneralRequestReSWGTA (2).doc;
WSComparison_#5074238v1_TOR_P2Z_ - MEM_AuditorGeneralRequestReSWGTA
(2).doc-#5074238v2_TOR_P2Z_ - MEM_AuditorGeneralRequestReSWGTA (2).doc.pdf

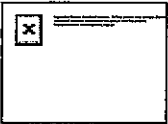
Michael,

Further to your request below, we have provided a mark-up with our comments on your proposed answers to the AG's questions.

We would also like to point out that the definition of Representatives in both the Contract and the CA includes the Government of Ontario *and its auditors*. As such, a good argument could be made that the AG is a "Representative". It would be harder to justify that Confidential Information disclosed to the AG is for the purpose of assisting the OPA in complying with its obligations under the Contract (or in the case of the CA, assisting the OPA in resolving the differences between the Parties), but in case you were looking for an avenue by which you may disclose the contract to the AG without having to provide notice to TCE, we thought this might assist in your analysis.

If you have any questions, please let us know.

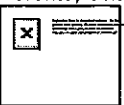
Elliot



Elliot Smith
Associate

416.862.6435 DIRECT
416.862.6666 FACSIMILE
esmith@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: Wednesday, January 12, 2011 1:12 PM

To: Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot

Cc: Susan Kennedy

Subject: Auditor-General Information Request

Rocco/Paul/Elliot,

The A-G is conducting an audit of the OPA and has made several information requests of the OPA. Susan has been working with me on this. We have determined that we have to meet with the A-G and provide

information, so that is not something we need advice on. Attached is Susan's memorandum to me on this, which includes the questions posed and our proposed answers. Can you please review the proposed answers for me. I'll likely need to meet with the A-G this week or next week.

Thank 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
416-520-9788 (CELL)
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[Osler Comments on Q&A: January 13, 2011]
MEMORANDUM

DATE: December 22, 2010
TO: Michael Killeavy
FROM: Susan Kennedy
RE: Auditor General Request for Oakville Generating Station Information and Documentation

Privileged and Confidential (Solicitor and Client Privilege)

This email contains privileged legal advice and should not be forwarded to parties outside of OPA. Please limit internal circulation.

Background

You have advised that the Auditor General (or a member of his staff) has requested certain information in connection with a special audit being conducted by the Auditor General (the "AG"). Specifically, the following information has been requested:

1. What was the reason for signing the contract in 2009?
2. What was the reason for cancelling the contract now? Please provide supporting documents for the rationale.
3. When did the OPA/Ministry decide that the Oakville plant is no longer needed?
4. Can I get a copy of the contract?
5. What is the status of the contract? Has it been determined what the penalty will be for terminating the contract?

You have asked whether the OPA must produce the documentation and respond to the questions.

Answer

Yes.

Executive Summary

Summary Rationale

Essentially section 10 of the *Auditor General Act* (the "Act") provides the AG the power to access "all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by... a Crown controlled corporation...".

The OPA is a Crown controlled corporation pursuant to the definition in the Act.

The right of access to information is not qualified in any way, whether by third party confidentiality obligations of the OPA or otherwise. In fact, subsection 10(3) provides that a disclosure to the AG does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege.

Confidentiality Agreement with TransCanada

All or part of the material and information that has been requested by the AG is covered by confidentiality arrangements between the OPA and TransCanada.

Article 8 of the Southwest GTA Clean Energy Supply Contract between the OPA and TransCanada dated as of the 9th day of October, 2009 (the "Contract") imposes confidentiality obligations on the OPA. Section 8.1(b) of the contract requires:

If the Receiving Party or any of its Representatives are requested or required (by oral question, interrogatories, requests for information or documents, court order, civil investigative demand, or similar process) to disclose any Confidential Information in connection with litigation or any regulatory proceeding or investigation, or pursuant to any applicable law, order, regulation or ruling, the Receiving Party shall promptly notify the Disclosing Party. Unless the Disclosing Party obtains a protective order, the Receiving Party and its Representatives may disclose such portion of the Confidential Information to the Party seeking disclosure as is required by law or regulation in accordance with Section 8.2.

Section 8.2 of the Contract requires:

If the Receiving Party or any of its Representatives are requested or required to disclose any Confidential Information, the Receiving Party shall promptly notify the Disclosing Party of such request or requirement so that the Disclosing Party may seek an appropriate protective order or waive compliance with this Agreement. If, in the absence of a protective order or the receipt of a waiver hereunder, the Receiving Party or its Representatives are compelled to disclose the Confidential Information, the Receiving Party and its Representatives may disclose only such of the Confidential Information to the Party compelling disclosure as is required by law only to such Person or Persons to which the Receiving Party is legally compelled to disclose and, in connection with such compelled disclosure, the Receiving Party and its Representatives shall provide notice to each such recipient (in co-operation with legal counsel for the Disclosing Party) that such Confidential Information is confidential and subject to non-disclosure on terms and conditions equal to those contained in this Agreement and, if possible, shall obtain each recipient's written agreement to receive and use such Confidential Information subject to those terms and conditions.

Exhibit B of the Contract is classified as "Mutually Confidential Information", the Auditor General's request to see the Contract implies the complete contract (i.e. inclusive of Exhibit B) and, as such, triggers the obligations on the OPA pursuant to section 8.1(b) and section 8.2 of the Contract.

The OPA must promptly notify TransCanada of Auditor General's request to be provided with a copy of the Contract.

In addition, the Auditor General will likely request follow-up documentation that may trigger further obligations under the Contract or obligations under the Confidentiality Agreement between the OPA and TransCanada dated as of the 8th day of October, 2010 (this agreement contains provisions similar to those of the Contract).

Suggested Responses

1. What was the reason for signing the contract in 2009?

- The OPA received a direction from the Minister of Energy and Infrastructure pursuant to section 25.32 of the *Electricity Act, 1998* to procure a combined-cycle natural gas-fired electricity generating facility of up to approximately 850 MW for deployment in Southwest GTA:

http://www.powerauthority.on.ca/sites/default/files/page/7561_August_18_1008_Southwest_GTA_Supply.pdf

- Pursuant to the SWGTA Directive, the OPA conducted a competitive procurement. TransCanada Energy Ltd. was the successful proponent and pursuant to the requirements of the RFP process, the OPA signed the contract with TransCanada on October 9, 2009. Public disclosure relating to the procurement is located at:

<http://www.powerauthority.on.ca/gp/southwest-greater-toronto-area>

2. What was the reason for cancelling the contract now? Please provide supporting documents for the rationale.

- **[Note: We recommend starting off with the following paragraph, then providing the OPA's justification for seeking a mutual termination of the contract.]**

- The OPA is not of the view that the contract has been "cancelled". On October 7, 2010, the OPA advised TransCanada that it would not proceed with the contract, and since then the OPA has been working with TransCanada to negotiate a mutual termination. TransCanada has taken the position that the OPA has "repudiated" the contract, but the OPA does not agree with this assertion.

- The Government announced on October 7, 2010 that the plant would not proceed as changes in demand and supply - including more than 8,000 megawatts of new, cleaner power and successful conservation efforts - eliminated the need for a natural gas plant in the area. The Government announced that a transmission solution would be used to meet the areas electricity needs:

<http://news.ontario.ca/mei/en/2010/10/oakville-power-plant-not-moving-forward.html>

The Government's analysis regarding demand and need in the southwest GTA is included in the Ministry of Energy's draft supply mix directive to the OPA which

is posted for comment on the Environmental Registry until January 7, 2011:
[Note: The October 7 letter states that the Government's announcement is "supported by the OPA's planning analysis of the current circumstances in southwest GTA". As such, it may not be appropriate to refer to the analysis as being the Government's.]

The 2007 Integrated Power System Plan submitted to the OEB included a forecasted need for three additional gas plants in the Province, including one in the Kitchener-Waterloo-Cambridge area and one in the southwest GTA. Due to changes in demand along with the addition of approximately 8,400 MW of new supply since 2003, the outlook has changed and two of the proposed plants, including the proposed plant in Oakville, are no longer required. A transmission solution to maintain reliable supply in the southwest GTA will be required.

<http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTExNDIz&statusId=MTY3MTY0&language=en>

3. When did the OPA/Ministry decide that the Oakville plant is no longer needed?
 - [Note: We see this as two separate questions: (1) When did the Ministry decide that the Oakville plant is no longer needed and (2) When did the OPA decide that the Oakville plant is no longer needed. The following answer only addresses the first question so it may be helpful to prepare an answer to the second question as well.]
 - The OPA does not know when the Ministry decided the Oakville plant was no longer needed. [Based on the timing of the Ministry's announcement, it would appear to have been sometime in Q3 2010.] [Note: The preceding sentence is purely speculative. Consider omitting.]
4. Can I [AG] get a copy of the contract?
 - Portions of the contract are subject to confidentiality obligations which require that the OPA provide TransCanada with notice of the request prior to disclosure. The form of the Contract (the "Form") is publicly available and a copy is provided to you at this time. [We can confirm that no changes have been made to the Form other than to fill in the required blanks prior to execution.]
 - If you require a copy of the actual contract, the OPA has a contractual obligation to notify TransCanada of the disclosure request, see Article 8 of the Form, prior to releasing the Agreement, so that TransCanada has an opportunity to seek a protective order.
5. What is the status of the contract? Has it been determined what the penalty will be for terminating the contract?
 - The status of the contract is that the OPA and TransCanada are currently negotiating a mutual termination. The contract does not provide for a "penalty" for contract termination. The OPA is currently negotiating the terms of a mutual

termination of the contract with TransCanada. Any costs associated with the termination of the contract will not be known until negotiations are completed.

It is likely that the discussion will lead to additional questions and requests for information.

Detailed Rationale

Auditor General Act

Section 9.1(3) of the Act provides that:

The Auditor General may conduct a special audit of a Crown controlled corporation or a subsidiary of a Crown controlled corporation.

Section 10 of the Act provides, as follows:

Duty to furnish information

10. (1) Every ministry of the public service, every agency of the Crown, every Crown controlled corporation and every grant recipient shall give the Auditor General the information regarding its powers, duties, activities, organization, financial transactions and methods of business that the Auditor General believes to be necessary to perform his or her duties under this Act. 2004, c. 17, s. 13.

Access to records

(2) The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by a ministry, agency of the Crown, Crown controlled corporation or grant recipient, as the case may be, that the Auditor General believes to be necessary to perform his or her duties under this Act. 2004, c. 17, s. 13.

No waiver of privilege

(3) A disclosure to the Auditor General under subsection (1) or (2) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege. 2004, c. 17, s. 13.

Section 11.2 of the Act provides

Prohibition re obstruction

11.2 (1) No person shall obstruct the Auditor General or any member of the Office of the Auditor General in the performance of a special audit under section 9.1 or an examination under section 9.2 and no person shall conceal or destroy any books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property that the Auditor General considers to be relevant to the subject-matter of the special audit or examination. 2004, c. 17, s. 13.

Offence

(2) Every person who knowingly contravenes subsection (1) and every director or officer of a corporation who knowingly concurs in such a contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or imprisonment for a term of not more than one year, or both. 2004, c. 17, s. 13.

Penalty, corporation

(3) If a corporation is convicted of an offence under subsection (2), the maximum penalty that may be imposed on the corporation is \$25,000. 2004, c. 17, s. 13.

Based on the language of the Act, the AG has a very broad right to documentation and information.

It should also be noted that the AG has the power to examine persons under oath. Section 11 provides:

Power to examine on oath

11. (1) The Auditor General may examine any person on oath on any matter pertinent to an audit or examination under this Act. 2004, c. 17, s. 13.

Same

(2) For the purpose of an examination, the Auditor General has the powers that Part II of the *Public Inquiries Act* confers on a commission, and that Part applies to the examination as if it were an inquiry under that Act. 2004, c. 17, s. 13.

UNCLASSIFIED



[Osler Comments on Q&A: January 13, 2011]
MEMORANDUM

DATE: December 22, 2010
TO: Michael Killeavy
FROM: Susan Kennedy
RE: Auditor General Request for Oakville Generating Station Information and Documentation

Privileged and Confidential (Solicitor and Client Privilege)

This email contains privileged legal advice and should not be forwarded to parties outside of OPA. Please limit internal circulation.

Background

You have advised that the Auditor General (or a member of his staff) has requested certain information in connection with a special audit being conducted by the Auditor General (the "AG"). Specifically, the following information has been requested:

1. What was the reason for signing the contract in 2009?
2. What was the reason for cancelling the contract now? Please provide supporting documents for the rationale.
3. When did the OPA/Ministry decide that the Oakville plant is no longer needed?
4. Can I get a copy of the contract?
5. What is the status of the contract? Has it been determined what the penalty will be for terminating the contract?

You have asked whether the OPA must produce the documentation and respond to the questions.

Answer

Yes.

Executive Summary

Summary Rationale

Essentially section 10 of the *Auditor General Act* (the "Act") provides the AG the power to access "all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by... a Crown controlled corporation..."

The OPA is a Crown controlled corporation pursuant to the definition in the Act.

The right of access to information is not qualified in any way, whether by third party confidentiality obligations of the OPA or otherwise. In fact, subsection 10(3) provides that a disclosure to the AG does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege.

Confidentiality Agreement with TransCanada

All or part of the material and information that has been requested by the AG is covered by confidentiality arrangements between the OPA and TransCanada.

Article 8 of the Southwest GTA Clean Energy Supply Contract between the OPA and TransCanada dated as of the 9th day of October, 2009 (the "Contract") imposes confidentiality obligations on the OPA. Section 8.1(b) of the contract requires:

If the Receiving Party or any of its Representatives are requested or required (by oral question, interrogatories, requests for information or documents, court order, civil investigative demand, or similar process) to disclose any Confidential Information in connection with litigation or any regulatory proceeding or investigation, or pursuant to any applicable law, order, regulation or ruling, the Receiving Party shall promptly notify the Disclosing Party. Unless the Disclosing Party obtains a protective order, the Receiving Party and its Representatives may disclose such portion of the Confidential Information to the Party seeking disclosure as is required by law or regulation in accordance with Section 8.2.

Section 8.2 of the Contract requires:

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Exhibit B of the Contract is classified as "Mutually Confidential Information", the Auditor General's request to see the Contract implies the complete contract (i.e. inclusive of Exhibit B) and, as such, triggers the obligations on the OPA pursuant to section 8.1(b) and section 8.2 of the Contract.

The OPA must promptly notify TransCanada of Auditor General's request to be provided with a copy of the Contract.

In addition, the Auditor General will likely request follow-up documentation that may trigger further obligations under the Contract or obligations under the Confidentiality Agreement between the OPA and TransCanada dated as of the 8th day of October, 2010 (this agreement contains provisions similar to those of the Contract).

Suggested Responses

1. What was the reason for signing the contract in 2009?

- The OPA received a direction from the Minister of Energy and Infrastructure pursuant to section 25.32 of the *Electricity Act*, to procure 1998 to procure a combined-cycle natural gas-fired electricity generating facility of up to approximately 850 MW for deployment in Southwest GTA:

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PRIVILEGED & CONFIDENTIAL

Aleksandar Kojic

From: Deborah Langelaan
Sent: January 14, 2011 9:29 AM
To: Bob Chow
Cc: Amir Shalaby; Michael Killeavy
Subject: Cambridge Peaking Facility - Technical Requirements
Attachments: OPA Cambridge Technical Design Requirements.doc

Hi Bob;

I spoke with Amir this morning and he advised me to consult with you on the technical design requirements the OPA will want for a Cambridge peaking facility. Attached is a draft technical design requirements document that TransCanada developed using both the and SWGTA RFP's as a guide. Would you please review the document and provide me with your comments? Is this something you could turn around by early next week?

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 |

DRAFT FOR DISCUSSION
Technical Design Requirements

Facility

The proposed Facility must:

- (a) be a Dispatchable Facility.
- (b) be a simple cycle configuration generating facility.
- (c) utilize Gas (which has been defined as natural gas supplied by pipeline) as the Fuel.
- (d) be designed, constructed and operated in compliance with all relevant requirements of the Market Rules, the Transmission System Code, the Distribution System Code and all other laws and regulations, as applicable
- (e) must comply with Section 6 (Generation Connection Criteria), as specified in the 'Ontario Resources and Transmission Assessment Criteria' document published by the IESO (and available at http://www.ieso.ca/imoweb/pubs/marketAdmin/IMO_REQ_0041_TransmissionAssessmentCriteria.pdf). For greater certainty, the proposed Facility must also comply with all other requirements referenced therein including that the proposed Facility must be in compliance with all applicable Generation Facility Requirements.

Contract Capacity

The proposed Contract Facility must be a single generating facility and must

- (a) be able to provide a minimum of xxx MW at 30 °C under both N-1 System Conditions and N-1 Generating Facility Conditions simultaneously. For further clarity, the proposed Contract Facility must be designed to supply either transmission circuit (M20D or M21D) at all times. Each unit must be able to supply either transmission circuit at all times;
- (b) [be able to provide a minimum of xxx MW at 30 °C under N-2 System Conditions;]
- (c) have a Season 3 Contract Capacity of no less than xxx[450] MW; and
- (d) have a Contract Capacity of no more than xxx[600] MW in any Season.
- (e) must have a Nameplate MVA Rating of no more than xxx [650] MVA

Electrical Connection

The proposed Contract Facility must be connected directly to the IESO-Controlled Grid via new double circuit 230 kV transmission lines. [Notwithstanding the foregoing, a proposed Contract Facility may connect to a Local Distribution System for the purpose of providing Islanding Capability and still be eligible.]

The proposed Contract Facility must have a Connection Point (the "**Required Connection Points**") located with a direct connection to the Hydro One circuits M20D and M21D between the xxxth transmission tower (Tower #xx) leaving the Preston TS connecting to the Galt TS. [Assumes TCE builds the transmission line to Boxwood]

Operation Following a N-2 Contingency (Load Restoration)[does OPA want this?]

Emissions Requirements

In addition to meeting all requirements set out in the *Environmental Protection Act* (Ontario) and regulations thereunder (including Ontario Regulation 419/05 Air Pollution – Local Air Quality), as well as the Ministry of the Environment's Guideline A-5, Atmospheric Emissions from Stationary Combustion Turbines (revised March 1994), and any other regulatory requirements to which the proposed Facility may be subject, the proposed Facility must meet the specific limitations regarding air emissions set out in this Section.

Specifically, the proposed Facility must not emit:

- (i) Nitrogen Oxides (NOx) in a concentration that exceeds 15 ppmv (based upon Reference Conditions and 15% O₂ in the exhaust gases on a dry volume basis) as measured using the KWCG Emissions Measurement Methodology, and all as more particularly set out in the

KWCG Peaking Generation Contract; or (ii) Carbon Monoxide (CO) in a concentration that exceeds 15 ppmv (based upon Reference Conditions and 15% O₂ in the exhaust gases on a dry volume basis) as measured using the KWCG Emissions Measurement Methodology, and all as more particularly set out in the KWCG Peaking Generation Contract.

TransCanada must provide evidence to support the stated emission levels of NO_x and CO in the form of a signed certificate by an authorized representative of any of: (1) the original equipment manufacturer of the proposed Facility's turbines, (2) the supplier or manufacturer of any post combustion emission control equipment utilized by the proposed Facility, or (3) the engineering company responsible for the design of the proposed Facility, which certificate must state that the proposed Facility, as designed, will operate within these stated limits for NO_x and CO.

The KWCG Peaking Generation Contract will require that the emission limits for NO_x and CO as specified in the Proposal, pursuant to this Section, be (i) incorporated into the proposed Facility's Environmental Review Report prepared as part of its environmental assessment process or otherwise reflected in its completed environmental assessment, and (ii) ultimately reflected in the proposed Facility's application to the Ministry of the Environment for a Certificate of Approval (Air & Noise) Operating Permit, together with a request that such limits be imposed as a condition in such certificate of approval.

The emission limits for NO_x and CO stated in the KWCG Peaking Generation Contract will form the basis of an ongoing operating requirement. For greater certainty, the OPA is not requiring TransCanada to adopt any specific facility design or utilize any particular control equipment with respect to air emissions, provided, however, that the proposed Facility must comply with the NO_x and CO limits specified in Sections

Aleksandar Kojic

From: Susan Kennedy
Sent: January 14, 2011 10:45 AM
To: Michael Killeavy
Subject: RE: K-W Directive ...

Did this get resolved -- sorry just seeing email now.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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

From: Michael Killeavy
Sent: January 13, 2011 3:12 PM
To: Susan Kennedy
Cc: Deborah Langelaan
Subject: K-W Directive ...

I am in the TCE meeting. Are we comfortable with OPA and TCE approaching the City of Cambridge without a directive? Once they go to the mayor, the siting of the plant is very likely to become public.

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

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From: Susan Kennedy
Sent: January 14, 2011 11:10 AM
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Subject: RE: K-W Directive ...

I really think we need one.

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Subject: Re: K-W Directive ...

Me too, and this is what I told TCE yesterday. We need to talk to Ben. He was thinking otherwise. We have some time - the Cambridge meeting isn't for a week or two.

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: Friday, January 14, 2011 11:09 AM
To: Michael Killeavy
Subject: RE: K-W Directive ...

I really think we need one.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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

From: Michael Killeavy
Sent: January 14, 2011 10:55 AM
To: Susan Kennedy
Subject: RE: K-W Directive ...

We'll need a directive before anything is publicly announced, right?

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

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

From: Susan Kennedy
Sent: Fri 1/14/2011 10:45 AM
To: Michael Killeavy
Subject: RE: K-W Directive ...

Did this get resolved -- sorry just seeing email now.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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

From: Michael Killeavy
Sent: January 13, 2011 3:12 PM
To: Susan Kennedy
Cc: Deborah Langelaan
Subject: K-W Directive ...

I am in the TCE meeting. Are we comfortable with OPA and TCE approaching the City of Cambridge without a directive? Once they go to the mayor, the siting of the plant is very likely to become public.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
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Michael.killeavy@powerauthority.on.ca

Aleksandar Kojic

From: Michael Killeavy
Sent: January 16, 2011 3:40 PM
To: Susan Kennedy
Cc: JoAnne Butler; Deborah Langelaan
Subject: RE: Auditor-General Information Request

Susan,

I went through Osler's suggested revisions to the answers to the questions. Most are fine and merely clarify or elaborate on your suggested answers. I do not think that we ought to explain TCE's case, i.e., its claim that the contract was repudiated by the OPA, in any response to the second question, as Osler suggests. I think that since there's been no statement of claim, just a letter, we can't be really certain about what TCE's position might be. I think the answer we discussed is fine, i.e., we have been asked to negotiate a mutually agreeable termination to the contract and just leave it at that.

The meeting is at 0815h tomorrow morning. I will brief you when it's over.

Michael

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Michael.killeavy@powerauthority.on.ca

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

From: Smith, Elliot [<mailto:ESmith@osler.com>]
Sent: Thu 1/13/2011 7:40 PM
To: Michael Killeavy; Sebastiano, Rocco; Ivanoff, Paul
Cc: Susan Kennedy
Subject: RE: Auditor-General Information Request

Michael,

Further to your request below, we have provided a mark-up with our comments on your proposed answers to the AG's questions.

We would also like to point out that the definition of Representatives in both the Contract and the CA includes the Government of Ontario and its auditors. As such, a good argument could be made that the AG is a "Representative". It would be harder to justify that Confidential Information disclosed to the AG is for the purpose of assisting the OPA in complying with its obligations under the Contract (or in the case of the CA, assisting the OPA in resolving the differences between the Parties), but in case you were looking for an avenue by which you may disclose the contract to the AG without having to provide notice to TCE, we thought this might assist in your analysis.

If you have any questions, please let us know.

Elliot

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

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

From: Michael Killeavy [<mailto:Michael.Killeavy@powerauthority.on.ca>]
Sent: Wednesday, January 12, 2011 1:12 PM
To: Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot
Cc: Susan Kennedy
Subject: Auditor-General Information Request

Rocco/Paul/Elliot,

The A-G is conducting an audit of the OPA and has made several information requests of the OPA. Susan has been working with me on this. We have determined that we have to meet with the A-G and provide information, so that is not something we need advice on. Attached is Susan's memorandum to me on this, which includes the questions posed and our proposed answers. Can you please review the proposed answers for me. I'll likely need to meet with the A-G this week or next week.

Thank you,

Michael

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

Director, Contract Management

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 16, 2011 6:52 PM
To: Deborah Langelaan
Cc: Ben Chin
Subject: TCE Matter - 6 Jan 2011 DRAFT Meeting Minutes ...
Attachments: MK_Weekly OPA meeting_Jan 6_2011_ draft for review.doc

Importance: High

Deb,

I've reviewed the draft minutes sent to us by TCE. I have marked them up considerably. As with the minutes John Mikkelsen prepared, there is extensive use of personal pronouns ("we", "the", "they"), which makes the minutes confusing to read as they are rather ambiguous. Also, I think Christine is getting confused between the Indemnity Agreement that TCE wants us to enter into and the Implementation Agreement.

Let's wait for Ben's comments and then send them to Osler for a review. The meeting was held on a without prejudice basis, but I think another set of eyes on these might be helpful.

Thanks,
Michael

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
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Michael.killeavy@powerauthority.on.ca

**OPA/TransCanada KWC team
Weekly meeting minutes
January 6, 2011**

Attendees:

OPA

Ben Chin (BC)

Michael Killeavy (MK)

TransCanada

Chris Breen (CB)

Christine Cinnamon (CC)

John Mikkelsen (JM)

Larry Scheuerman - by phone (LS)

Terri Steeves - by phone (TS)

Absent:

Deborah Langelan (DL)

Minutes:

Review of the Project Development Schedule:

MK indicated that before any further agreements are signed a Directive must be in place, which is in line with the generation procurement contract. ~~The indemnity agreement may not require the Directive. The OPA may not be able to enter into an indemnity agreement.~~ TransCanada would like to know what's in the "break fee" provision.

BC asked how firm the January 31 date is for the Indemnity Implementation Agreement. JM explained that LS (engineering on TransCanada side) is now working but we TCE and the OPA need to agree on the scope of work to be able to deliver on June 30th (proposed contract execution date). June 30 as the proposed contract execution date requires engineering to be done at the very least in May, but more likely earlier. O&M numbers and backstops from manufacturers + chain of approvals on both sides (TransCanada and OPA) will have to happen in the interim, with makes the definition engineering timeline very tight.

In terms of moving ahead on the decision we TCE needs to agree on two main components: what are we is TCE building and where is TCE are building it. These two items (technical parameters and site) are vital to bring to conclusion on all aspects of the project but especially related to the gas turbines.

Environmental permitting timeline is similar to engineering with a very tight timeframe to get what we TCE needs to done. There is a slight lag time in comparison because the environmental permitting relies upon the outputs from engineering. It's prudent to start this as soon as possible so that we TCE can begin to understand the associated risks and address them early enough in the process so as to decrease risk and increase certainty on timing and costs.

On the municipal timeline front the key aspect is to approach the City of Cambridge as soon as possible. A discussion and agreement on community benefits is required in moving forward. The sooner ~~we~~ that TCE and the OPA engage with the City the sooner ~~we~~ TCE will know what the local issues are and how ~~we~~ TCE can address them.

Cambridge Plan Forward:

MK asked if the plan was to go to the City with the Eagle St. site and hope that the Boxwood site comes up. CB explained that this was not necessarily the plan. MK wants to be cautious in how siting is discussed because he doesn't want to see the price of the Boxwood site driven up. CB indicated that the presentation could be vague (option 1) and ~~we~~ TCE would potentially receive negative feedback due to the outcome on OGS or ~~we~~ TCE could go in presenting the Eagle St. site with challenges and opportunities and then discuss options, with a focus on the Boxwood site, including opportunities and challenges (option 2). CB discussed the success in Halton Hills in presenting the Town with a turnkey industrial area. BC indicated there was merit in option 2 and talked about plans to have OPA present the need with TransCanada presenting the solution, including site options. MK reiterated carefully finessing this conversation so ~~we're~~ that TCE is not locked into one site and paying too much for that site. JM reiterated the need to discuss the community benefits. MK asked if defining community benefits would be better than just giving money directly to the City to do with it whatever they wish. BC indicated that that it depends largely on the Mayor.

JM asked what our response should be if the Mayor wants something more concrete than a meeting in terms of proof that a power plant is going to be built by TransCanada in Cambridge. BC indicated that ~~they~~ the City should be fine with the statement that the Directive is coming on the heels of the meeting. CB discussed that the meeting with the Mayor would be joint (OPA/TransCanada) but that the meeting would be set up by the OPA.

MK asked what TransCanada would be showing in their year-end financial statements.

~~M to follow up and report back to the OPA.~~

In terms of messaging in the meeting with the Mayor BC indicated that ~~we-TCE-needs~~ to be up front and clear with the Mayor that this is a replacement contract for TransCanada, not a replacement project for Oakville. BC and Amir Shalaby will attend the meeting with the Mayor. Amir will talk ~~present~~ about the need for the plant.

Provincial government relations was identified as key in every step related to external meetings and communications. BC indicated that he and CB will go to brief the government. BC expects that outreach to happen next week (week of January 10th) and the meeting with the Mayor would follow then the week of January 17th. ~~BC will~~ coordinate both of these meetings. CB explained that timing is crucial to make sure ~~we're~~ TCE is not bringing old news in and creating a negative relationship early on as a result. JM asked if the meeting is planned to be just with the Mayor and BC/CB indicated that was the plan for now.

CB discussed that Cambridge is more positive than recent experiences but that negativity no matter what was a very real possibility and discussed that ~~we have~~ TCE has the opportunity to start off with a more positive relationship by clearly stating relative benefits to the community that may be possible. The top 3 items CB outlined were:

- 1) front-ending of the costs associated with servicing the industrial park;
- 2) road improvements;
- 3) emissions abatement.

BC asked what ~~we~~ TCE planned for other options. CB talked about a budget similar to what's been previously discussed, and what the suite of options might be (using OGS as a starting point). BC indicated that it may be more advantageous at this point to hold back on the commitment to emissions abatement given uncertainties relative to this commitment. The response to opposition to simple-cycle technology is that previously both a combined cycle (Oakville) and a simple cycle plant were to be built and now it will just be a simple cycle plant. CB indicated that this topic obviously bears further discussion but ~~we~~ TCE needs to assess the risks of not making commitments up front. BC agreed and discussed making first 2 commitments and holding the 3rd for now. TS agreed with BC's proposed direction.

JM asked where ~~we were~~ TCE was at with local issues research. CB indicated that he had shared the outline with BC but that it will be kicked off only after the meeting with the Mayor. The idea would be then to go back to the Mayor with the results as soon as possible after the preliminary meeting.

~~BC had some comments related to the development schedule that should be changed, especially if it was to be included with the current draft of the presentation. MK indicated that, with respect to the Directive, it is currently being drafted, has been sent to the Ministry, and may be done in February. JM indicated that given the current progress ~~we~~ TCE would just barely be into the permitting etc. by the contract execution date, which is delayed to what ~~we were~~ TCE was anticipating previously.~~ BC had some comments related to the development schedule that should be changed, especially if it was to be included with the current draft of the presentation. MK indicated that, with respect to the Directive, it is currently being drafted, has been sent to the Ministry, and may be done in February. JM indicated that given the current progress ~~we~~ TCE would just barely be into the permitting etc. by the contract execution date, which is delayed to what ~~we were~~ TCE was anticipating previously.

TS/CB asked about press release timing relative to the meeting with the Mayor and indicated that at the very least there would need to be some sort of public communications on the heels of the meeting with the Mayor given that it would have the potential to make a power plant in Cambridge being built by TransCanada a very public piece of information at that time. BC/MK indicated that the government has to be briefed before anything goes ahead and then it may be a good idea to talk to the Mayor about communications before deciding on anything.

CB outlined next steps for external contact, after the Mayor, being the MP, MPP and so on, and that ~~we~~ TCE would most likely release something if ~~we~~ TCE wanted to be ahead of the messaging. BC questioned whether this could be handled with other documentation besides a formal press release (backgrounder, Qs and As, Open House

material). Further to messaging, BC indicated that the intention is that TransCanada shouldn't have to respond to anything related to need and process for determining generation solutions. CB agreed but asked if there would be some boilerplate information that TransCanada could point to and work from to ensure ~~we were~~ it was never providing a "don't know" or "can't answer that" response and appear evasive. BC agreed.

Oakville update:

JM updated everyone on the status of legal matters related to the OGS. Almost everything has been terminated with the only outstanding matter being agreement on the Town's legal costs. The Ford agreement has been signed, which allowed us to move forward on abandoning all remaining legal actions. TransCanada has been looking for further verification of \$18k because of some questions whether it should be paid out or not. TransCanada wants to ensure the OPA/Provincial Government is satisfied that ~~we~~ have it has made sure all costs are valid and reasonable. MK understands our position.

CB explained that in a perfect world all legal matters would be resolved and communicated publicly prior to our meeting with the Mayor of Cambridge. CB showed BC and MK the letters ~~we have~~ TCE has drafted as proof of TransCanada's abandonment of the legal actions that ~~we~~ it proposes to use as information backing up any public communication.

~~BC indicated his preference for the OPA to be the one to settle the legal costs~~ As far as answering the question about costs, BC indicated his preference ~~for the OPA to be the one to settle the legal costs~~ world to go well MK would like to see what will be going to the newspapers/public before it goes and CB agreed.

CB asked about settling the \$18k in outstanding legal fees to the Town and BC indicated that the OPA would have no problem if TransCanada went ahead and did that.

With respect to the FIPPA request/response, JM indicated that the contract had already been provided previously so that shouldn't be a problem but that the two letters would not be made available on the basis that they the two letters are still part of the ongoing negotiations.

GT Decision:

A large amount of information from MPS has been sent to the OPA and TransCanada is awaiting the OPA's questions/comments. MK indicated that ~~they do~~ the OPA does have a set of technical questions but that is best sent by email and then discussed in detail. In the meantime, the main question that remains is the breakdown of what the cost for fast start capability is. MK was not prepared to get into the details during this meeting but ~~will get the technical set of questions to TransCanada already to discuss~~ MK indicated that they the OPA will not possibly make a decision on the fast-start engines until those questions are answered. The OPA wants to see the itemized scope against the conversion to fast start, including line item costs. TS indicated that it's unlikely MPS will provide this information. When TransCanada receives a price, it is one price without associated

line items. ~~We~~ TCE may be able to get the costs for the 4 items. MK agreed that this would be a good start and may suffice for their needs. The OPA's feeling is that there may be some overlap in what has already been paid for and what's being proposed now. TS indicated this was something that ~~we~~ TCE could discuss but assured the OPA that there was no overlap. BC explained that the OPA is focused on clarity of costs with the understanding that there is a need to respond to the government and the ratepayers. CB indicated that while the need is understood, the contract with MPS does not obligate ~~them~~ it to respond. JM brought up the trip to see MPS and asked for an update on the status of that. MK indicated that Joanne spoke with Karl and the meeting is being set up pursuant to that.

JM reiterated that once the GT decision is made that will reduce the risks related to scope, uncertainty and costs and asked if the OPA had made the decision yet to go with the fast-start units. MK emphasized that no decision had been made and BC indicated that ~~a they are~~ the OPA is not convinced there is a substantial difference in the technology (presumably to warrant the cost). MK would like to get to the point of comparison that JM has been discussing but that their preference absolutely is to be able to re-use the MPS machines rather than start over with something else. BC would like TransCanada to help the OPA do that comparison. JM suggested that perhaps simply comparing the cost of going with a new unit could justify re-using the MPS machines. JM indicated that certainty around start time and in comparison to a completely new machine are two things to focus on in justifying the cost. BC reminded everyone that the place to start is with the technical questions.

TS indicated that TransCanada needs to better understand the OPA decision process in order to explain that to Mitsubishi, helping them understand the information the OPA is seeking. MK emphasized that MPS needs to understand that ~~they are~~ it is frustrating the OPA's ability to do what ~~they~~ it needs to do in order to move forward.

TS asked what the timing was for the OPA to travel to Orlando to meet with MPS. BC indicated that it was Joanne who would be going.

TS asked if, for the information ~~they~~ the OPS are is seeking, a firm not-to-exceed price would work. MK indicated that it might work in future but not right now because ~~they can't~~ the OPA cannot determine the value (without the breakdown). So the order of information and actions related to this then is 1) technical questions; 2) cost breakdown into 4 items, each with an associated cost; 3) trip to see MPS in Orlando (can happen anytime during this process); and 4) if required, a firm price at some later date.

JM asked what the timing of the GT decision is and if it would be soon. MK indicated that it could be soon but ~~don't~~ he did not know because ~~they don't~~ the OPA does not yet know the breakdown of the cost. BC asked when the technical questions could be sent to TransCanada and MK indicated that if it wasn't tomorrow (Friday) then it would be early next week as he would work on it over the weekend. TS indicated that this was helpful because there is already a regular meeting scheduled with MPS on Tuesday morning of next week.

JM asked if everyone was okay with the current scheduled time for the weekly meetings together (Thursdays at 2:30 pm). All the agreed timing was fine.

Implementation Agreement:

JM then introduced the idea of having a half-day session to work out some of the details in the agreement(s) as the general consensus was that the regular meeting agendas are already too full to accommodate those detailed discussions and emailing back and forth may take too long. MK agreed to a half day session that would also involve JC and TS in addition to JM and MK.

MK indicated that NYR might be a good starting point for developing the technical requirements for the new facility and JM added that there are some components that should also be brought in from OGS. JM also mentioned that DL is looking for the development schedule but that the current one contains a lot of detail and MK recognized that. JM indicated that PEC provided a good template to work from as well. [REDACTED]

[REDACTED] JM responded that it would be depend on when MK released the technical questions.

Summary of Action items:

1. MK will find out what can be included in the break fee with or without a Directive as well as if the Indemnity Implementation Agreement requires the Directive be in place.
2. JM to send MK a first draft of the technical parameters.
3. JM to find out and communicate what TransCanada's financial statements will indicate.
4. BC to coordinate meetings with government and Mayor of Cambridge.
5. CB to send proposed presentation for meeting with Mayor to BC.
6. JM to communicate Ford final costs.
7. MK to send technical questions to TransCanada.
8. JM to schedule teleconference call and half day working session to discuss and finalize the implementation agreement.

Aleksandar Kojic

From: Deborah Langelaan
Sent: January 17, 2011 9:21 AM
To: Michael Killeavy
Subject: RE: Auditor-General Information Request

Michael;

Would you please send me a copy of the Osler's e-mail you refer to?

Thanks,
Deb

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

From: Michael Killeavy
Sent: January 16, 2011 3:40 PM
To: Susan Kennedy
Cc: JoAnne Butler; Deborah Langelaan
Subject: RE: Auditor-General Information Request

Susan,

I went through Osler's suggested revisions to the answers to the questions. Most are fine and merely clarify or elaborate on your suggested answers. I do not think that we ought to explain TCE's case, i.e., its claim that the contract was repudiated by the OPA, in any response to the second question, as Osler suggests. I think that since there's been no statement of claim, just a letter, we can't be really certain about what TCE's position might be. I think the answer we discussed is fine, i.e., we have been asked to negotiate a mutually agreeable termination to the contract and just leave it at that.

The meeting is at 0815h tomorrow morning. I will brief you when it's over.

Michael

Michael Killeavy, LL.B., MBA, P.Eng.
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416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

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

From: Smith, Elliot [<mailto:ESmith@osler.com>]
Sent: Thu 1/13/2011 7:40 PM
To: Michael Killeavy; Sebastiano, Rocco; Ivanoff, Paul
Cc: Susan Kennedy
Subject: RE: Auditor-General Information Request

Michael,

Further to your request below, we have provided a mark-up with our comments on your proposed answers to the AG's questions.

We would also like to point out that the definition of Representatives in both the Contract and the CA includes the Government of Ontario and its auditors. As such, a good argument could be made that the AG is a "Representative". It would be harder to justify that Confidential Information disclosed to the AG is for the purpose of assisting the OPA in complying with its obligations under the Contract (or in the case of the CA, assisting the OPA in resolving the differences between the Parties), but in case you were looking for an avenue by which you may disclose the contract to the AG without having to provide notice to TCE, we thought this might assist in your analysis.

If you have any questions, please let us know.

Elliot

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

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

From: Michael Killeavy [<mailto:Michael.Killeavy@powerauthority.on.ca>]
Sent: Wednesday, January 12, 2011 1:12 PM
To: Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot
Cc: Susan Kennedy
Subject: Auditor-General Information Request

Rocco/Paul/Elliot,

The A-G is conducting an audit of the OPA and has made several information requests of the OPA. Susan has been working with me on this. We have determined that we have to meet with the A-G and provide information, so that is not something we need advice on. Attached is Susan's memorandum to me on this, which includes the questions posed and our proposed answers. Can you please review the proposed answers for me. I'll likely need to meet with the A-G this week or next week.

Thank you,

Michael

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

Director, Contract Management

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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 17, 2011 10:23 AM
To: 'Safouh Soufi'
Cc: 'orlando@smsenergy-engineering.com'; Michael Killeavy
Subject: RE: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Safouh;

Michael and I are available today at 4:30 p.m. and tomorrow at either 8:00 a.m. or 1:00 p.m.

Deborah

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: Safouh Soufi [<mailto:safouh@smsenergy-engineering.com>]
Sent: January 16, 2011 5:27 PM
To: Deborah Langelaan
Cc: orlando@smsenergy-engineering.com
Subject: RE: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deborah:

MPS didn't fully answer the question on Ramp Rate. We asked for normal and maximum. They provided nominal which is normal. They stayed silent on maximum ramp rate. Also, nominal of 6.6% is not consistent with what they said in earlier submission of 2009. I don't have MPS documents with me and I know you don't have them either. I will call Orlando tomorrow to have him review the document and confirm the ramp rate. I think it was reported at 8% but we should say nothing to MPS until we confirm this figure.

Their response in specific areas (those that matter) is not quite clear. I will discuss this with you on the phone, what is the best time to call you on Monday or Tuesday.

Thanks,
Safouh

From: Deborah Langelaan [<mailto:Deborah.Langelaan@powerauthority.on.ca>]
Sent: January 13, 2011 5:25 PM
To: safouh@smsenergy-engineering.com
Cc: orlando@smsenergy-engineering.com
Subject: Fw: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Safouh;

I trust this e-mail finds you safe and with the comfort of your family.

I am forwarding you MPS's responses to our technical questions with no expectation that you will respond.

Deborah

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Thursday, January 13, 2011 04:39 PM
To: Deborah Langelaan; Michael Killeavy
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deborah,
Michael,

Following please find the answers to the questions provided to Mitsubishi.

Thanks,

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: Terri Steeves
Sent: Thursday, January 13, 2011 4:30 PM
To: John Mikkelsen
Cc: Mark Brache
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Please forward to the OPA.

From: PPrigge@mpshq.com [mailto:PPrigge@mpshq.com]
Sent: Thursday, January 13, 2011 2:25 PM
To: Terri Steeves; 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; ryotaro_kanai@mhi.co.jp; pprigge@mpshq.com; jin_taniguchi@mhi.co.jp; yasuihiro_kawabe@mhi.co.jp; KYoshi@mpshq.com; Minoru.Yoshida@mpshq.com; Daisuke.Hiura@mpshq.com; Kazuki.Ishikura@mpshq.com; Akimasa.Muyama@mpshq.com; KHasegawa@mpshq.com; sueki@mpshq.com; mcdeedd@osc.mpsqh.com; pyrosg@osc.mpsqh.com; mulligang@osc.mpsqh.com; Shigeki.Takasugi@mpshq.com; koenekec@osc.mpsqh.com; newsomb@osc.mpsqh.com; wakaba_yoshimoto@mhi.co.jp; southwestgtaproject@mpshq.com; F_hcommon@mhi.co.jp
Subject: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Date : January 13, 2011
Ref. No : MPS/TCS-General-11-E-0001

To : Attention : Terri Steeves, Joseph P. Miller
: Company : 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), Ryotaro Kanai(TransCanada/SW GTA PJ - MHI TGO Team Member), Phil Prigge(TransCanada/SW GTA PJ - MPSA Team Member), Jin Taniguchi(TransCanada/SW GTA PJ - MHI TGO Team Member), YASUHIRO KAWABE(TransCanada/SW GTA PJ - MHI TGO Team Member), Kazuo Yoshi(), Minoru Yoshida(), Daisuke Hiura(Lake Mary Headquarters), Kazuki Ishikura(), Akimasa Muyama(), Koji Hasegawa(Lake Mary Headquarters), Shinichi Ueki(), David Mcdeed(Lake Mary Headquarters), George Pyros(Lake Mary), George Mulligan(Lake Mary Headquarters), Shigeki Takasugi(), Carlos Koenke(Orlando Service Center), Bill Newsom(), WAKABA YOSHIMOTO(TransCanada/SW GTA PJ - MHI TGO Team Member)

From : Phil Prigge, Project Manager
MPSA Headquarters
Person in Charge : phil prigge (pprigge@mpshq.com)
Phone No. : 407-688-6351 Fax No. : 407-688-6487

Project : TransCanada/Southwest-General
Subject : Technical Reply to OPA Questions from TCE dated January 10, 2011

Approved by :
p.prigge, p.prigge

Dear All,

Please see MPS Canada's reply to the OPA's questions copied below.

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(Later)

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Phil Prigge
Project Manager

MPS Canada, Inc.
200 Bay Street, Suite No.3220, Toronto, Ontario
M5J 2J1, Canada

Request from TCE/OPA-----

From: Terri Steeves [mailto:terri_steeves@transcanada.com]

Sent: Monday, January 10, 2011 11:18 AM

To: Prigge, Phil; Namba, Kotaro

Cc: Papaioanou, George; Bill Small; Mark Brache; jpm-tec@comcast.net; John Mikkelsen; Bill Small

Subject: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

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the original GAC machine).

If you have any questions, please let me know, otherwise we can discuss tomorrow.

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

Sent: Friday, January 07, 2011 3:49 PM

To: John Mikkelsen

Cc: Deborah Langelaan; Susan Kennedy; Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot; Safouh Soufi

Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Importance: High

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Thank you,
Michael

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

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 17, 2011 10:26 AM
To: Deborah Langelaan; 'safouh@smsenergy-engineering.com'
Cc: 'orlando@smsenergy-engineering.com'
Subject: Re: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

I didn't know that they'd answered the questions. When did they come in?

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: Monday, January 17, 2011 10:22 AM
To: 'Safouh Soufi' <safouh@smsenergy-engineering.com>
Cc: orlando@smsenergy-engineering.com <orlando@smsenergy-engineering.com>; Michael Killeavy
Subject: RE: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Safouh;

Michael and I are available today at 4:30 p.m. and tomorrow at either 8:00 a.m. or 1:00 p.m.

Deborah

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: Safouh Soufi [<mailto:safouh@smsenergy-engineering.com>]
Sent: January 16, 2011 5:27 PM
To: Deborah Langelaan
Cc: orlando@smsenergy-engineering.com
Subject: RE: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deborah:

MPS didn't fully answer the question on Ramp Rate. We asked for normal and maximum. They provided nominal which is normal. They stayed silent on maximum ramp rate. Also, nominal of 6.6% is not consistent with what they said in earlier submission of 2009. I don't have MPS documents with me and I know you don't have them either. I will call Orlando tomorrow to have him review the document and confirm the ramp rate. I think it was reported at 8% but we should say nothing to MPS until we confirm this figure.

Their response in specific areas (those that matter) is not quiet clear. I will discuss this with you on the phone, what is the best time to call you on Monday or Tuesday.

Thanks,
Safouh

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: January 13, 2011 5:25 PM
To: safouh@smsenergy-engineering.com
Cc: orlando@smsenergy-engineering.com
Subject: Fw: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Safouh;

I trust this e-mail finds you safe and with the comfort of your family.

I am forwarding you MPS's responses to our technical questions with no expectation that you will respond.

Deborah

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Thursday, January 13, 2011 04:39 PM
To: Deborah Langelaan; Michael Killeavy
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deborah,
Michael,

Following please find the answers to the questions provided to Mitsubishi.

Thanks,

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: Terri Steeves
Sent: Thursday, January 13, 2011 4:30 PM

To: John Mikkelsen

Cc: Mark Brache

Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Please forward to the OPA.

From: PPrigge@mpshq.com [mailto:PPrigge@mpshq.com]

Sent: Thursday, January 13, 2011 2:25 PM

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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; ryotaro_kanai@mhi.co.jp; pprigge@mpshq.com; jin_taniguchi@mhi.co.jp; yasuihiro_kawabe@mhi.co.jp; KYoshi@mpshq.com; Minoru.Yoshida@mpshq.com; Daisuke.Hiura@mpshq.com; Kazuki.Ishikura@mpshq.com; Akimasa.Muyama@mpshq.com; KHasegawa@mpshq.com; sueki@mpshq.com; mcdeedd@osc.mpsHQ.com; pyrosg@osc.mpsHQ.com; mulligan@osc.mpsHQ.com; Shigeki.Takasugi@mpshq.com; koenekec@osc.mpsHQ.com; newsomb@osc.mpsHQ.com; wakaba_yoshimoto@mhi.co.jp; southwestgtaproject@mpshq.com; F_hcommon@mhi.co.jp

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Date : January 13,2011

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From : Phil Prigge,Project Manager

MPSA Headquarters

Person in Charge : phil prigge (pprigge@mpshq.com)

Phone No. : 407-688-6351 Fax No.: 407-688-6487

Project : TransCanada/Southwest-General

Subject : Technical Reply to OPA Questions from TCE dated January 10, 2011

Approved by :

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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 17, 2011 10:29 AM
To: Michael Killeavy
Subject: RE: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

John Mikkelsen sent them to us on Thursday at 4:39 p.m.

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 |

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Subject: RE: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deborah:

MPS didn't fully answer the question on Ramp Rate. We asked for normal and maximum. They provided nominal which is normal. They stayed silent on maximum ramp rate. Also, nominal of 6.6% is not consistent with what they said in earlier submission of 2009. I don't have MPS documents with me and I know you don't have them either. I will call Orlando tomorrow to have him review the document and confirm the ramp rate. I think it was reported at 8% but we should say nothing to MPS until we confirm this figure.

Their response in specific areas (those that matter) is not quiet clear. I will discuss this with you on the phone, what is the best time to call you on Monday or Tuesday.

Thanks,
Safouh

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: January 13, 2011 5:25 PM
To: safouh@smsenergy-engineering.com
Cc: orlando@smsenergy-engineering.com
Subject: Fw: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Safouh;

I trust this e-mail finds you safe and with the comfort of your family.

I am forwarding you MPS's responses to our technical questions with no expectation that you will respond.

Deborah

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Thursday, January 13, 2011 04:39 PM
To: Deborah Langelaan; Michael Killeavy
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deborah,
Michael,

Following please find the answers to the questions provided to Mitsubishi.

Thanks,

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: Terri Steeves
Sent: Thursday, January 13, 2011 4:30 PM
To: John Mikkelsen
Cc: Mark Brache
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Please forward to the OPA.

From: PPrigge@mpshq.com [mailto:PPrigge@mpshq.com]
Sent: Thursday, January 13, 2011 2:25 PM
To: Terri Steeves; 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; ryotaro_kanai@mhi.co.jp; pprigge@mpshq.com; jin_taniguchi@mhi.co.jp; yasuihiro_kawabe@mhi.co.jp; KYoshi@mpshq.com; Minoru.Yoshida@mpshq.com; Daisuke.Hiura@mpshq.com; Kazuki.Ishikura@mpshq.com; Akimasa.Muyama@mpshq.com; KHasegawa@mpshq.com; sueki@mpshq.com; mcdeedd@osc.mpsHQ.com; pyrosg@osc.mpsHQ.com; mulligan@osc.mpsHQ.com; Shigeki.Takasugi@mpshq.com; koenekec@osc.mpsHQ.com; newsomb@osc.mpsHQ.com; wakaba_yoshimoto@mhi.co.jp; southwestgtaproject@mpshq.com; F_hcommon@mhi.co.jp
Subject: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Date : January 13, 2011
Ref. No : MPS/TCS-General-11-E-0001

To : Attention : Terri Steeves, Joseph P. Miller
: Company : 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), Ryotaro Kanai(TransCanada/SW GTA PJ - MHI TGO Team Member), Phil Prigge(TransCanada/SW GTA PJ - MPSA Team Member), Jin Taniguchi(TransCanada/SW GTA PJ - MHI TGO Team Member), YASUHIRO KAWABE(TransCanada/SW GTA PJ - MHI TGO Team Member), Kazuo Yoshi(), Minoru Yoshida(), Daisuke Hiura(Lake Mary Headquarters), Kazuki Ishikura(), Akimasa Muyama(), Koji Hasegawa(Lake Mary Headquarters), 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(), WAKABA YOSHIMOTO(TransCanada/SW GTA PJ - MHI TGO Team Member)

From : Phil Prigge, Project Manager
MPSA Headquarters
Person in Charge : phil prigge (pprigge@mpshq.com)
Phone No. : 407-688-6351 Fax No. : 407-688-6487

Project : TransCanada/Southwest-General
Subject : Technical Reply to OPA Questions from TCE dated January 10, 2011

Approved by :
p.prigge, p.prigge

Dear All,

Please see MPS Canada's reply to the OPA's questions copied below.

1. Price Breakdown
(Later)

2. GT Start-Up Device

The standard start-up device for our M501G series gas turbine is a SFC, we believe a huge motor to start up M501G is not feasible. An AC motor may be applied to a M501F or smaller gas turbine. However this does not mean all M501G gas turbines have fast start-up capability.

3. Difference of SFC for M501GAC and M501GAC-Fast

The standard capacity of a SFC for a M501GAC and a M501GAC-Fast are 4 MW and 7 MW respectively.

For a M501GAC-Fast, the SFC capacity must be increased to achieve a faster speed ramp up as compared to a M501GAC.

4. Start-Up Curve

1) The minimum purging time is specified as 5 minutes in the current (2007) edition of NFPA 85, however it is not clear that this requirement is applicable to simple cycle plants. On the other hand, the new edition of NFPA 85 is expected to be released soon and it is said that the new edition will clearly state the requirement of the minimum purging time is not applied to simple cycle plants. Based on this assumption, we instead included 3 minutes for purging in the proposed start-up time, which has been calculated based on 5 changes of the volume from GT outlet to the stack outlet considering current NFPA 85 requirement.

2) The start-up curve (No. IBO-08088) in Appendix I is to indicate typical start-up profile for M501GAC without consideration of restriction from the steam bottoming system and it is also applicable to M501GAC simple cycle plant.

3) OPA's understanding is correct. For synchronization, we just assumed 5 minutes in IBO-08088 but per TCE's instruction we considered 1 minute in the start-up curve for M501GAC-Fast.

5. Ramp Rates of M501GAC (Please refer to IBO-08088.)

1) From Ignition to 100% speed no load: Approx. 170 rpm/min.

2) To 60% load: 6.67%/min.

3) From 60 to 100% load: 6.67%/min.

Best regards,

Phil Prigge
Project Manager

MPS Canada, Inc.
200 Bay Street, Suite No.3220, Toronto, Ontario
M5J 2J1, Canada

Request from TCE/OPA-----

From: Terri Steeves [mailto:terri_steeves@transcanada.com]

Sent: Monday, January 10, 2011 11:18 AM

To: Prigge, Phil; Namba, Kotaro

Cc: Papaioanou, George; Bill Small; Mark Brache; jpm-tec@comcast.net; John Mikkelsen; Bill Small

Subject: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Phil / Namba-san,

Please find attached the request for additional information from the OPA. As I suspected, the OPA is looking for a more detailed breakdown of the costs. I believe the OPA needs to be able to reconcile the estimate and demonstrate to their decision makers that the cost is justified. Without the breakdown, they are having difficulty with their justification. I believe the breakdown would demonstrate further that the fast start conversion is very economic (versus going simple cycle with the original GAC machine).

If you have any questions, please let me know, otherwise we can discuss tomorrow.

Thank you,
Terri

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

Sent: Friday, January 07, 2011 3:49 PM

To: John Mikkelsen

Cc: Deborah Langelaan; Susan Kennedy; Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot; Safouh Soufi

Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Importance: High

John,

We've the following questions and comments:

Price – We have been given an aggregate price for a number of different items. It seems that the price stated in the December 2010 Fast Start Proposal ("the Proposal") includes some cost provisions related to project schedule change/delay/suspension.

Could you please itemize:

(a) suspension from October 7, 2010 to 31 December 2010;

(b) delayed delivery;

(c) additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works); and

(d) conversion of the M501GAC to M501GAS Fast Start gas turbine;

Fast Start - The Equipment Supply Agreement ("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. Is this correct?

SFC - 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. MPS to confirm if the M501GAC package comes with SFC starting device rated at 4MW as a standard supply from Mitsubishi? If not, what is the standard supply for starting device? The reference to 7MW may indicate 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;

Start-up Curve - 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;

Purge Credit - MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and needs more clarification;

SC v. CC - 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 could provide a start-up curve for the machine described in Appendix I, having SFC of 4MW, operating in Simple Cycle configuration

Synchronisation Time - It would appear that 5 minutes to synchronize is used in the original start-up curve whereas the latest curve assumes 1 minute. We would like MPS to confirm this;

Additional Technical Information – We would very much like the ramp rates for Simple Cycle operation. Could MPS please provide the machine's (M501GAC) normal and maximum ramp up rates together with the baseload curve for a temperature range from 16 – 100°F? More specifically, we'd like ramp rates for the following cases:

1. To 100% speed no load,
2. To 60% load and;
3. From 60 to 100% load

Thank 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
416-520-9788 (CELL)
416-967-1947 (FAX)

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Aleksandar Kojic

From: JoAnne Butler
Sent: January 17, 2011 10:49 AM
To: Michael Killeavy
Subject: RE: Auditor-General Information Request

Michael, can I see the marked up document? Thanks...

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

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

From: Michael Killeavy
Sent: Domingo, 16 de Enero de 2011 03:40 p.m.
To: Susan Kennedy
Cc: JoAnne Butler; Deborah Langelaan
Subject: RE: Auditor-General Information Request

Susan,

I went through Osler's suggested revisions to the answers to the questions. Most are fine and merely clarify or elaborate on your suggested answers. I do not think that we ought to explain TCE's case, i.e., its claim that the contract was repudiated by the OPA, in any response to the second question, as Osler suggests. I think that since there's been no statement of claim, just a letter, we can't be really certain about what TCE's position might be. I think the answer we discussed is fine, i.e., we have been asked to negotiate a mutually agreeable termination to the contract and just leave it at that.

The meeting is at 0815h tomorrow morning. I will brief you when it's over.

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: Smith, Elliot [<mailto:ESmith@osler.com>]

Sent: Thu 1/13/2011 7:40 PM
To: Michael Killeavy; Sebastiano, Rocco; Ivanoff, Paul
Cc: Susan Kennedy
Subject: RE: Auditor-General Information Request

Michael,

Further to your request below, we have provided a mark-up with our comments on your proposed answers to the AG's questions.

We would also like to point out that the definition of Representatives in both the Contract and the CA includes the Government of Ontario and its auditors. As such, a good argument could be made that the AG is a "Representative". It would be harder to justify that Confidential Information disclosed to the AG is for the purpose of assisting the OPA in complying with its obligations under the Contract (or in the case of the CA, assisting the OPA in resolving the differences between the Parties), but in case you were looking for an avenue by which you may disclose the contract to the AG without having to provide notice to TCE, we thought this might assist in your analysis.

If you have any questions, please let us know.

Elliot

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

Elliot Smith
Associate

416.862.6435

DIRECT

416.862.6666

FACSIMILE

esmith@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/>>

From: Michael Killeavy [<mailto:Michael.Killeavy@powerauthority.on.ca>]
Sent: Wednesday, January 12, 2011 1:12 PM
To: Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot
Cc: Susan Kennedy
Subject: Auditor-General Information Request

Rocco/Paul/Elliot,

The A-G is conducting an audit of the OPA and has made several information requests of the OPA. Susan has been working with me on this. We have determined that we have to meet with the A-G and provide information, so that is not something we need advice on. Attached is Susan's memorandum to me on this, which includes the questions posed and our proposed answers. Can you please review the proposed answers for me. I'll likely need to meet with the A-G this week or next week.

Thank 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

416-520-9788 (CELL)

416-967-1947 (FAX)

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 17, 2011 10:51 AM
To: JoAnne Butler; Deborah Langelaan
Subject: Fw: Auditor-General Information Request
Attachments: #5074238v2_TOR_P2Z_ - MEM_AuditorGeneralRequestReSWGTA (2).doc;
WSCcomparison_#5074238v1_TOR_P2Z_ - MEM_AuditorGeneralRequestReSWGTA
(2).doc-#5074238v2_TOR_P2Z_ - MEM_AuditorGeneralRequestReSWGTA (2).doc.pdf

I did the interview this morning and it went well.

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: Smith, Elliot [<mailto:ESmith@osler.com>]
Sent: Thursday, January 13, 2011 07:40 PM
To: Michael Killeavy; Sebastiano, Rocco <RSebastiano@osler.com>; Ivanoff, Paul <PIvanoff@osler.com>
Cc: Susan Kennedy
Subject: RE: Auditor-General Information Request

Michael,

Further to your request below, we have provided a mark-up with our comments on your proposed answers to the AG's questions.

We would also like to point out that the definition of Representatives in both the Contract and the CA includes the Government of Ontario *and its auditors*. As such, a good argument could be made that the AG is a "Representative". It would be harder to justify that Confidential Information disclosed to the AG is for the purpose of assisting the OPA in complying with its obligations under the Contract (or in the case of the CA, assisting the OPA in resolving the differences between the Parties), but in case you were looking for an avenue by which you may disclose the contract to the AG without having to provide notice to TCE, we thought this might assist in your analysis.

If you have any questions, please let us know.
Elliot

OSLER

Elliot Smith
Associate

416.862.6435 DIRECT
416.862.6666 FACSIMILE

esmith@osler.com

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Box 50, 1 First Canadian Place
Toronto, Ontario, Canada M5X 1B8

osler.com

From: Michael Killeavy [<mailto:Michael.Killeavy@powerauthority.on.ca>]
Sent: Wednesday, January 12, 2011 1:12 PM
To: Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot
Cc: Susan Kennedy
Subject: Auditor-General Information Request

Rocco/Paul/Elliot,

The A-G is conducting an audit of the OPA and has made several information requests of the OPA. Susan has been working with me on this. We have determined that we have to meet with the A-G and provide information, so that is not something we need advice on. Attached is Susan's memorandum to me on this, which includes the questions posed and our proposed answers. Can you please review the proposed answers for me. I'll likely need to meet with the A-G this week or next week.

Thank you,

Michael

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
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[Osler Comments on Q&A: January 13, 2011]
MEMORANDUM

DATE: December 22, 2010
TO: Michael Killeavy
FROM: Susan Kennedy
RE: Auditor General Request for Oakville Generating Station Information and Documentation

Privileged and Confidential (Solicitor and Client Privilege)

This email contains privileged legal advice and should not be forwarded to parties outside of OPA. Please limit internal circulation.

Background

You have advised that the Auditor General (or a member of his staff) has requested certain information in connection with a special audit being conducted by the Auditor General (the "AG"). Specifically, the following information has been requested:

1. What was the reason for signing the contract in 2009?
2. What was the reason for cancelling the contract now? Please provide supporting documents for the rationale.
3. When did the OPA/Ministry decide that the Oakville plant is no longer needed?
4. Can I get a copy of the contract?
5. What is the status of the contract? Has it been determined what the penalty will be for terminating the contract?

You have asked whether the OPA must produce the documentation and respond to the questions.

Answer

Yes.

Executive Summary

Summary Rationale

Essentially section 10 of the *Auditor General Act* (the "Act") provides the AG the power to access "all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by... a Crown controlled corporation...".

The OPA is a Crown controlled corporation pursuant to the definition in the Act.

The right of access to information is not qualified in any way, whether by third party confidentiality obligations of the OPA or otherwise. In fact, subsection 10(3) provides that a disclosure to the AG does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege.

Confidentiality Agreement with TransCanada

All or part of the material and information that has been requested by the AG is covered by confidentiality arrangements between the OPA and TransCanada.

Article 8 of the Southwest GTA Clean Energy Supply Contract between the OPA and TransCanada dated as of the 9th day of October, 2009 (the "Contract") imposes confidentiality obligations on the OPA. Section 8.1(b) of the contract requires:

If the Receiving Party or any of its Representatives are requested or required (by oral question, interrogatories, requests for information or documents, court order, civil investigative demand, or similar process) to disclose any Confidential Information in connection with litigation or any regulatory proceeding or investigation, or pursuant to any applicable law, order, regulation or ruling, the Receiving Party shall promptly notify the Disclosing Party. Unless the Disclosing Party obtains a protective order, the Receiving Party and its Representatives may disclose such portion of the Confidential Information to the Party seeking disclosure as is required by law or regulation in accordance with Section 8.2.

Section 8.2 of the Contract requires:

If the Receiving Party or any of its Representatives are requested or required to disclose any Confidential Information, the Receiving Party shall promptly notify the Disclosing Party of such request or requirement so that the Disclosing Party may seek an appropriate protective order or waive compliance with this Agreement. If, in the absence of a protective order or the receipt of a waiver hereunder, the Receiving Party or its Representatives are compelled to disclose the Confidential Information, the Receiving Party and its Representatives may disclose only such of the Confidential Information to the Party compelling disclosure as is required by law only to such Person or Persons to which the Receiving Party is legally compelled to disclose and, in connection with such compelled disclosure, the Receiving Party and its Representatives shall provide notice to each such recipient (in co-operation with legal counsel for the Disclosing Party) that such Confidential Information is confidential and subject to non-disclosure on terms and conditions equal to those contained in this Agreement and, if possible, shall obtain each recipient's written agreement to receive and use such Confidential Information subject to those terms and conditions.

Exhibit B of the Contract is classified as "Mutually Confidential Information", the Auditor General's request to see the Contract implies the complete contract (i.e. inclusive of Exhibit B) and, as such, triggers the obligations on the OPA pursuant to section 8.1(b) and section 8.2 of the Contract.

The OPA must promptly notify TransCanada of Auditor General's request to be provided with a copy of the Contract.

In addition, the Auditor General will likely request follow-up documentation that may trigger further obligations under the Contract or obligations under the Confidentiality Agreement between the OPA and TransCanada dated as of the 8th day of October, 2010 (this agreement contains provisions similar to those of the Contract).

Suggested Responses

1. What was the reason for signing the contract in 2009?

- The OPA received a direction from the Minister of Energy and Infrastructure pursuant to section 25.32 of the *Electricity Act, 1998* to procure a combined-cycle natural gas-fired electricity generating facility of up to approximately 850 MW for deployment in Southwest GTA:

http://www.powerauthority.on.ca/sites/default/files/page/7561_August_18_1008_Southwest_GTA_Supply.pdf

- Pursuant to the SWGTA Directive, the OPA conducted a competitive procurement. TransCanada Energy Ltd. was the successful proponent and pursuant to the requirements of the RFP process, the OPA signed the contract with TransCanada on October 9, 2009. Public disclosure relating to the procurement is located at:

<http://www.powerauthority.on.ca/gp/southwest-greater-toronto-area>

2. What was the reason for cancelling the contract now? Please provide supporting documents for the rationale.

- **[Note: We recommend starting off with the following paragraph, then providing the OPA's justification for seeking a mutual termination of the contract.]**
- The OPA is not of the view that the contract has been "cancelled". On October 7, 2010, the OPA advised TransCanada that it would not proceed with the contract, and since then the OPA has been working with TransCanada to negotiate a mutual termination. TransCanada has taken the position that the OPA has "repudiated" the contract, but the OPA does not agree with this assertion.
- The Government announced on October 7, 2010 that the plant would not proceed as changes in demand and supply - including more than 8,000 megawatts of new, cleaner power and successful conservation efforts — eliminated the need for a natural gas plant in the area. The Government announced that a transmission solution would be used to meet the areas electricity needs:

<http://news.ontario.ca/mei/en/2010/10/oakville-power-plant-not-moving-forward.html>

The Government's analysis regarding demand and need in the southwest GTA is included in the Ministry of Energy's draft supply mix directive to the OPA which

is posted for comment on the Environmental Registry until January 7, 2011:

[Note: The October 7 letter states that the Government's announcement is "supported by the OPA's planning analysis of the current circumstances in southwest GTA". As such, it may not be appropriate to refer to the analysis as being the Government's.]

The 2007 Integrated Power System Plan submitted to the OEB included a forecasted need for three additional gas plants in the Province, including one in the Kitchener-Waterloo-Cambridge area and one in the southwest GTA. Due to changes in demand along with the addition of approximately 8,400 MW of new supply since 2003, the outlook has changed and two of the proposed plants, including the proposed plant in Oakville, are no longer required. A transmission solution to maintain reliable supply in the southwest GTA will be required.

<http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTExNDIz&statusId=MTY3MTY0&language=en>

3. When did the OPA/Ministry decide that the Oakville plant is no longer needed?
 - **[Note: We see this as two separate questions: (1) When did the Ministry decide that the Oakville plant is no longer needed and (2) When did the OPA decide that the Oakville plant is no longer needed. The following answer only addresses the first question so it may be helpful to prepare an answer to the second question as well.]**
 - The OPA does not know when the Ministry decided the Oakville plant was no longer needed. **[Based on the timing of the Ministry's announcement, it would appear to have been sometime in Q3 2010.]** **[Note: The preceding sentence is purely speculative. Consider omitting.]**
4. Can I [AG] get a copy of the contract?
 - Portions of the contract are subject to confidentiality obligations which require that the OPA provide TransCanada with notice of the request prior to disclosure. The form of the Contract (the "Form") is publicly available and a copy is provided to you at this time. **[We can confirm that no changes have been made to the Form other than to fill in the required blanks prior to execution.]**
 - If you require a copy of the actual contract, the OPA has a contractual obligation to notify TransCanada of the disclosure request, see Article 8 of the Form, prior to releasing the Agreement, so that TransCanada has an opportunity to seek a protective order.
5. What is the status of the contract? Has it been determined what the penalty will be for terminating the contract?
 - The status of the contract is that the OPA and TransCanada are currently negotiating a mutual termination. The contract does not provide for a "penalty" for contract termination. The OPA is currently negotiating the terms of a mutual

termination of the contract with TransCanada. Any costs associated with the termination of the contract will not be known until negotiations are completed.

It is likely that the discussion will lead to additional questions and requests for information.

Detailed Rationale

Auditor General Act

Section 9.1(3) of the Act provides that:

The Auditor General may conduct a special audit of a Crown controlled corporation or a subsidiary of a Crown controlled corporation.

Section 10 of the Act provides, as follows:

Duty to furnish information

10. (1) Every ministry of the public service, every agency of the Crown, every Crown controlled corporation and every grant recipient shall give the Auditor General the information regarding its powers, duties, activities, organization, financial transactions and methods of business that the Auditor General believes to be necessary to perform his or her duties under this Act. 2004, c. 17, s. 13.

Access to records

(2) The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by a ministry, agency of the Crown, Crown controlled corporation or grant recipient, as the case may be, that the Auditor General believes to be necessary to perform his or her duties under this Act. 2004, c. 17, s. 13.

No waiver of privilege

(3) A disclosure to the Auditor General under subsection (1) or (2) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege. 2004, c. 17, s. 13.

Section 11.2 of the Act provides

Prohibition re obstruction

11.2 (1) No person shall obstruct the Auditor General or any member of the Office of the Auditor General in the performance of a special audit under section 9.1 or an examination under section 9.2 and no person shall conceal or destroy any books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property that the Auditor General considers to be relevant to the subject-matter of the special audit or examination. 2004, c. 17, s. 13.

Offence

(2) Every person who knowingly contravenes subsection (1) and every director or officer of a corporation who knowingly concurs in such a contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or imprisonment for a term of not more than one year, or both. 2004, c. 17, s. 13.

Penalty, corporation

(3) If a corporation is convicted of an offence under subsection (2), the maximum penalty that may be imposed on the corporation is \$25,000. 2004, c. 17, s. 13.

Based on the language of the Act, the AG has a very broad right to documentation and information.

It should also be noted that the AG has the power to examine persons under oath. Section 11 provides:

Power to examine on oath

11. (1) The Auditor General may examine any person on oath on any matter pertinent to an audit or examination under this Act. 2004, c. 17, s. 13.

Same

(2) For the purpose of an examination, the Auditor General has the powers that Part II of the *Public Inquiries Act* confers on a commission, and that Part applies to the examination as if it were an inquiry under that Act. 2004, c. 17, s. 13.



[Osler Comments on Q&A: January 13, 2011]
MEMORANDUM

DATE: December 22, 2010
TO: Michael Killeavy
FROM: Susan Kennedy
RE: Auditor General Request for Oakville Generating Station Information and Documentation

Privileged and Confidential (Solicitor and Client Privilege)

This email contains privileged legal advice and should not be forwarded to parties outside of OPA. Please limit internal circulation.

Background

You have advised that the Auditor General (or a member of his staff) has requested certain information in connection with a special audit being conducted by the Auditor General (the "AG"). Specifically, the following information has been requested:

1. What was the reason for signing the contract in 2009?
2. What was the reason for cancelling the contract now? Please provide supporting documents for the rationale.
3. When did the OPA/Ministry decide that the Oakville plant is no longer needed?
4. Can I get a copy of the contract?
5. What is the status of the contract? Has it been determined what the penalty will be for terminating the contract?

You have asked whether the OPA must produce the documentation and respond to the questions.

Answer

Yes.

Executive Summary

Summary Rationale

Essentially section 10 of the *Auditor General Act* (the "Act") provides the AG the power to access "all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by... a Crown controlled corporation...".

The OPA is a Crown controlled corporation pursuant to the definition in the Act.

The right of access to information is not qualified in any way, whether by third party confidentiality obligations of the OPA or otherwise. In fact, subsection 10(3) provides that a disclosure to the AG does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege.

Confidentiality Agreement with TransCanada

All or part of the material and information that has been requested by the AG is covered by confidentiality arrangements between the OPA and TransCanada.

Article 8 of the Southwest GTA Clean Energy Supply Contract between the OPA and TransCanada dated as of the 9th day of October, 2009 (the "Contract") imposes confidentiality obligations on the OPA. Section 8.1(b) of the contract requires:

If the Receiving Party or any of its Representatives are requested or required (by oral question, interrogatories, requests for information or documents, court order, civil investigative demand, or similar process) to disclose any Confidential Information in connection with litigation or any regulatory proceeding or investigation, or pursuant to any applicable law, order, regulation or ruling, the Receiving Party shall promptly notify the Disclosing Party. Unless the Disclosing Party obtains a protective order, the Receiving Party and its Representatives may disclose such portion of the Confidential Information to the Party seeking disclosure as is required by law or regulation in accordance with Section 8.2.

Section 8.2 of the Contract requires:

If the Receiving Party or any of its Representatives are requested or required to disclose any Confidential Information, the Receiving Party shall promptly notify the Disclosing Party of such request or requirement so that the Disclosing Party may seek an appropriate protective order or waive compliance with this Agreement. If, in the absence of a protective order or the receipt of a waiver hereunder, the Receiving Party or its Representatives are compelled to disclose the Confidential Information, the Receiving Party and its Representatives may disclose only such of the Confidential Information to the Party compelling disclosure as is required by law only to such Person or Persons to which the Receiving Party is legally compelled to disclose and, in connection with such compelled disclosure, the Receiving Party and its Representatives shall provide notice to each such recipient (in co-operation with legal counsel for the Disclosing Party) that such Confidential Information is confidential and subject to non-disclosure on terms and conditions equal to those contained in this Agreement and, if possible, shall obtain each recipient's written agreement to receive and use such Confidential Information subject to those terms and conditions.

Exhibit B of the Contract is classified as "Mutually Confidential Information", the Auditor General's request to see the Contract implies the complete contract (i.e. inclusive of Exhibit B) and, as such, triggers the obligations on the OPA pursuant to section 8.1(b) and section 8.2 of the Contract.

The OPA must promptly notify TransCanada of Auditor General's request to be provided with a copy of the Contract.

In addition, the Auditor General will likely request follow-up documentation that may trigger further obligations under the Contract or obligations under the Confidentiality Agreement between the OPA and TransCanada dated as of the 8th day of October, 2010 (this agreement contains provisions similar to those of the Contract).

Suggested Responses

1. What was the reason for signing the contract in 2009?

- The OPA received a direction from the Minister of Energy and Infrastructure pursuant to section ~~25.32~~ of the *Electricity Act*, ~~to procure~~ 1998 to procure a combined-cycle natural gas-fired electricity generating facility of up to approximately 850 MW for deployment in Southwest GTA:

http://www.powerauthority.on.ca/sites/default/files/page/7561_August_18_1008_-_Southwest_GTA_Supply.pdf

- Pursuant to the SWGTA Directive, the OPA conducted a competitive procurement. TransCanada Energy Ltd. was the successful proponent and pursuant to the requirements of the RFP process, the OPA signed the contract with TransCanada on October 9, 2009. Public disclosure relating to the procurement is located at:

<http://www.powerauthority.on.ca/gp/southwest-greater-toronto-area>

2. What was the reason for cancelling the contract now? Please provide supporting documents for the rationale.

- [Note: We recommend starting off with the following paragraph, then providing the OPA's justification for seeking a mutual termination of the contract.]

- The OPA is not of the view that the contract has been "cancelled". On October 7, 2010, the OPA advised TransCanada that it would not proceed with the contract, and since then the OPA has been working with TransCanada to negotiate a mutual termination. TransCanada has taken the position that the OPA has "repudiated" the contract, but the OPA does not agree with this assertion.

- The Government announced on October 7, 2010 that the plant would not proceed as changes in demand and supply - including more than 8,000 megawatts of new, cleaner power and successful conservation efforts - eliminated the need for a natural gas plant in the area. The Government announced that a transmission solution would be used to meet the areas electricity needs:

<http://news.ontario.ca/mei/en/2010/10/oakville-power-plant-not-moving-forward.html>

The Government's analysis regarding demand and need in the southwest GTA is included in the Ministry of Energy's draft supply mix directive to the OPA which is posted for comment on the Environmental Registry until January 7, 2011:

[Note: The October 7 letter states that the Government's announcement is "supported by the OPA's planning analysis of the current circumstances in

southwest GTA". As such, it may not be appropriate to refer to the analysis as being the Government's.]

The 2007 Integrated Power System Plan submitted to the OEB included a forecasted need for three additional gas plants in the Province, including one in the Kitchener-Waterloo-Cambridge area and one in the southwest GTA. Due to changes in demand along with the addition of approximately 8,400 MW of new supply since 2003, the outlook has changed and two of the proposed plants, including the proposed plant in Oakville, are no longer required. A transmission solution to maintain reliable supply in the southwest GTA will be required.

<http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTExNDIz&statusId=MTY3MTY0&language=en>

3. When did the OPA/Ministry decide that the Oakville plant is no longer needed?

- [Note: We see this as two separate questions: (1) When did the Ministry decide that the Oakville plant is no longer needed and (2) When did the OPA decide that the Oakville plant is no longer needed. The following answer only addresses the first question so it may be helpful to prepare an answer to the second question as well.]

- ~~We [] do~~ The OPA does not know when the Ministry decided the Oakville plant was no longer needed. [Based on the timing of the Ministry's announcement, it would appear to have been sometime in Q3 2010.] [Note: The preceding sentence is purely speculative. Consider omitting.]

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PRIVILEGED & CONFIDENTIAL

Aleksandar Kojic

From: Deborah Langelaan
Sent: January 17, 2011 12:09 PM
To: JoAnne Butler
Cc: Michael Killeavy
Subject: Oakville GS Briefing Note
Attachments: Briefing_Note_JoAnne_20110117.doc

JoAnne;

Attached is an update on the OPA's negotiations with TCE regarding the Oakville Generating Station. I've kept it fairly high level and you will see at the end of the document that I've included the questions posed by the Auditor General. Please let me know if you require more detail - I wasn't sure if you plan on providing a copy to Ministry staff.

Deb

MEMORANDUM

DATE: January 17, 2011

TO: JoAnne Butler

FROM: Deborah Langelaan

RE: Oakville Generating Station (OGS) Update

- OPA/TransCanada Energy (TCE) negotiating team meet on a weekly basis (Thursday afternoon)
- Province has advised OPA that the negotiations with TCE for the replacement plant need to be completed by March/April 2011
- December 22, 2010 MOU executed between TCE and OPA regarding the potential development of a 450 MW simple cycle gas-fired power generation project in the Kitchener-Waterloo-Cambridge area
- TCE has withdrawn and settled all of its appeals and legal actions with the Town of Oakville and Ford Motor Company
- The two gas turbines (GT's) purchased and intended for the OGS are Mitsubishi Power Systems (MPS) M501GAC machines and were designed for Combined Cycle operation
- It has been determined that it is prudent, from both an economic and timing perspective, to have MPS convert the GT's to Fast Start capability rather than cancel the contract and undertake another procurement process for replacement GT's. TCE is in the midst of negotiating the terms and conditions for the conversion.
- OPA, TCE and MPS meeting on January 19, 2011 to streamline GT negotiations
- OPA/TCE met with Premier's Office on January 13, 2011 to discuss strategy for approaching City of Cambridge. The OPA expects to receive consent from the Premier's Office in the next 3 weeks to schedule an introductory meeting.
- OPA/TCE negotiating Implementation Agreement that will set out the process for expediting the development and construction of the proposed Cambridge peaking facility prior to finalizing the peaking contract
- OPA/TCE developing the technical design requirements for a simple cycle facility in Cambridge
- TCE's Annual Report will disclose status of Oakville Generating Station. OPA expects to receive draft language this week for its review and comment prior to publication.
- OPA met with Auditor General on January 17, 2011 and provided responses to the following questions:
 - Reason for signing the contract in 2009?
 - Reason for cancelling the contract now? Please provide supporting documents for the rationale.

- When did the OPA/Ministry decide that the Oakville plant is no longer needed?
- Please provide a copy of the contract.
- What is the status of the contract? Has it been determined what the penalty will be for terminating the contract?

Aleksandar Kojic

From: JoAnne Butler
Sent: January 17, 2011 12:15 PM
To: Deborah Langelaan
Cc: Michael Killeavy
Subject: RE: Oakville GS Briefing Note

It's great...just for me...thanks...

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: Deborah Langelaan
Sent: Lunes, 17 de Enero de 2011 12:09 p.m.
To: JoAnne Butler
Cc: Michael Killeavy
Subject: Oakville GS Briefing Note

JoAnne;

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Deb

Aleksandar Kojic

From: Michael Killeavy
Sent: January 17, 2011 12:38 PM
To: Deborah Langelaan
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deb-san,

There must have been attachments to this that we don't get, right?

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: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: January 13, 2011 4:39 PM
To: Deborah Langelaan; Michael Killeavy
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deborah,
Michael,

Following please find the answers to the questions provided to Mitsubishi.

Thanks,

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: Terri Steeves
Sent: Thursday, January 13, 2011 4:30 PM
To: John Mikkelsen
Cc: Mark Brache
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Please forward to the OPA.

From: PPrigge@mpshq.com [mailto:PPrigge@mpshq.com]
Sent: Thursday, January 13, 2011 2:25 PM
To: Terri Steeves; 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; ryotaro_kanai@mhi.co.jp; pprigge@mpshq.com; jin_taniguchi@mhi.co.jp; yasuihiro_kawabe@mhi.co.jp; KYoshi@mpshq.com; Minoru.Yoshida@mpshq.com; Daisuke.Hiura@mpshq.com; Kazuki.Ishikura@mpshq.com; Akimasa.Muyama@mpshq.com; KHasegawa@mpshq.com; sueki@mpshq.com; mcdeedd@osc.mpsHQ.com; pyrosg@osc.mpsHQ.com; mulligan@osc.mpsHQ.com; Shigeki.Takasugi@mpshq.com; koenekec@osc.mpsHQ.com; newsomb@osc.mpsHQ.com; wakaba_yoshimoto@mhi.co.jp; southwestgtaproject@mpshq.com; F_hcommon@mhi.co.jp
Subject: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Date : January 13,2011
Ref. No : MPS/TCS-General-11-E-0001

To : Attention : Terri Steeves, Joseph P. Miller
: Company : 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), Ryotaro Kanai(TransCanada/SW GTA PJ - MHI TGO Team Member), Phil Prigge(TransCanada/SW GTA PJ - MPSA Team Member), Jin Taniguchi(TransCanada/SW GTA PJ - MHI TGO Team Member), YASUHIRO KAWABE(TransCanada/SW GTA PJ - MHI TGO Team Member), Kazuo Yoshi(), Minoru Yoshida(), Daisuke Hiura(Lake Mary Headquarters), Kazuki Ishikura(), Akimasa Muyama(), Koji Hasegawa(Lake Mary Headquarters), Shinichi Ueki(), David Mcdeed(Lake Mary Headquarters), George Pyros(Lake Mary), George Mulligan(Lake Mary Headquarters), Shigeki Takasugi(), Carlos Koeneker(Orlando Service Center), Bill Newsom(), WAKABA YOSHIMOTO(TransCanada/SW GTA PJ - MHI TGO Team Member)

From : Phil Prigge, Project Manager
MPSA Headquarters
Person in Charge : phil prigge (pprigge@mpshq.com)
Phone No. : 407-688-6351 Fax No. : 407-688-6487

Project : TransCanada/Southwest-General
Subject : Technical Reply to OPA Questions from TCE dated January 10, 2011

Approved by :
p.prigge, p.prigge

Dear All,

Please see MPS Canada's reply to the OPA's questions copied below.

1. Price Breakdown
(Later)

2. GT Start-Up Device

The standard start-up device for our M501G series gas turbine is a SFC, we believe a huge motor to start up M501G is not feasible. An AC motor may be applied to a M501F or smaller gas turbine. However this does not mean all M501G gas turbines have fast start-up capability.

3. Difference of SFC for M501GAC and M501GAC-Fast

The standard capacity of a SFC for a M501GAC and a M501GAC-Fast are 4 MW and 7 MW respectively.

For a M501GAC-Fast, the SFC capacity must be increased to achieve a faster speed ramp up as compared to a M501GAC.

4. Start-Up Curve

1) The minimum purging time is specified as 5 minutes in the current (2007) edition of NFPA 85, however it is not clear that this requirement is applicable to simple cycle plants. On the other hand, the new edition of NFPA 85 is expected to be released soon and it is said that the new edition will clearly state the requirement of the minimum purging time is not applied to simple cycle plants. Based on this assumption, we instead included 3 minutes for purging in the proposed start-up time, which has been calculated based on 5 changes of the volume from GT outlet to the stack outlet considering current NFPA 85 requirement.

2) The start-up curve (No. IBO-08088) in Appendix I is to indicate typical start-up profile for M501GAC without consideration of restriction from the steam bottoming system and it is also applicable to M501GAC simple cycle plant.

3) OPA's understanding is correct. For synchronization, we just assumed 5 minutes in IBO-08088 but per TCE's instruction we considered 1 minute in the start-up curve for M501GAC-Fast.

5. Ramp Rates of M501GAC (Please refer to IBO-08088.)

1) From Ignition to 100% speed no load: Approx. 170 rpm/min.

2) To 60% load: 6.67%/min.

3) From 60 to 100% load: 6.67%/min.

Best regards,

Phil Prigge
Project Manager

MPS Canada, Inc.
200 Bay Street, Suite No.3220, Toronto, Ontario
M5J 2J1, Canada

Request from TCE/OPA-----

From: Terri Steeves [mailto:terri_steeves@transcanada.com]
Sent: Monday, January 10, 2011 11:18 AM
To: Prigge, Phil; Namba, Kotaro
Cc: Papaioanou, George; Bill Small; Mark Brache; jpm-tec@comcast.net; John Mikkelsen; Bill Small
Subject: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Phil / Namba-san,

Please find attached the request for additional information from the OPA. As I suspected, the OPA is looking for a more detailed breakdown of the costs. I believe the OPA needs to be able to reconcile the estimate and demonstrate to their decision makers that the cost is justified. Without the breakdown, they are having difficulty with their justification. I believe the breakdown would demonstrate further that the fast start conversion is very economic (versus going simple cycle with the original GAC machine).

If you have any questions, please let me know, otherwise we can discuss tomorrow.

Thank you,
Terri

From: Michael Killeavy [<mailto:Michael.Killeavy@powerauthority.on.ca>]
Sent: Friday, January 07, 2011 3:49 PM
To: John Mikkelsen
Cc: Deborah Langelaan; Susan Kennedy; Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot; Safouh Soufi
Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...
Importance: High

John,

We've the following questions and comments:

Price – We have been given an aggregate price for a number of different items. It seems that the price stated in the December 2010 Fast Start Proposal ("the Proposal") includes some cost provisions related to project schedule change/delay/suspension.

Could you please itemize:

- (a) suspension from October 7, 2010 to 31 December 2010;
- (b) delayed delivery;

(c) additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works); and

(d) conversion of the M501GAC to M501GAS Fast Start gas turbine;

Fast Start - The Equipment Supply Agreement ("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. Is this correct?

SFC - 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. MPS to confirm if the M501GAC package comes with SFC starting device rated at 4MW as a standard supply from Mitsubishi? If not, what is the standard supply for starting device? The reference to 7MW may indicate 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;

Start-up Curve - 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;

Purge Credit - MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and needs more clarification;

SC v. CC - 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 could provide a start-up curve for the machine described in Appendix I, having SFC of 4MW, operating in Simple Cycle configuration

Synchronisation Time - It would appear that 5 minutes to synchronize is used in the original start-up curve whereas the latest curve assumes 1 minute. We would like MPS to confirm this;

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1. To 100% speed no load,
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3. From 60 to 100% load

Thank 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
416-520-9788 (CELL)
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From: Deborah Langelaan
Sent: January 17, 2011 12:41 PM
To: Michael Killeavy
Subject: RE: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

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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 |

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Sent: January 17, 2011 12:38 PM
To: Deborah Langelaan
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

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M5H 1T1
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From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: January 13, 2011 4:39 PM
To: Deborah Langelaan; Michael Killeavy
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

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Thanks,

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: Terri Steeves
Sent: Thursday, January 13, 2011 4:30 PM
To: John Mikkelsen
Cc: Mark Brache
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Please forward to the OPA.

From: PPrigge@mpshq.com [mailto:PPrigge@mpshq.com]
Sent: Thursday, January 13, 2011 2:25 PM
To: Terri Steeves; 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; ryotaro_kanai@mhi.co.jp; pprigge@mpshq.com; jin_taniguchi@mhi.co.jp; yasuihiro_kawabe@mhi.co.jp; KYoshi@mpshq.com; Minoru.Yoshida@mpshq.com; Daisuke.Hiura@mpshq.com; Kazuki.Ishikura@mpshq.com; Akimasa.Muyama@mpshq.com; KHasegawa@mpshq.com; sueki@mpshq.com; mcdeedd@osc.mpsHQ.com; pyrosg@osc.mpsHQ.com; mulligang@osc.mpsHQ.com; Shigeki.Takasugi@mpshq.com; koenekec@osc.mpsHQ.com; newsomb@osc.mpsHQ.com; wakaba_yoshimoto@mhi.co.jp; southwestgtaproject@mpshq.com; F_hcommon@mhi.co.jp
Subject: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Date : January 13, 2011

Ref. No : MPS/TCS-General-11-E-0001

To : Attention : Terri Steeves, Joseph P. Miller
: Company : 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), Ryotaro Kanai(TransCanada/SW GTA PJ - MHI TGO Team Member), Phil Prigge(TransCanada/SW GTA PJ - MPSA Team Member), Jin Taniguchi(TransCanada/SW GTA PJ - MHI TGO Team Member), YASUHIRO KAWABE(TransCanada/SW GTA PJ - MHI TGO Team Member), Kazuo

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From : Phil Prigge, Project Manager
MPSA Headquarters
Person in Charge : phil prigge (pprigge@mpshq.com)
Phone No. : 407-688-6351 Fax No. : 407-688-6487

Project : TransCanada/Southwest-General
Subject : Technical Reply to OPA Questions from TCE dated January 10, 2011

Approved by :
p.prigge ,p.prigge

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(Later)

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Best regards,

Phil Prigge
Project Manager

MPS Canada, Inc.
200 Bay Street, Suite No.3220, Toronto, Ontario
M5J 2J1, Canada

Request from TCE/OPA-----

From: Terri Steeves [mailto:terri_steeves@transcanada.com]

Sent: Monday, January 10, 2011 11:18 AM

To: Prigge, Phil; Namba, Kotaro

Cc: Papaioanou, George; Bill Small; Mark Brache; jpm-tec@comcast.net; John Mikkelsen; Bill Small

Subject: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

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Please find attached the request for additional information from the OPA. As I suspected, the OPA is looking for a more detailed breakdown of the costs. I believe the OPA needs to be able to reconcile the estimate and demonstrate to their decision makers that the cost is justified. Without the breakdown, they are having difficulty with their justification. I believe the breakdown would demonstrate further that the fast start conversion is very economic (versus going simple cycle with the original GAC machine).

If you have any questions, please let me know, otherwise we can discuss tomorrow.

Thank you,
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From: Michael Killeavy [<mailto:Michael.Killeavy@powerauthority.on.ca>]

Sent: Friday, January 07, 2011 3:49 PM

To: John Mikkelsen

Cc: Deborah Langelaan; Susan Kennedy; Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot; Safouh Soufi

Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Importance: High

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We've the following questions and comments:

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Could you please itemize:

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From: Michael Killeavy
Sent: January 17, 2011 12:43 PM
To: Deborah Langelaan
Subject: RE: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

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TransCanada

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To: Terri Steeves; 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; ryotaro_kanai@mhi.co.jp; pprigge@mpshq.com; jin_taniguchi@mhi.co.jp; yasuhiko_kawabe@mhi.co.jp; KYoshi@mpshq.com; Minoru.Yoshida@mpshq.com; Daisuke.Hiura@mpshq.com; Kazuki.Ishikura@mpshq.com; Akimasa.Muyama@mpshq.com; KHasegawa@mpshq.com; sueki@mpshq.com; mcdeedd@osc.mpsqh.com; pyrosg@osc.mpsqh.com;

mulligang@osc.mpshq.com; Shigeki.Takasugi@mpshq.com; koenekec@osc.mpshq.com; newsomb@osc.mpshq.com;
wakaba_yoshimoto@mhi.co.jp; southwestgtaproject@mpshq.com; F_hcommon@mhi.co.jp

Subject: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Date : January 13,2011

Ref. No : MPS/TCS-General-11-E-0001

To : Attention : Terri Steeves,Joseph P. Miller

: Company : 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
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Hasegawa(Lake Mary Headquaters),Shinichi Ueki(),David Mcdeed(Lake Mary Headquarters),George
Pyros(Lake Mary),George Mulligan(Lake Mary Headquarters),Shigeki Takasugi(),Carlos Koeneker(Orlando
Service Center),Bill Newsom(),WAKABA YOSHIMOTO(TransCanada/SW GTA PJ - MHI TGO Team
Member)

From : Phil Prigge,Project Manager

MPSA Headquarters

Person in Charge : phil prigge (pprigge@mpshq.com)

Phone No. : 407-688-6351 Fax No. : 407-688-6487

Project : TransCanada/Southwest-General

Subject : Technical Reply to OPA Questions from TCE dated January 10, 2011

Approved by :

p.prigge ,p.prigge

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Sent: Monday, January 10, 2011 11:18 AM

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Aleksandar Kojic

From: Susan Kennedy
Sent: January 17, 2011 4:19 PM
To: 'Sebastiano, Rocco'; Deborah Langelaan; Michael Killeavy
Cc: 'Ivanoff, Paul'
Subject: Ministry of Energy Request
Attachments: RE: Revised direction

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Please let me know if I've missed anything.

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

Aleksandar Kojic

From: Susan Kennedy
Sent: January 5, 2011 4:34 PM
To: 'Calwell, Carolyn (MEI)'
Subject: RE: Revised direction
Attachments: KWC TransCanada Direction 20 12 2010 - OPA Comments_110105.docx

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

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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 gas-fired 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.

Comment [shk1]: Since directive is given per ss. 25.32(4), believe this is necessary to establish that directive relates to an initiative that was pursued by the Crown after January 1, 2004 and before the Board's first approval of the OPA's procurement process. See, for example,

Direction

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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:

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- 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].

Comment [shk21]: As per October discussions and October 2 letter, this was agreed to with TCE. Language is needed if this is to be considered as part of new plant pricing.

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

Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: January 17, 2011 6:55 PM
To: Susan Kennedy
Cc: Michael Killeavy; Deborah Langelaan; Ivanoff, Paul; Smith, Elliot
Subject: RE: Ministry of Energy Request
Attachments: KWC TransCanada Direction 20 12 2010 - OPA Comments_110105 (3).docx

Susan,

Regarding your question about disclosing the OPA letter of October 7 to TCE, I agree with your assessment that the October 8 Confidentiality Agreement does not cover this letter. This was quite purposeful. The letter does state that the OPA would undertake not to disclose the letter without giving prior notice to TCE. Although this statement may be a bit self-serving, it would be prudent to comply with it even though the OPA is disclosing it only to the Government of Ontario and TCE probably already does assume that the Government has a copy.

I wonder whether this letter would constitute Confidential Information under Section 8.1 of the Agreement. If so, the OPA may be able to disclose it to the Government under Section 8.1(a) or the OPA's Representative if it's for the purpose of assisting the OPA in complying with its obligations under the Agreement.... perhaps a bit of a stretch as the letter is about cancelling the project and terminating the Agreement.

I know that you did not ask us to review the draft Direction, but we'd like to propose a few suggested revisions if there is still an opportunity to make changes to it. I realize that the operative language in page 2 of the letter comes from the Minister's Direction on Goreway, but there was some language in the Minister's Direction on PEC in lieu of the indemnity language under the implementation agreement that would be preferable.

Also, we'd like to avoid including any specific language in the Direction around costs incurred by TCE or the financial value of the SWGTA Contract. We have replaced it with more general language which should provide the OPA with the flexibility it needs for assessing the appropriate economic value of the contract for the KWC Project, but at the same time, avoiding the language in the October 7 letter being incorporated into the Direction and having it come back to bite us in any future litigation. In other words, we have not yet given up the fight with TCE that the October 7 letter is a "without prejudice" letter, but if this language becomes part of the Direction we may be stuck with it forever. I realize that there needs to be a balance with the OPA being able to justify the NRR under the KWC contract, while at the same time protecting the OPA's position in the event of future litigation.

Another addition, is a statement that if the OPA and TCE cannot reach agreement on a contract for the KWC Project, the OPA can recover its costs under the implementation agreement. This statement also comes out of the PEC Direction.

Lastly, consider whether to drop the statement about the KWC Project having to undergo all permitting requirements. The statement is not true for all OPA procured projects (e.g., YEC and PEC). Furthermore, it would preclude JoAnne's idea of trading some permitting risk for a lower NRR.

We'd be glad to discuss our suggested changes further with you, if you would like. Regards, Rocco

From: Susan Kennedy [mailto:Susan.Kennedy@powerauthority.on.ca]
Sent: Monday, January 17, 2011 4:19 PM
To: Sebastiano, Rocco; Deborah Langelaan; Michael Killeavy

Cc: Ivanoff, Paul
Subject: Ministry of Energy Request

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Please let me know if I've missed anything.

Thanks,

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~~January 11, 2011~~ ~~December 11, 2010~~

Mr. Colin Andersen
Chief Executive Officer
Ontario Power Authority
Suite 1600
120 Adelaide Street West
Toronto, ON M5H 1T1

Dear Mr. Andersen,

Re: Kitchener-Waterloo-Cambridge Area New Supply

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Background

The 2007 proposed Integrated Power System Plan forecast the 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 gas-fired power plant that has a nameplate capacity of approximately 450MW for deployment in the KWC Area by [the spring of 2014] (the "KWC Project").

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Procurement of Kitchener-Waterloo-Cambridge Area New Supply

In light of the foregoing, members of the Ministry of Energy has staff have concluded that it is prudent to negotiate a contract project with TransCanada for the KWC Project in lieu of the to replace its Oakville Generating Station project and meet the KWC Area supply requirement [by spring of 2014]. The Ministry of Energy has staff members have had discussions with TransCanada regarding such a project.

Comment [shk1]: Since directive is given per s. 25.32(4) believe this is necessary to establish that directive relates to an initiative that was pursued by the Crown after January 1, 2004 and before the Board's first approval of the OPA's procurement process. See for example,

Direction

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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:

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- a) negotiating and executing an implementation agreement which ~~may, would,~~ among other things, require provide that the OPA provide indemnify TransCanada with certain interim financial guarantees or recoverable assistance pending the completion of a final contract with respect to certain costs that TransCanada must incur for work on the project during the course of the negotiations, but before the contract is executed, if an in-service date of the [spring of 2014] is to be met; and
- 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) certain costs or damages associated with the mutual termination of the contract for the Oakville Generating Station the costs reasonably incurred by TCE with respect to the Oakville Generating Station and the financial value of the SWGTA Contract to in assessing the appropriate economic value of the contract for the KWC Project. It is further expected that the contract provide for an in service date of no later than [spring of 2014].

Comment [shk2]: As per October discussions and October 7 letter, this was agreed to with TCE. Language is needed if this is to be considered as part of new plant pricing.

[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.]
[NTD: Consider whether this statement should be deleted. JoAnne Butler has suggested considering a strategy whereby the OPA/Province provides some sort of assistance on permitting risk in exchange for a reduction in the NRR. This statement may inadvertently tie our hands if left in the Direction. Furthermore, this statement is not technically correct for all electricity generation projects procured by the OPA (e.g., legal exemptions granted to YEC and PEC).]

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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. In such event, it is understood that the OPA may seek to recover its costs, if any, relating to the implementation agreement by using its statutory authority for cost recovery.

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I further direct that the 2008 Direction is hereby revoked.

LEGAL ADVICE – PRIVILEGED AND CONFIDENTIAL – NOT FOR CIRCULATION

This direction shall be effective and binding as of the date hereof.

Brad Duguid
Minister of Energy

Confidential

Aleksandar Kojic

From: Michael Killeavy
Sent: January 17, 2011 7:42 PM
To: Susan Kennedy; 'RSebastiano@osler.com'; Deborah Langelaan
Cc: 'PIvanoff@osler.com'
Subject: Re: Ministry of Energy Request

I agree with your analysis.

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: Monday, January 17, 2011 04:19 PM
To: 'Sebastiano, Rocco' <RSebastiano@osler.com>; Deborah Langelaan; Michael Killeavy
Cc: Ivanoff, Paul <PIvanoff@osler.com>
Subject: Ministry of Energy Request

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Please let me know if I've missed anything.

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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

Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: January 17, 2011 7:44 PM
To: Michael Killeavy
Subject: RE: Ministry of Energy Request

Have you reviewed the draft Minister's directive? Please take a look at our suggested comments on it in my email of earlier this evening.

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]
Sent: Monday, January 17, 2011 7:42 PM
To: Susan Kennedy; Sebastiano, Rocco; Deborah Langelaan
Cc: Ivanoff, Paul
Subject: Re: Ministry of Energy Request

I agree with your analysis.

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: Monday, January 17, 2011 04:19 PM
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Aleksandar Kojic

From: Michael Killeavy
Sent: January 17, 2011 7:49 PM
To: 'RSebastiano@osler.com'
Subject: Re: Ministry of Energy Request

I did see a first draft and complained to Mike Lyle. I haven't looked at the second draft.

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)
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Michael.killeavy@powerauthority.on.ca

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To: Susan Kennedy; Sebastiano, Rocco; Deborah Langelaan
Cc: Ivanoff, Paul
Subject: Re: Ministry of Energy Request

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Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
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Toronto, Ontario, M5H 1T1
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Michael.killeavy@powerauthority.on.ca

From: Susan Kennedy
Sent: Monday, January 17, 2011 04:19 PM
To: 'Sebastiano, Rocco' <RSebastiano@osler.com>; Deborah Langelaan; Michael Killeavy
Cc: Ivanoff, Paul <PIvanoff@osler.com>
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Aleksandar Kojic

From: Michael Killeavy
Sent: January 17, 2011 8:23 PM
To: Sebastiano, Rocco; Susan Kennedy
Cc: Deborah Langelaan; Ivanoff, Paul; Smith, Elliot
Subject: RE: Ministry of Energy Request

Rocco,

Thanks for this. I think we need to talk internally about the directive. TCE asked about it again at last Thursday's meeting.

Michael

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
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-----Original Message-----

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
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We'd be glad to discuss our suggested changes further with you, if you would like. Regards,
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Please let me know if I've missed anything.

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

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 17, 2011 8:32 PM
To: Sebastiano, Rocco
Subject: RE: Ministry of Energy Request

Rocco,

This must be the second or third draft. It is much, much better than the first draft. The first one was completely silent on the expected financial value of the contract, which disturbed me to no end.

I would argue that for us to be completely bulletproof, the exact language pertaining to TCE compensation in the 7 October 2010 letter needs to be in the directive. This provides a nexus between the negotiations and that letter, i.e., we were doing only what we said we do and defeats any argument that the directive meant something "different" with regard to TCE compensation.

I see that you tried to call me this evening. I'm sorry I missed your call but I was likely in transit home when you called. May I call you 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

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

From: Sebastiano, Rocco [<mailto:RSebastiano@osler.com>]
Sent: Mon 1/17/2011 7:44 PM
To: Michael Killeavy
Subject: RE: Ministry of Energy Request

Have you reviewed the draft Minister's directive? Please take a look at our suggested comments on it in my email of earlier this evening.

From: Michael Killeavy [<mailto:Michael.Killeavy@powerauthority.on.ca>]
Sent: Monday, January 17, 2011 7:42 PM
To: Susan Kennedy; Sebastiano, Rocco; Deborah Langelaan
Cc: Ivanoff, Paul
Subject: Re: Ministry of Energy Request

I agree with your analysis.

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: Monday, January 17, 2011 04:19 PM
To: 'Sebastiano, Rocco' <RSebastiano@osler.com>; Deborah Langelaan; Michael Killeavy
Cc: Ivanoff, Paul <PIvanoff@osler.com>
Subject: Ministry of Energy Request

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In furtherance of getting a directive in connection with the SWGTA/Cambridge matter, we have been asked by MEI Legal to provide them with a copy of the October 7th letter from the OPA to TCE. Specifically, MEI legal wants to see the language re ".the OPA acknowledges that you are entitled to your reasonable damages from the OPA, including the anticipated financial value of the Contract." (see attached re current draft - Ministry would like to go without the two section that are flagged by "comment boxes").

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Thanks,

Susan H. Kennedy

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Aleksandar Kojic

From: Orlando Lameda [orlando@smsenergy-engineering.com]
Sent: January 17, 2011 11:29 PM
To: Deborah Langelaan
Cc: Michael Killeavy; safouh@smsenergy-engineering.com
Subject: Re: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Hi Deborah,

Could you please set up a conference call for 1:00 pm on Tuesday. I will link with Safouh first and then I will dial in for the conference.

Thanks,

Orlando

From: Michael Killeavy <Michael.Killeavy@powerauthority.on.ca>
To: Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>; safouh@smsenergy-engineering.com
Cc: orlando@smsenergy-engineering.com
Sent: Mon, January 17, 2011 10:25:53 AM
Subject: Re: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

I didn't know that they'd answered the questions. When did they come in?

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: Monday, January 17, 2011 10:22 AM
To: 'Safouh Soufi' <safouh@smsenergy-engineering.com>
Cc: orlando@smsenergy-engineering.com <orlando@smsenergy-engineering.com>; Michael Killeavy
Subject: RE: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Safouh;

Michael and I are available today at 4:30 p.m. and tomorrow at either 8:00 a.m. or 1:00 p.m.

Deborah

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: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]
Sent: January 16, 2011 5:27 PM
To: Deborah Langelaan
Cc: orlando@smsenergy-engineering.com
Subject: RE: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deborah:

MPS didn't fully answer the question on Ramp Rate. We asked for normal and maximum. They provided nominal which is normal. They stayed silent on maximum ramp rate. Also, nominal of 6.6% is not consistent with what they said in earlier submission of 2009. I don't have MPS documents with me and I know you don't have them either. I will call Orlando tomorrow to have him review the document and confirm the ramp rate. I think it was reported at 8% but we should say nothing to MPS until we confirm this figure.

Their response in specific areas (those that matter) is not quite clear. I will discuss this with you on the phone, what is the best time to call you on Monday or Tuesday.

Thanks,
Safouh

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: January 13, 2011 5:25 PM
To: safouh@smsenergy-engineering.com
Cc: orlando@smsenergy-engineering.com
Subject: Fw: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Safouh;

I trust this e-mail finds you safe and with the comfort of your family.

I am forwarding you MPS's responses to our technical questions with no expectation that you will respond.

Deborah

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Thursday, January 13, 2011 04:39 PM
To: Deborah Langelaan; Michael Killeavy
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deborah,
Michael,

Following please find the answers to the questions provided to Mitsubishi.

Thanks,

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: Terri Steeves
Sent: Thursday, January 13, 2011 4:30 PM
To: John Mikkelsen
Cc: Mark Brache
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Please forward to the OPA.

From: PPrigge@mpshq.com [mailto:PPrigge@mpshq.com]
Sent: Thursday, January 13, 2011 2:25 PM
To: Terri Steeves; 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; ryotaro_kanai@mhi.co.jp; pprigge@mpshq.com; jin_taniguchi@mhi.co.jp; yasuihiro_kawabe@mhi.co.jp; KYoshi@mpshq.com; Minoru.Yoshida@mpshq.com; Daisuke.Hiura@mpshq.com; Kazuki.Ishikura@mpshq.com; Akimasa.Muyama@mpshq.com; KHasegawa@mpshq.com; sueki@mpshq.com; mcdeedd@osc.mpsHQ.com; pyrosg@osc.mpsHQ.com; mulligan@osc.mpsHQ.com; Shigeki.Takasugi@mpshq.com; koenekec@osc.mpsHQ.com; newsomb@osc.mpsHQ.com; wakaba_yoshimoto@mhi.co.jp; southwestgtaproject@mpshq.com; F_hcommon@mhi.co.jp
Subject: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Date : January 13,2011
Ref. No : MPS/TCS-General-11-E-0001

To : Attention : Terri Steeves,Joseph P. Miller
: Company : 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),Ryotaro Kanai(TransCanada/SW GTA PJ - MHI TGO Team Member),Phil Prigge(TransCanada/SW GTA PJ - MPSA Team Member),Jin Taniguchi(TransCanada/SW GTA PJ - MHI TGO Team Member),YASUHIRO KAWABE(TransCanada/SW GTA PJ - MHI TGO 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 Headquaters),George Pyros(Lake Mary),George Mulligan(Lake Mary Headquaters),Shigeki Takasugi(),Carlos Koeneke(Orlando Service Center),Bill Newsom(),WAKABA YOSHIMOTO(TransCanada/SW GTA PJ - MHI TGO Team Member)

From : Phil Prigge,Project Manager
MPSA Headquarters
Person in Charge : phil prigge (pprigge@mpshq.com)
Phone No. : 407-688-6351 Fax No. : 407-688-6487

Project : TransCanada/Southwest-General

Subject : Technical Reply to OPA Questions from TCE dated January 10, 2011

Approved by :
p.prigge ,p.prigge

Dear All,

Please see MPS Canada's reply to the OPA's questions copied below.

1. Price Breakdown
(Later)

2. GT Start-Up Device

The standard start-up device for our M501G series gas turbine is a SFC, we believe a huge motor to start up M501G is not feasible. An AC motor may be applied to a M501F or smaller gas turbine. However this does not mean all M501G gas turbines have fast start-up capability.

3. Difference of SFC for M501GAC and M501GAC-Fast

The standard capacity of a SFC for a M501GAC and a M501GAC-Fast are 4 MW and 7 MW respectively.

For a M501GAC-Fast, the SFC capacity must be increased to achieve a faster speed ramp up as compared to a M501GAC.

4. Start-Up Curve

1) The minimum purging time is specified as 5 minutes in the current (2007) edition of NFPA 85, however it is not clear that this requirement is applicable to simple cycle plants. On the other hand, the new edition of NFPA 85 is expected to be released soon and it is said that the new edition will clearly state the requirement of the minimum purging time is not applied to simple cycle plants. Based on this assumption, we instead included 3 minutes for purging in the proposed start-up time, which has been calculated based on 5 changes of the volume from GT outlet to the stack outlet considering current NFPA 85 requirement.

2) The start-up curve (No. IBO-08088) in Appendix I is to indicate typical start-up profile for M501GAC without consideration of restriction from the steam bottoming system and it is also applicable to M501GAC simple cycle plant.

3) OPA's understanding is correct. For synchronization, we just assumed 5 minutes in IBO-08088 but per TCE's instruction we considered 1 minute in the start-up curve for M501GAC-Fast.

5. Ramp Rates of M501GAC (Please refer to IBO-08088.)

1) From Ignition to 100% speed no load: Approx. 170 rpm/min.

2) To 60% load: 6.67%/min.

3) From 60 to 100% load: 6.67%/min.

Best regards,

Phil Prigge
Project Manager

MPS Canada, Inc.
200 Bay Street , Suite No.3220, Toronto , Ontario
M5J 2J1, Canada

Request from TCE/OPA-----

From: Terri Steeves [mailto:terri_steeves@transcanada.com]
Sent: Monday, January 10, 2011 11:18 AM
To: Prigge, Phil; Namba, Kotaro
Cc: Papaioanou, George; Bill Small; Mark Brache ; jpm-tec@comcast.net; John Mikkelsen ; Bill Small
Subject: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Phil / Namba-san,

Please find attached the request for additional information from the OPA. As I suspected, the OPA is looking for a more detailed breakdown of the costs. I believe the OPA needs to be able to reconcile the estimate and demonstrate to their decision makers that the cost is justified. Without the breakdown, they are having difficulty with their justification. I believe the breakdown would demonstrate further that the fast start conversion is very economic (versus going simple cycle with the original GAC machine).

If you have any questions, please let me know, otherwise we can discuss tomorrow.

Thank you,
Terri

From: Michael Killeavy [<mailto:Michael.Killeavy@powerauthority.on.ca>]
Sent: Friday, January 07, 2011 3:49 PM
To: John Mikkelsen
Cc: Deborah Langelaan; Susan Kennedy; Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot; Safouh Soufi
Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...
Importance: High

John,

We've the following questions and comments:

Price – We have been given an aggregate price for a number of different items. It seems that the price stated in the December 2010 Fast Start Proposal ("the Proposal") includes some cost provisions related to project schedule change/delay/suspension.

Could you please itemize:

- (a) suspension from October 7, 2010 to 31 December 2010;
- (b) delayed delivery;
- (c) additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works); and
- (d) conversion of the M501GAC to M501GAS Fast Start gas turbine;

Fast Start - The Equipment Supply Agreement ("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. Is this correct?

SFC - 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. MPS to confirm if the M501GAC package comes with SFC starting device rated at 4MW as a standard supply from Mitsubishi? If not, what is the standard supply for starting device? The reference to 7MW may indicate 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;

Start-up Curve - 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;

Purge Credit - MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and needs more clarification;

SC v. CC - 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 could provide a start-up curve for the machine described in Appendix I, having SFC of 4MW, operating in Simple Cycle configuration

Synchronisation Time - It would appear that 5 minutes to synchronize is used in the original start-up curve whereas the latest curve assumes 1 minute. We would like MPS to confirm this;

Additional Technical Information – We would very much like the ramp rates for Simple Cycle operation. Could MPS please provide the machine's (M501GAC) normal and maximum ramp up rates together with the baseload curve for a temperature range from 16 – 100°F? More specifically, we'd like ramp rates for the following cases:

1. To 100% speed no load,
2. To 60% load and;
3. From 60 to 100% load

Thank 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
416-520-9788 (CELL)
416-967-1947 (FAX)

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Aleksandar Kojic

From: Susan Kennedy
Sent: January 18, 2011 9:17 AM
To: 'Sebastiano, Rocco'
Cc: Michael Killeavy; Deborah Langelaan; 'Ivanoff, Paul'; 'Smith, Elliot'
Subject: RE: Ministry of Energy Request

Thanks for this. I like the changes but will need to check with Mike Lyle to see if he concurs. I think the change to the "In negotiating this contract, ..." paragraph will make the Ministry happier than the existing language.

The paragraph:

"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."

was added to the Directive by the Ministry, so I don't believe removing that paragraph is a non-starter.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: January 17, 2011 6:55 PM
To: Susan Kennedy
Cc: Michael Killeavy; Deborah Langelaan; Ivanoff, Paul; Smith, Elliot
Subject: RE: Ministry of Energy Request

Susan,

Regarding your question about disclosing the OPA letter of October 7 to TCE, I agree with your assessment that the October 8 Confidentiality Agreement does not cover this letter. This was quite purposeful. The letter does state that the OPA would undertake not to disclose the letter without giving prior notice to TCE. Although this statement may be a bit self-serving, it would be prudent to comply with it even though the OPA is disclosing it only to the Government of Ontario and TCE probably already does assume that the Government has a copy.

I wonder whether this letter would constitute Confidential Information under Section 8.1 of the Agreement. If so, the OPA may be able to disclose it to the Government under Section 8.1(a) or the OPA's Representative if it's for the purpose of assisting the OPA in complying with its obligations under the Agreement... perhaps a bit of a stretch as the letter is about cancelling the project and terminating the Agreement.

I know that you did not ask us to review the draft Direction, but we'd like to propose a few suggested revisions if there is still an opportunity to make changes to it. I realize that the operative language in page 2 of the letter comes from the Minister's Direction on Goreway, but there was some language in the Minister's Direction on PEC in lieu of the indemnity language under the implementation agreement that would be preferable.

Also, we'd like to avoid including any specific language in the Direction around costs incurred by TCE or the financial value of the SWGTA Contract. We have replaced it with more general language which should provide the OPA with the flexibility it needs for assessing the appropriate economic value of the contract for the KWC Project, but at the same time, avoiding the language in the October 7 letter being incorporated into the Direction and having it come back to bite us in any future litigation. In other words, we have not yet given up the fight with TCE that the October 7 letter is a "without prejudice" letter, but if this language becomes part of

the Direction we may be stuck with it forever. I realize that there needs to be a balance with the OPA being able to justify the NRR under the KWC contract, while at the same time protecting the OPA's position in the event of future litigation.

Another addition, is a statement that if the OPA and TCE cannot reach agreement on a contract for the KWC Project, the OPA can recover its costs under the implementation agreement. This statement also comes out of the PEC Direction.

Lastly, consider whether to drop the statement about the KWC Project having to undergo all permitting requirements. The statement is not true for all OPA procured projects (e.g., YEC and PEC). Furthermore, it would preclude JoAnne's idea of trading some permitting risk for a lower NRR.

We'd be glad to discuss our suggested changes further with you, if you would like. Regards, Rocco

From: Susan Kennedy [mailto:Susan.Kennedy@powerauthority.on.ca]
Sent: Monday, January 17, 2011 4:19 PM
To: Sebastiano, Rocco; Deborah Langelaan; Michael Killeavy
Cc: Ivanoff, Paul
Subject: Ministry of Energy Request

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In furtherance of getting a directive in connection with the SWGTA/Cambridge matter, we have been asked by MEI Legal to provide them with a copy of the October 7th letter from the OPA to TCE. Specifically, MEI legal wants to see the language re "...the OPA acknowledges that you are entitled to your reasonable damages from the OPA, including the anticipated financial value of the Contract." (see attached re current draft – Ministry would like to go without the two section that are flagged by "comment boxes").

MEI legal wants the letter in furtherance of getting approval to include the language re "anticipated financial value of the Contract" into the directive.

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Please let me know if I've missed anything.

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

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Aleksandar Kojic

From: Susan Kennedy
Sent: January 18, 2011 12:37 PM
To: Murray Campbell
Cc: Michael Lyle; Michael Killeavy
Subject: Search needed

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Murray,

Can I trouble you to do a Hansard search to see what Minister Duguid has said in the House regarding Southwest GTA? Specifically, Mike Lyle has a recollection that the Minister is on record as having said something along the lines that costs associated with Southwest GTA would be recovered by TCE through a different/replacement/other facility.

This is needed in connection with trying to finalize a directive on the subject. The directive is needed urgently, so would it be possible to have search done/completed by mid-day tomorrow? Let me know re timing and if you need any more details.

Many 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

Aleksandar Kojic

From: Deborah Langelaan
Sent: January 18, 2011 2:07 PM
To: Susan Kennedy
Cc: Michael Killeavy; 'Ivanoff, Paul'; 'Sebastiano, Rocco'; 'Smith, Elliot'
Subject: RE: Ministry of Energy Request

Susan;

I have one comment with respect to page 1, 3rd paragraph of the proposed Directive. I would like to see "nameplate capacity" changed to "Contract Capacity" to avoid the same issues from cropping up that we experienced with

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: Susan Kennedy
Sent: January 18, 2011 9:17 AM
To: 'Sebastiano, Rocco'
Cc: Michael Killeavy; Deborah Langelaan; Ivanoff, Paul; Smith, Elliot
Subject: RE: Ministry of Energy Request

Thanks for this. I like the changes but will need to check with Mike Lyle to see if he concurs. I think the change to the "In negotiating this contract, ..." paragraph will make the Ministry happier than the existing language.

The paragraph:

"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."

was added to the Directive by the Ministry, so I don't believe removing that paragraph is a non-starter.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: January 17, 2011 6:55 PM
To: Susan Kennedy
Cc: Michael Killeavy; Deborah Langelaan; Ivanoff, Paul; Smith, Elliot
Subject: RE: Ministry of Energy Request

Susan,

Regarding your question about disclosing the OPA letter of October 7 to TCE, I agree with your assessment that the October 8 Confidentiality Agreement does not cover this letter. This was quite purposeful. The letter does state that the OPA would undertake not to disclose the letter without giving prior notice to TCE. Although this statement may be a bit self-serving, it would be prudent to comply with it even though the OPA is

disclosing it only to the Government of Ontario and TCE probably already does assume that the Government has a copy.

I wonder whether this letter would constitute Confidential Information under Section 8.1 of the Agreement. If so, the OPA may be able to disclose it to the Government under Section 8.1(a) or the OPA's Representative if it's for the purpose of assisting the OPA in complying with its obligations under the Agreement.... perhaps a bit of a stretch as the letter is about cancelling the project and terminating the Agreement.

I know that you did not ask us to review the draft Direction, but we'd like to propose a few suggested revisions if there is still an opportunity to make changes to it. I realize that the operative language in page 2 of the letter comes from the Minister's Direction on Goreway, but there was some language in the Minister's Direction on PEC in lieu of the indemnity language under the implementation agreement that would be preferable.

Also, we'd like to avoid including any specific language in the Direction around costs incurred by TCE or the financial value of the SWGTA Contract. We have replaced it with more general language which should provide the OPA with the flexibility it needs for assessing the appropriate economic value of the contract for the KWC Project, but at the same time, avoiding the language in the October 7 letter being incorporated into the Direction and having it come back to bite us in any future litigation. In other words, we have not yet given up the fight with TCE that the October 7 letter is a "without prejudice" letter, but if this language becomes part of the Direction we may be stuck with it forever. I realize that there needs to be a balance with the OPA being able to justify the NRR under the KWC contract, while at the same time protecting the OPA's position in the event of future litigation.

Another addition, is a statement that if the OPA and TCE cannot reach agreement on a contract for the KWC Project, the OPA can recover its costs under the implementation agreement. This statement also comes out of the PEC Direction.

Lastly, consider whether to drop the statement about the KWC Project having to undergo all permitting requirements. The statement is not true for all OPA procured projects (e.g., YEC and PEC). Furthermore, it would preclude JoAnne's idea of trading some permitting risk for a lower NRR.

We'd be glad to discuss our suggested changes further with you, if you would like. Regards, Rocco

From: Susan Kennedy [mailto:Susan.Kennedy@powerauthority.on.ca]
Sent: Monday, January 17, 2011 4:19 PM
To: Sebastiano, Rocco; Deborah Langelaan; Michael Killeavy
Cc: Ivanoff, Paul
Subject: Ministry of Energy Request

Privileged and Confidential (Solicitor and Client Privilege)

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In furtherance of getting a directive in connection with the SWGTA/Cambridge matter, we have been asked by MEI Legal to provide them with a copy of the October 7th letter from the OPA to TCE. Specifically, MEI legal wants to see the language re "...the OPA acknowledges that you are entitled to your reasonable damages from the OPA, including the anticipated financial value of the Contract." (see attached re current draft – Ministry would like to go without the two section that are flagged by "comment boxes").

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On my read, the October 7 letter is not subject [retroactively or otherwise] to the "as of" October 8 Confidentiality Agreement, so the only obligation on the OPA regarding the October 7 letter is contained in the final sentence of the letter itself which requires us to give TCE prior notice before we disclose letter to MEI (my guess is that TCE likely assumes Government already has an actual copy of the letter – certainly, folks at the Government knew what it said given their involvement in the negotiation thereof).

Please let me know if I've missed anything.

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

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 18, 2011 2:59 PM
To: Deborah Langelaan; Susan Kennedy
Subject: RE: Ministry of Energy Request

I am fine with this. We had an issue on because the directive referred to nameplate and not contract capacity.

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 18, 2011 2:07 PM
To: Susan Kennedy
Cc: Michael Killeavy; 'Ivanoff, Paul'; 'Sebastiano, Rocco'; 'Smith, Elliot'
Subject: RE: Ministry of Energy Request

Susan;

I have one comment with respect to page 1, 3rd paragraph of the proposed Directive. I would like to see "nameplate capacity" changed to "Contract Capacity" to avoid the same issues from cropping up that we experienced with

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 |

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Director, Corporate/Commercial Law Group

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To: Sebastiano, Rocco; Deborah Langelaan; Michael Killeavy
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Thanks,

Susan H. Kennedy
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Ontario Power Authority
T: 416-969-6054
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E: susan.kennedy@powerauthority.on.ca

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Aleksandar Kojic

From: Safouh Soufi [safouh@smsenergy-engineering.com]
Sent: January 18, 2011 4:42 PM
To: Deborah Langelaan
Cc: Michael Killeavy; 'Orlando Lameda'
Subject: RE: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Hello Deborah:

As discussed earlier today on the phone, below is a suggested text to MPS regarding fast start.

The OPA would like MPS to specifically quantify the start-up time difference between a 4MW and 7MW SFC start-up devices.

The OPA is of the opinion that the benefit of 7MW over 4MW is in the order of 2-3 minutes in improved start-up time. The OPA would like MPS to provide the exact time difference. The OPA would like MPS to confirm that the exact time difference is the benefit of M501GAC-Fast over M501GAC in improved start-up time.

Lastly, the OPA would like MPS to confirm that the M501GAC can accommodate a ramp rate of 8MW/min or more and quantify how much more.

Thanks,
Safouh

From: Orlando Lameda [mailto:orlando@smsenergy-engineering.com]
Sent: January 17, 2011 11:29 PM
To: Deborah Langelaan
Cc: Michael Killeavy; safouh@smsenergy-engineering.com
Subject: Re: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Hi Deborah,

Could you please set up a conference call for 1:00 pm on Tuesday. I will link with Safouh first and then I will dial in for the conference.

Thanks,

Orlando

From: Michael Killeavy <Michael.Killeavy@powerauthority.on.ca>
To: Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>; safouh@smsenergy-engineering.com
Cc: orlando@smsenergy-engineering.com
Sent: Mon, January 17, 2011 10:25:53 AM
Subject: Re: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

I didn't know that they'd answered the questions. When did they come in?

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: Monday, January 17, 2011 10:22 AM
To: 'Safouh Soufi' <safouh@smsenergy-engineering.com>
Cc: orlando@smsenergy-engineering.com <orlando@smsenergy-engineering.com>; Michael Killeavy
Subject: RE: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Safouh;

Michael and I are available today at 4:30 p.m. and tomorrow at either 8:00 a.m. or 1:00 p.m.

Deborah

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: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]
Sent: January 16, 2011 5:27 PM
To: Deborah Langelaan
Cc: orlando@smsenergy-engineering.com
Subject: RE: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deborah:

MPS didn't fully answer the question on Ramp Rate. We asked for normal and maximum. They provided nominal which is normal. They stayed silent on maximum ramp rate. Also, nominal of 6.6% is not consistent with what they said in earlier submission of 2009. I don't have MPS documents with me and I know you don't have them either. I will call Orlando tomorrow to have him review the document and confirm the ramp rate. I think it was reported at 8% but we should say nothing to MPS until we confirm this figure.

Their response in specific areas (those that matter) is not quiet clear. I will discuss this with you on the phone, what is the best time to call you on Monday or Tuesday.

Thanks,
Safouh

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: January 13, 2011 5:25 PM
To: safouh@smsenergy-engineering.com
Cc: orlando@smsenergy-engineering.com
Subject: Fw: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Safouh;

I trust this e-mail finds you safe and with the comfort of your family.

I am forwarding you MPS's responses to our technical questions with no expectation that you will respond.

Deborah

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Thursday, January 13, 2011 04:39 PM
To: Deborah Langelaan; Michael Killeavy
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deborah,
Michael,

Following please find the answers to the questions provided to Mitsubishi.

Thanks,

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: Terri Steeves
Sent: Thursday, January 13, 2011 4:30 PM
To: John Mikkelsen
Cc: Mark Brache
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Please forward to the OPA.

From: PPrigge@mpshq.com [mailto:PPrigge@mpshq.com]
Sent: Thursday, January 13, 2011 2:25 PM
To: Terri Steeves; 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; ryotaro_kanal@mhi.co.jp; pprigge@mpshq.com; jin_taniguchi@mhi.co.jp; yasuihiro_kawabe@mhi.co.jp; KYoshi@mpshq.com; Minoru.Yoshida@mpshq.com; Daisuke.Hiura@mpshq.com; Kazuki.Ishikura@mpshq.com; Akimasa.Muyama@mpshq.com; KHasegawa@mpshq.com; sueki@mpshq.com; mcdeedd@osc.mpsHQ.com; pyrosg@osc.mpsHQ.com; mulligang@osc.mpsHQ.com; Shigeki.Takasugi@mpshq.com; koenekec@osc.mpsHQ.com; newsomb@osc.mpsHQ.com; wakaba_yoshimoto@mhi.co.jp; southwestgtaproject@mpshq.com; F_hcommon@mhi.co.jp
Subject: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Date : January 13,2011
Ref. No : MPS/TCS-General-11-E-0001

To : Attention : Terri Steeves, Joseph P. Miller
: Company : 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),Ryotaro Kanai(TransCanada/SW GTA PJ - MHI TGO Team Member),Phil
Prigge(TransCanada/SW GTA PJ - MPSA Team Member),Jin Taniguchi(TransCanada/SW GTA PJ - MHI
TGO Team Member),YASUHIRO KAWABE(TransCanada/SW GTA PJ - MHI TGO Team Member),Kazuo
Yoshi(),Minoru Yoshida(),Daisuke Hiura(Lake Mary Headquarters),Kazuki Ishikura(),Akimasa Muyama(),Koji
Hasegawa(Lake Mary Headquarters),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(),WAKABA YOSHIMOTO(TransCanada/SW GTA PJ - MHI TGO Team
Member)

From : Phil Prigge,Project Manager
MPSA Headquarters
Person in Charge : phil prigge (pprigge@mpshq.com)
Phone No. : 407-688-6351 Fax No. : 407-688-6487

Project : TransCanada/Southwest-General
Subject : Technical Reply to OPA Questions from TCE dated January 10, 2011

Approved by :
p.prigge ,p.prigge

Dear All,

Please see MPS Canada:s reply to the OPA's questions copied below.

1. Price Breakdown
(Later)

2. GT Start-Up Device

The standard start-up device for our M501G series gas turbine is a SFC, we believe a huge motor to start up M501G is not feasible. An AC motor may be applied to a M501F or smaller gas turbine. However this does not mean all M501G gas turbines have fast start-up capability.

3. Difference of SFC for M501GAC and M501GAC-Fast

The standard capacity of a SFC for a M501GAC and a M501GAC-Fast are 4 MW and 7 MW respectively.

For a M501GAC-Fast, the SFC capacity must be increased to achieve a faster speed ramp up as compared to a M501GAC.

4. Start-Up Curve

1) The minimum purging time is specified as 5 minutes in the current (2007) edition of NFPA 85, however it is not clear that this requirement is applicable to simple cycle plants. On the other hand, the new edition of NFPA 85 is expected to be released soon and it is said that the new edition will

clearly state the requirement of the minimum purging time is not applied to simple cycle plants. Based on this assumption, we instead included 3 minutes for purging in the proposed start-up time, which has been calculated based on 5 changes of the volume from GT outlet to the stack outlet considering current NFPA 85 requirement.

2) The start-up curve (No. IBO-08088) in Appendix I is to indicate typical start-up profile for M501GAC without consideration of restriction from the steam bottoming system and it is also applicable to M501GAC simple cycle plant.

3) OPA's understanding is correct. For synchronization, we just assumed 5 minutes in IBO-08088 but per TCE's instruction we considered 1 minute in the start-up curve for M501GAC-Fast.

5. Ramp Rates of M501GAC (Please refer to IBO-08088.)

1) From Ignition to 100% speed no load: Approx. 170 rpm/min.

2) To 60% load: 6.67%/min.

3) From 60 to 100% load: 6.67%/min.

Best regards,

Phil Prigge
Project Manager

MPS Canada, Inc.
200 Bay Street , Suite No.3220, Toronto , Ontario
M5J 2J1, Canada

Request from TCE/OPA-----

From: Terri Steeves [mailto:terri_steeves@transcanada.com]

Sent: Monday, January 10, 2011 11:18 AM

To: Prigge, Phil; Namba, Kotaro

Cc: Papaioanou, George; Bill Small; Mark Brache ; jpm-tec@comcast.net; John Mikkelsen ; Bill Small

Subject: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Phil / Namba-san,

Please find attached the request for additional information from the OPA. As I suspected, the OPA is looking for a more detailed breakdown of the costs. I believe the OPA needs to be able to reconcile the estimate and demonstrate to their decision makers that the cost is justified. Without the breakdown, they are having difficulty with their justification. I believe the breakdown would demonstrate further that the fast start conversion is very economic (versus going simple cycle with the original GAC machine).

If you have any questions, please let me know, otherwise we can discuss tomorrow.

Thank you,
Terri

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

Sent: Friday, January 07, 2011 3:49 PM

To: John Mikkelsen

Cc: Deborah Langelaan; Susan Kennedy; Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot; Safouh Soufi

Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Importance: High

John,

We've the following questions and comments:

Price – We have been given an aggregate price for a number of different items. It seems that the price stated in the December 2010 Fast Start Proposal ("the Proposal") includes some cost provisions related to project schedule change/delay/suspension.

Could you please itemize:

- (a) suspension from October 7, 2010 to 31 December 2010;
- (b) delayed delivery;
- (c) additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works); and
- (d) conversion of the M501GAC to M501GAS Fast Start gas turbine;

Fast Start - The Equipment Supply Agreement ("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. Is this correct?

SFC - 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. MPS to confirm if the M501GAC package comes with SFC starting device rated at 4MW as a standard supply from Mitsubishi? If not, what is the standard supply for starting device? The reference to 7MW may indicate 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;

Start-up Curve - 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;

Purge Credit - MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and needs more clarification;

SC v. CC - 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 could provide a start-up curve for the machine described in Appendix I, having SFC of 4MW, operating in Simple Cycle configuration

Synchronisation Time - It would appear that 5 minutes to synchronize is used in the original start-up curve whereas the latest curve assumes 1 minute. We would like MPS to confirm this;

Additional Technical Information – We would very much like the ramp rates for Simple Cycle operation. Could MPS please provide the machine's (M501GAC) normal and maximum ramp up rates together with the baseload curve for a temperature range from 16 – 100°F? More specifically, we'd like ramp rates for the following cases:

1. To 100% speed no load,
2. To 60% load and;
3. From 60 to 100% load

Thank 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
416-520-9788 (CELL)
416-967-1947 (FAX)

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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 18, 2011 4:49 PM
To: 'John Mikkelsen'
Cc: JoAnne Butler; Michael Killeavy
Subject: RE: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Hi John;

Thank you for forwarding MPS's responses to our technical questions. After reviewing the responses we have a few more follow up questions.

The OPA would like MPS to specifically quantify the start-up time difference between a 4MW and 7MW SFC start-up devices.

The OPA is of the opinion that the benefit of 7MW over 4MW is in the order of 2-3 minutes in improved start-up time. The OPA would like MPS to provide the exact time difference. The OPA would like MPS to confirm that the exact time difference is the benefit of M501GAC-Fast over M501GAC in improved start-up time.

Lastly, the OPA would like MPS to confirm that the M501GAC can accommodate a ramp rate of 8MW/min or more and quantify how much more.

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 [mailto:john_mikkelsen@transcanada.com]
Sent: January 13, 2011 4:39 PM
To: Deborah Langelaan; Michael Killeavy
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deborah,
Michael,

Following please find the answers to the questions provided to Mitsubishi.

Thanks,

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: Terri Steeves
Sent: Thursday, January 13, 2011 4:30 PM
To: John Mikkelsen
Cc: Mark Brache
Subject: FW: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Please forward to the OPA.

From: PPrigge@mpshq.com [mailto:PPrigge@mpshq.com]
Sent: Thursday, January 13, 2011 2:25 PM
To: Terri Steeves; 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; ryotaro_kanai@mhi.co.jp; pprigge@mpshq.com; jin_taniguchi@mhi.co.jp; yasuihiro_kawabe@mhi.co.jp; KYoshi@mpshq.com; Minoru.Yoshida@mpshq.com; Daisuke.Hiura@mpshq.com; Kazuki.Ishikura@mpshq.com; Akimasa.Muyama@mpshq.com; KHasegawa@mpshq.com; sueki@mpshq.com; mcdeedd@osc.mpsHQ.com; pyrosg@osc.mpsHQ.com; mulligan@osc.mpsHQ.com; Shigeki.Takasugi@mpshq.com; koenekec@osc.mpsHQ.com; newsomb@osc.mpsHQ.com; wakaba_yoshimoto@mhi.co.jp; southwestgtaproject@mpshq.com; F_hcommon@mhi.co.jp
Subject: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Date : January 13, 2011

Ref. No : MPS/TCS-General-11-E-0001

To : Attention : Terri Steeves, Joseph P. Miller
: Company : TransCanada/SW GTA PJ - TransCanada Team Member, TransCanada/SW GTA PJ - TransCanada Team Member
Copy To : 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), Ryotaro Kanai (TransCanada/SW GTA PJ - MHI TGO Team Member), Phil Prigge (TransCanada/SW GTA PJ - MPSA Team Member), Jin Taniguchi (TransCanada/SW GTA PJ - MHI TGO Team Member), YASUHIRO KAWABE (TransCanada/SW GTA PJ - MHI TGO Team Member), Kazuo Yoshi(), Minoru Yoshida(), Daisuke Hiura (Lake Mary Headquarters), Kazuki Ishikura(), Akimasa Muyama(), Koji Hasegawa (Lake Mary Headquarters), Shinichi Ueki(), David Mcdeed (Lake Mary Headquarters), George Pyros (Lake Mary), George Mulligan (Lake Mary Headquarters), Shigeki Takasugi(), Carlos Koenke (Orlando Service Center), Bill Newsom(), WAKABA YOSHIMOTO (TransCanada/SW GTA PJ - MHI TGO Team Member)

From : Phil Prigge, Project Manager
MPSA Headquarters
Person in Charge : phil prigge (pprigge@mpshq.com)
Phone No. : 407-688-6351 Fax No. : 407-688-6487

Approved by :
p.prigge ,p.prigge

Dear All,

Please see MPS Canada's reply to the OPA's questions copied below.

1. Price Breakdown
(Later)

2. GT Start-Up Device

The standard start-up device for our M501G series gas turbine is a SFC, we believe a huge motor to start up M501G is not feasible. An AC motor may be applied to a M501F or smaller gas turbine. However this does not mean all M501G gas turbines have fast start-up capability.

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The standard capacity of a SFC for a M501GAC and a M501GAC-Fast are 4 MW and 7 MW respectively.

For a M501GAC-Fast, the SFC capacity must be increased to achieve a faster speed ramp up as compared to a M501GAC.

4. Start-Up Curve

1) The minimum purging time is specified as 5 minutes in the current (2007) edition of NFPA 85, however it is not clear that this requirement is applicable to simple cycle plants. On the other hand, the new edition of NFPA 85 is expected to be released soon and it is said that the new edition will clearly state the requirement of the minimum purging time is not applied to simple cycle plants. Based on this assumption, we instead included 3 minutes for purging in the proposed start-up time, which has been calculated based on 5 changes of the volume from GT outlet to the stack outlet considering current NFPA 85 requirement.

2) The start-up curve (No. IBO-08088) in Appendix I is to indicate typical start-up profile for M501GAC without consideration of restriction from the steam bottoming system and it is also applicable to M501GAC simple cycle plant.

3) OPA's understanding is correct. For synchronization, we just assumed 5 minutes in IBO-08088 but per TCE's instruction we considered 1 minute in the start-up curve for M501GAC-Fast.

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1) From Ignition to 100% speed no load: Approx. 170 rpm/min.

2) To 60% load: 6.67%/min.

3) From 60 to 100% load: 6.67%/min.

Best regards,

Phil Prigge
Project Manager

MPS Canada, Inc.
200 Bay Street, Suite No.3220, Toronto, Ontario
M5J 2J1, Canada

Request from TCE/OPA-----

From: Terri Steeves [mailto:terri_steeves@transcanada.com]
Sent: Monday, January 10, 2011 11:18 AM
To: Prigge, Phil; Namba, Kotaro
Cc: Papaioanou, George; Bill Small; Mark Brache; jpm-tec@comcast.net; John Mikkelsen; Bill Small
Subject: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Phil / Namba-san,

Please find attached the request for additional information from the OPA. As I suspected, the OPA is looking for a more detailed breakdown of the costs. I believe the OPA needs to be able to reconcile the estimate and demonstrate to their decision makers that the cost is justified. Without the breakdown, they are having difficulty with their justification. I believe the breakdown would demonstrate further that the fast start conversion is very economic (versus going simple cycle with the original GAC machine).

If you have any questions, please let me know, otherwise we can discuss tomorrow.

Thank you,
Terri

From: Michael Killeavy [<mailto:Michael.Killeavy@powerauthority.on.ca>]
Sent: Friday, January 07, 2011 3:49 PM
To: John Mikkelsen
Cc: Deborah Langelaan; Susan Kennedy; Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot; Safouh Soufi
Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...
Importance: High

John,

We've the following questions and comments:

Price – We have been given an aggregate price for a number of different items. It seems that the price stated in the December 2010 Fast Start Proposal ("the Proposal") includes some cost provisions related to project schedule change/delay/suspension.

Could you please itemize:

- (a) suspension from October 7, 2010 to 31 December 2010;
- (b) delayed delivery;
- (c) additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works); and
- (d) conversion of the M501GAC to M501GAS Fast Start gas turbine;

Fast Start - The Equipment Supply Agreement ("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. Is this correct?

SFC - 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. MPS to confirm if the M501GAC package comes with SFC starting device rated at 4MW as a standard supply from Mitsubishi? If not, what is the standard supply for starting device? The reference to 7MW may indicate 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;

Start-up Curve - 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;

Purge Credit - MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and needs more clarification;

SC v. CC - 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 could provide a start-up curve for the machine described in Appendix I, having SFC of 4MW, operating in Simple Cycle configuration

Synchronisation Time - It would appear that 5 minutes to synchronize is used in the original start-up curve whereas the latest curve assumes 1 minute. We would like MPS to confirm this;

~~Additional Technical Information - We would very much like the ramp rates for Simple Cycle~~ operation. Could MPS please provide the machine's (M501GAC) normal and maximum ramp up rates together with the baseload curve for a temperature range from 16 – 100°F? More specifically, we'd like ramp rates for the following cases:

1. To 100% speed no load,
2. To 60% load and;
3. From 60 to 100% load

Thank 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
416-520-9788 (CELL)
416-967-1947 (FAX)

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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 19, 2011 8:41 AM
To: Michael Killeavy; 'Sebastiano, Rocco'
Cc: 'Smith, Elliot'
Subject: FW: Couple of Items
Attachments: MPS Chronology Jan 2011r1.doc

Gentlemen;

Please see John's comments below. It would be appreciated if you would review the attached chronology TCE has drafted and provide me with your comments, if any.

Rocco - with respect to John's comment regarding feedback on the technical requirements, we provided him with a couple of follow-up questions yesterday and I will forward them to you under separate cover.

Thanks,
Deb

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

From: John Mikkelsen [<mailto:john.mikkelsen@transcanada.com>]
Sent: January 18, 2011 5:57 PM
To: Deborah Langelaan
Cc: Terry Bennett; Terri Steeves; Geoff Murray; John Cashin
Subject: RE: Couple of Items

Deb,

Sorry I missed you this afternoon.

We are working on the Implementation Agreement and incorporating the necessary new elements that differentiate this from the Portlands baseline. We believe we will have a draft to you by Monday of next week. We expect to be in a position to discuss some of the concepts in it on Thursday. Per my voice mail we have added Geoff Murray to the project team. In addition to assisting in expediting this agreement Geoff will bring more horsepower to the parallel development activities.

John Cashin is focused on the agreement construction and is not planning to come out for Thursday's meeting and we don't see a need for the legal team until the draft is available.

Attached is the MPS exchange chronology that we have been working on.

Any feedback on the technical requirements provided last week or the directive?

Let's plan to talk tomorrow about the plan for Thursday.

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

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

From: Deborah Langelaan [<mailto:Deborah.Langelaan@powerauthority.on.ca>]
Sent: Tuesday, January 18, 2011 5:22 PM
To: John Mikkelsen
Subject: Couple of Items

Hi John;

Just following up on a few things:

1. When can we expect to receive a draft version of the Implementation Agreement?
2. Will lawyers be attending this Thursday's meeting?
3. When will you be providing the log of technical documents?

Deb

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A Chronology of exchanges with MPS Canada, Inc. since the announcement of the cancelation of the Oakville GS Project

Date	Request	Outstanding Issues / Concerns
Oct 8	TC requests 'flexibility' from MPS	
Oct 12	MPS reply 'No, thank you' to TC	
Oct 17	TC request face to face meeting and 60 day suspension	
Oct 21	MPS grants meeting Oct 29	
Oct 29	MPS agrees to 30 day suspension in exchange for exclusivity for power train. MPS also agrees to support looking at all options including equipment swap, equipment modification, delayed delivery.	
Nov 5	OPA / TC requests turndown, ramp rate and start time for fast start	
Nov 5	MPS provides turndown, ramp rate and start time for fast start	
Nov 10	OPA requests MPS ESA	MPS do not understand why OPA needs to see ESA
Nov 11	TC request extension to suspension to Dec 31	
Nov 17	OPA requests Firm Price proposal for f/s from MPS by Dec 10; proposal good until Jan 31	To be discussed with MPS at face to face
Nov 19	Extension to suspension to Dec 31 executed	
Nov 23	Meeting with MPS to discuss OPA request <ul style="list-style-type: none"> - Release of ESA to OPA - Firm Price Proposal - Indicative Proposal (Dec17 -> 20 -> 16) - COD – Feb 2014 	<ul style="list-style-type: none"> ▪ MPS needs compelling reason to release ESA and needs to address FIPPA concern. ▪ Firm Proposal cannot be completed until Feb 10 ▪ COD date needed some back and forth (currently, Dec 31, 2014)
Nov 24	Provided rationale to MPS for OPA to see the ESA; TC supplied redacted contract to MPS for review	
Nov 26	Request letter from OPA designating ESA (and model) 'highly confidential' under the Electricity Act	
Dec 7	MPS responded that data room and/or legal opinion in addition to the EA designation for the redacted contract would be acceptable	
Dec 14	TC received EA designation letter from OPA	
Dec 17	OPA received indicative price proposal	
	TC sent draft acknowledgment letter	
	TC received acknowledgement from OPA	
	OPA received redacted ESA	
Dec 21	OPA received MPS Technical Proposal	
	OPA requests confirmation of the range on indicative price of \$33 million US	
	MPS provides range of +25%	
	TC and OPA execute GT Agreement	Cancelation increases to 75% of ESA Price
Dec 22	OPA requested un-redacted ESA and all technical information to the ESA	
Dec 24	OPA requests copies of all Change Orders and Notices to MPS ESA	
Dec 29	TC provides copies of all Change Orders and Notices and emissions guarantees and start-up curves for the original M501GAC	

	OPA explains and modifies additional information request including Appendices to the ESA	
	OPA receives additional information including significantly un-redacted ESA and appendices, as requested, from MPS	
	MPS agrees to cap price for the indicative price proposal at +25% if OPA releases MPS from suspension and directs f/s	
Dec 30	TC provides agreed form of LOA#3 to OPA which contains language confirming the capped price for the f/s conversion	
Dec 31	OPA requests itemized firm price proposal and scope of work and confirms no direction	
	TC confirms receipt of OPA request, and confirmation of intention to continue suspension	
	TC and MPS execute LOA Suspension #3 to January 31	
Jan 6	OPA modifies firm price request to technical questions and price breakdown for indicative price and requests meeting with MPS	
Jan 7	TC receives OPA technical questions and price breakdown, requests clarification and receives clarification	
Jan 10	TC requests from MPS OPA technical and commercial information	
Jan 13	MPS provides response to OPA technical questions and confirms date for a face to face with OPA's JoAnne Butler	
Jan 19	Planned face to face OPA's Joanne Butler, TransCanada's Terri Steeves and Terry Bennett	
Jan 21	MPS to provide commercial (price breakdown) response	OPA has requested information earlier (19 or 20) Cancellation increases to 90% of ESA Price

Aleksandar Kojic

From: John Mikkelsen [john_mikkelsen@transcanada.com]
Sent: January 19, 2011 9:37 AM
To: Deborah Langelaan
Cc: JoAnne Butler; Michael Killeavy
Subject: RE: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Deborah,

Thanks for the update. Your questions were forwarded to Terri last night. One caution that you should be aware of is the fact that the start-up curve for the original M501GAC is "typical" not guaranteed.

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

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Deborah Langelaan | Manager, Natural Gas Projects|OPA |
Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 |
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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; ryotaro_kanai@mhi.co.jp; pprigge@mpshq.com; jin_taniguchi@mhi.co.jp; yasuihiro_kawabe@mhi.co.jp; KYoshi@mpshq.com; Minoru.Yoshida@mpshq.com; Daisuke.Hiura@mpshq.com; Kazuki.Ishikura@mpshq.com; Akimasa.Muyama@mpshq.com; KHasegawa@mpshq.com; sueki@mpshq.com; mcdeedd@osc.mpsqh.com; pyrosg@osc.mpsqh.com;

mulligang@osc.mpshq.com; Shigeki.Takasugi@mpshq.com; koenekec@osc.mpshq.com; newsomb@osc.mpshq.com; wakaba_yoshimoto@mhi.co.jp; southwestgtaproject@mpshq.com; F_hcommon@mhi.co.jp

Subject: TCS-General/Technical Reply to OPA Questions from TCE dated January 10, 2011

Date : January 13,2011

Ref. No : MPS/TCS-General-11-E-0001

To : Attention : Terri Steeves,Joseph P. Miller

: Company : 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),Ryotaro Kanai(TransCanada/SW GTA PJ - MHI TGO Team Member),Phil Prigge(TransCanada/SW GTA PJ - MPSA Team Member),Jin Taniguchi(TransCanada/SW GTA PJ - MHI TGO Team Member),YASUHIRO KAWABE(TransCanada/SW GTA PJ - MHI TGO Team Member),Kazuo Yoshi(),Minoru Yoshida(),Daisuke Hiura(Lake Mary Headquarters),Kazuki Ishikura(),Akimasa Muyama(),Koji Hasegawa(Lake Mary Headquarters),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(),WAKABA YOSHIMOTO(TransCanada/SW GTA PJ - MHI TGO Team Member)

From : Phil Prigge,Project Manager

MPSA Headquarters

Person in Charge : phil prigge (pprigge@mpshq.com)

Phone No. : 407-688-6351 Fax No. : 407-688-6487

Project : TransCanada/Southwest-General

Subject : Technical Reply to OPA Questions from TCE dated January 10, 2011

Approved by :

p.prigge ,p.prigge

Dear All,

Please see MPS Canada:s reply to the OPA's questions copied below.

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(Later)

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5. Ramp Rates of M501GAC (Please refer to IBO-08088.)

1) From Ignition to 100% speed no load: Approx. 170 rpm/min.

2) To 60% load: 6.67%/min.

3) From 60 to 100% load: 6.67%/min.

Best regards,

Phil Prigge
Project Manager

MPS Canada, Inc.
200 Bay Street, Suite No.3220, Toronto, Ontario
M5J 2J1, Canada

Request from TCE/OPA-----

From: Terri Steeves [mailto:terri_steeves@transcanada.com]

Sent: Monday, January 10, 2011 11:18 AM

To: Prigge, Phil; Namba, Kotaro

Cc: Papaioanou, George; Bill Small; Mark Brache; jpm-tec@comcast.net; John Mikkelsen; Bill Small

Subject: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Phil / Namba-san,

Please find attached the request for additional information from the OPA. As I suspected, the OPA is looking for a more detailed breakdown of the costs. I believe the OPA needs to be able to reconcile the estimate and demonstrate to their decision makers that the cost is justified. Without the breakdown, they are having difficulty with their justification. I believe the breakdown would demonstrate further that the fast start conversion is very economic (versus going simple cycle with the original GAC machine).

If you have any questions, please let me know, otherwise we can discuss tomorrow.

Thank you,
Terri

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

Sent: Friday, January 07, 2011 3:49 PM

To: John Mikkelsen

Cc: Deborah Langelaan; Susan Kennedy; Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot; Safouh Soufi

Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Importance: High

John,

We've the following questions and comments:

Price – We have been given an aggregate price for a number of different items. It seems that the price stated in the December 2010 Fast Start Proposal ("the Proposal") includes some cost provisions related to project schedule change/delay/suspension.

Could you please itemize:

(a) suspension from October 7, 2010 to 31 December 2010;

(b) delayed delivery;

(c) additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works); and

(d) conversion of the M501GAC to M501GAS Fast Start gas turbine;

Fast Start - The Equipment Supply Agreement ("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. Is this correct?

SFC - 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. MPS to confirm if the M501GAC package comes with SFC starting device rated at 4MW as a standard supply from Mitsubishi? If not, what is the standard supply for starting device? The reference to 7MW may indicate 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;

Start-up Curve - 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;

Purge Credit - MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and needs more clarification;

SC v. CC - 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 could provide a start-up curve for the machine described in Appendix I, having SFC of 4MW, operating in Simple Cycle configuration

Synchronisation Time - It would appear that 5 minutes to synchronize is used in the original start-up curve whereas the latest curve assumes 1 minute. We would like MPS to confirm this;

Additional Technical Information – We would very much like the ramp rates for Simple Cycle operation. Could MPS please provide the machine's (M501GAC) normal and maximum ramp up rates together with the baseload curve for a temperature range from 16 – 100°F? More specifically, we'd like ramp rates for the following cases:

1. To 100% speed no load,
2. To 60% load and;
3. From 60 to 100% load

Thank 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
416-520-9788 (CELL)
416-967-1947 (FAX)

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Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: January 19, 2011 9:41 AM
To: Deborah Langelaan; Michael Killeavy
Cc: Smith, Elliot
Subject: Re: Couple of Items

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Thanks, Rocco

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

From: Deborah Langelaan [<mailto:Deborah.Langelaan@powerauthority.on.ca>]
Sent: Wednesday, January 19, 2011 08:41 AM
To: Michael Killeavy <Michael.Killeavy@powerauthority.on.ca>; Sebastiano, Rocco
Cc: Smith, Elliot
Subject: FW: Couple of Items

Gentlemen;

Please see John's comments below. It would be appreciated if you would review the attached chronology TCE has drafted and provide me with your comments, if any.

Rocco - with respect to John's comment regarding feedback on the technical requirements, we provided him with a couple of follow-up questions yesterday and I will forward them to you under separate cover.

Thanks,
Deb

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

From: John Mikkelsen [<mailto:john.mikkelsen@transcanada.com>]
Sent: January 18, 2011 5:57 PM
To: Deborah Langelaan
Cc: Terry Bennett; Terri Steeves; Geoff Murray; John Cashin
Subject: RE: Couple of Items

Deb,

Sorry I missed you this afternoon.

We are working on the Implementation Agreement and incorporating the necessary new elements that differentiate this from the Portlands baseline. We believe we will have a draft to you by Monday of next week. We expect to be in a position to discuss some of the concepts in it on Thursday. Per my voice mail we have added Geoff Murray to the project team. In addition to assisting in expediting this agreement Geoff will bring more horsepower to the parallel development activities.

John Cashin is focused on the agreement construction and is not planning to come out for Thursday's meeting and we don't see a need for the legal team until the draft is available.

Attached is the MPS exchange chronology that we have been working on.

Any feedback on the technical requirements provided last week or the directive?

Let's plan to talk tomorrow about the plan for Thursday.

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

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

From: Deborah Langelaan [<mailto:Deborah.Langelaan@powerauthority.on.ca>]
Sent: Tuesday, January 18, 2011 5:22 PM
To: John Mikkelsen
Subject: Couple of Items

Hi John;

Just following up on a few things:

1. When can we expect to receive a draft version of the Implementation Agreement?
2. Will lawyers be attending this Thursday's meeting?
3. When will you be providing the log of technical documents?

Deb

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 19, 2011 10:00 AM
To: 'RSebastiano@osler.com'; Deborah Langelaan
Cc: 'ESmith@osler.com'
Subject: Re: Couple of Items

I agree with Rocco. I can't understand why he doesn't think lawyers bring value either.

Deb, can you tell TCE that if we're discussing the Implementation Agreement we'll be bringing 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

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200 Bay Street
24th Floor, South Tower
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Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: January 19, 2011 10:45 AM
To: Susan Kennedy
Cc: Michael Killeavy; Deborah Langelaan; Smith, Elliot
Subject: Re: Ministry of Energy Request

The Government issued an exemption of all Planning Act approvals for YEC back in June or July of 2010 and thereby getting around attempts by King Township to pass by-laws (as Oakville did) to prevent getting site plan approvals. In the mid-90's, the Government passed a regulation exempting the PEC site from having to obtain any municipal approvals (including getting a building permit) from the City of Toronto. I can send you a copies of these documents if you need them.

Thanks, Rocco

From: Susan Kennedy [mailto:Susan.Kennedy@powerauthority.on.ca]
Sent: Wednesday, January 19, 2011 10:34 AM
To: Sebastiano, Rocco
Cc: Michael Killeavy <Michael.Killeavy@powerauthority.on.ca>; Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>; Smith, Elliot
Subject: RE: Ministry of Energy Request

Rocco,

Question, can you clarify something in your draft note:

[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.] [NTD: Consider whether this statement should be deleted. JoAnne Butler has suggested considering a strategy whereby the OPA/Province provides some sort of assistance on permitting risk in exchange for a reduction in the NRR. This statement may inadvertently tie our hands if left in the Direction. Furthermore, this statement is not technically correct for all electricity generation projects procured by the OPA (e.g., legal exemptions granted to YEC and PEC).]

What exceptions were made for these projects? I probably should be aware but am not and, if I relay this to the Ministry, they will be asking.

Thanks,

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: January 17, 2011 6:55 PM
To: Susan Kennedy
Cc: Michael Killeavy; Deborah Langelaan; Ivanoff, Paul; Smith, Elliot
Subject: RE: Ministry of Energy Request

Susan,

Regarding your question about disclosing the OPA letter of October 7 to TCE, I agree with your assessment that the October 8 Confidentiality Agreement does not cover this letter. This was quite purposeful. The letter

does state that the OPA would undertake not to disclose the letter without giving prior notice to TCE. Although this statement may be a bit self-serving, it would be prudent to comply with it even though the OPA is disclosing it only to the Government of Ontario and TCE probably already does assume that the Government has a copy.

I wonder whether this letter would constitute Confidential Information under Section 8.1 of the Agreement. If so, the OPA may be able to disclose it to the Government under Section 8.1(a) or the OPA's Representative if it's for the purpose of assisting the OPA in complying with its obligations under the Agreement.... perhaps a bit of a stretch as the letter is about cancelling the project and terminating the Agreement.

I know that you did not ask us to review the draft Direction, but we'd like to propose a few suggested revisions if there is still an opportunity to make changes to it. I realize that the operative language in page 2 of the letter comes from the Minister's Direction on Goreway, but there was some language in the Minister's Direction on PEC in lieu of the indemnity language under the implementation agreement that would be preferable.

Also, we'd like to avoid including any specific language in the Direction around costs incurred by TCE or the financial value of the SWGTA Contract. We have replaced it with more general language which should provide the OPA with the flexibility it needs for assessing the appropriate economic value of the contract for the KWC Project, but at the same time, avoiding the language in the October 7 letter being incorporated into the Direction and having it come back to bite us in any future litigation. In other words, we have not yet given up the fight with TCE that the October 7 letter is a "without prejudice" letter, but if this language becomes part of the Direction we may be stuck with it forever. I realize that there needs to be a balance with the OPA being able to justify the NRR under the KWC contract, while at the same time protecting the OPA's position in the event of future litigation.

Another addition, is a statement that if the OPA and TCE cannot reach agreement on a contract for the KWC Project, the OPA can recover its costs under the implementation agreement. This statement also comes out of the PEC Direction.

Lastly, consider whether to drop the statement about the KWC Project having to undergo all permitting requirements. The statement is not true for all OPA procured projects (e.g., YEC and PEC). Furthermore, it would preclude JoAnne's idea of trading some permitting risk for a lower NRR.

We'd be glad to discuss our suggested changes further with you, if you would like. Regards, Rocco

From: Susan Kennedy [mailto:Susan.Kennedy@powerauthority.on.ca]
Sent: Monday, January 17, 2011 4:19 PM
To: Sebastiano, Rocco; Deborah Langelaan; Michael Killeavy
Cc: Ivanoff, Paul
Subject: Ministry of Energy Request

Privileged and Confidential (Solicitor and Client Privilege)

This email contains privileged legal advice and should not be forwarded to parties outside of OPA. Please limit internal circulation.

In furtherance of getting a directive in connection with the SWGTA/Cambridge matter, we have been asked by MEI Legal to provide them with a copy of the October 7th letter from the OPA to TCE. Specifically, MEI legal wants to see the language re "...the OPA acknowledges that you are entitled to your reasonable damages from the OPA, including the anticipated financial value of the Contract." (see attached re current draft – Ministry would like to go without the two sections that are flagged by "comment boxes").

MEI legal wants the letter in furtherance of getting approval to include the language re "anticipated financial value of the Contract" into the directive.

On my read, the October 7 letter is not subject [retroactively or otherwise] to the "as of" October 8 Confidentiality Agreement, so the only obligation on the OPA regarding the October 7 letter is contained in the final sentence of the letter itself which requires us to give TCE prior notice before we disclose letter to MEI (my guess is that TCE likely assumes Government already has an actual copy of the letter – certainly, folks at the Government knew what it said given their involvement in the negotiation thereof).

Please let me know if I've missed anything.

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

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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 19, 2011 10:56 AM
To: Michael Killeavy; 'RSebastiano@osler.com'
Cc: 'ESmith@osler.com'; Susan Kennedy
Subject: RE: Couple of Items

I have conveyed the message to John Mikkelsen and he will touch base with John Cashin today to find out his availability to participate in tomorrow's meeting and advise accordingly.

Rocco - would you please put a place holder in your calendar for tomorrow between 2:30 and 4:30?

Also, TCE has asked if the OPA would be amenable to providing them with a letter designating either the Implementation Agreement and/or Contract (I'm not clear which document they're asking this for and have left John a v/m to clarify) confidential pursuant to section 25.13(3) of the Electricity Act, similar to how we handled the MPS ESA.

Deb

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

From: Michael Killeavy
Sent: January 19, 2011 10:00 AM
To: 'RSebastiano@osler.com'; Deborah Langelaan
Cc: 'ESmith@osler.com'
Subject: Re: Couple of Items

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Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
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416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

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Sent: Wednesday, January 19, 2011 09:41 AM
To: Deborah Langelaan; Michael Killeavy
Cc: Smith, Elliot <ESmith@osler.com>
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Cc: Smith, Elliot

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Cc: Terry Bennett; Terri Steeves; Geoff Murray; John Cashin

Subject: RE: Couple of Items

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200 Bay Street
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Tel: 416.869.2102
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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 19, 2011 2:51 PM
To: 'Safouh Soufi'
Cc: Michael Killeavy
Subject: RE: TransCanada / OPA Meeting - Proposed Agenda for today
Attachments: OPA Cambridge Technical Design Requirements.doc

Safouh;

Attached is the Technical Design Requirements document TCE provided to the OPA last Thursday. Michael and I are meeting with PSP tomorrow morning at 8:00 to discuss their comments regarding it.

Deborah

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: Safouh Soufi [<mailto:safouh@smsenergy-engineering.com>]
Sent: January 19, 2011 2:40 PM
To: Deborah Langelaan
Cc: rsebastiano@osler.com; esmith@osler.com
Subject: RE: TransCanada / OPA Meeting - Proposed Agenda for today

Hello Deborah:

I reviewed the minutes so that I understand what is going on. I found couple of typos which I have highlighted in the bold blue font in the attached.

One question for you: has JM sent MK a first draft of the technical parameters as promised at the meeting.

Thanks,
Safouh

From: Deborah Langelaan [<mailto:Deborah.Langelaan@powerauthority.on.ca>]
Sent: January 13, 2011 2:00 PM
To: rsebastiano@osler.com; esmith@osler.com; safouh@smsenergy-engineering.com
Subject: Fw: TransCanada / OPA Meeting - Proposed Agenda for today

FYI

From: Chris Cinnamon [mailto:christine_cinnamon@transcanada.com]
Sent: Thursday, January 13, 2011 01:53 PM
To: John Mikkelsen <john_mikkelsen@transcanada.com>; Deborah Langelaan; Michael Killeavy; Terri Steeves <terri_steeves@transcanada.com>; Larry Scheuerman <larry_scheuerman@transcanada.com>; Chris Breen <chris_breen@transcanada.com>
Cc: Ben Chin

Subject: RE: TransCanada / OPA Meeting - Proposed Agenda for today

Minutes from last meeting for review and approval.

Best Regards,
Chris.

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From: John Mikkelsen

Sent: Thursday, January 13, 2011 10:59 AM

To: Deborah Langelaan; Michael Killeavy (michael.killeavy@powerauthority.on.ca); Terri Steeves; Larry Scheuerman; Chris Cinnamon; Chris Breen

Subject: TransCanada / OPA Meeting - Proposed Agenda for today

As a guide to today's discussion we propose the following agenda. Please let us know if this is appropriate.

TransCanada / OPA Meeting

January 13, 2011

Proposed Agenda

1. Oakville Update
2. Mitsubishi Update
 - a. Timing on responses to questions and price break-out
 - b. Meeting with Mitsubishi
 - c. Review of MPS information response (ensure alignment)
3. Review proposed Cambridge Technical Design Criteria
4. Review proposed Cambridge Community Benefits Package
5. Review summary table of discussion topics to support open book process
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 - a. Alignment of messaging and responses wrt Cambridge need and solutions
 - b. Need for priority with respect to SIA/CIA queue
 - c. What is the OPA proposing wrt 230 kV line and Cambridge MTS#2? Hydro One build?
7. Cambridge Plan Forward
 - a. Update on Queen's Park meeting
 - b. Timing for approach to Mayor and release to public
8. Review Minutes of last meeting
9. Action List

See you at 2:30.

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

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DRAFT FOR DISCUSSION
Technical Design Requirements

Facility

The proposed Facility must:

- (a) be a Dispatchable Facility.
- (b) be a simple cycle configuration generating facility.
- (c) utilize Gas (which has been defined as natural gas supplied by pipeline) as the Fuel.
- (d) be designed, constructed and operated in compliance with all relevant requirements of the Market Rules, the Transmission System Code, the Distribution System Code and all other laws and regulations, as applicable
- (e) must comply with Section 6 (Generation Connection Criteria), as specified in the 'Ontario Resources and Transmission Assessment Criteria' document published by the IESO (and available at http://www.ieso.ca/imoweb/pubs/marketAdmin/IMO_REQ_0041_TransmissionAssessmentCriteria.pdf). For greater certainty, the proposed Facility must also comply with all other requirements referenced therein including that the proposed Facility must be in compliance with all applicable Generation Facility Requirements.

Contract Capacity

The proposed Contract Facility must be a single generating facility and must

- (a) be able to provide a minimum of xxx MW at 30 °C under both N-1 System Conditions and N-1 Generating Facility Conditions simultaneously. For further clarity, the proposed Contract Facility must be designed to supply either transmission circuit (M20D or M21D) at all times. Each unit must be able to supply either transmission circuit at all times;
- (b) [be able to provide a minimum of xxx MW at 30 °C under N-2 System Conditions;]
- (c) have a Season 3 Contract Capacity of no less than xxx[450] MW; and
- (d) have a Contract Capacity of no more than xxx[600] MW in any Season.
- (e) must have a Nameplate MVA Rating of no more than xxx [650] MVA

Electrical Connection

The proposed Contract Facility must be connected directly to the IESO-Controlled Grid via new double circuit 230 kV transmission lines. [Notwithstanding the foregoing, a proposed Contract Facility may connect to a Local Distribution System for the purpose of providing Islanding Capability and still be eligible.]

The proposed Contract Facility must have a Connection Point (the "Required Connection Points") located with a direct connection to the Hydro One circuits M20D and M21D between the xxxth transmission tower (Tower #xx) leaving the Preston TS connecting to the Galt TS. [Assumes TCE builds the transmission line to Boxwood]

Operation Following a N-2 Contingency (Load Restoration)[does OPA want this?]

Emissions Requirements

In addition to meeting all requirements set out in the *Environmental Protection Act* (Ontario) and regulations thereunder (including Ontario Regulation 419/05 Air Pollution – Local Air Quality), as well as the Ministry of the Environment's Guideline A-5, Atmospheric Emissions from Stationary Combustion Turbines (revised March 1994), and any other regulatory requirements to which the proposed Facility may be subject, the proposed Facility must meet the specific limitations regarding air emissions set out in this Section.

Specifically, the proposed Facility must not emit:

- (i) Nitrogen Oxides (NO_x) in a concentration that exceeds 15 ppmv (based upon Reference Conditions and 15% O₂ in the exhaust gases on a dry volume basis) as measured using the KWCG Emissions Measurement Methodology, and all as more particularly set out in the

KWCG Peaking Generation Contract; or (ii) Carbon Monoxide (CO) in a concentration that exceeds 15 ppmv (based upon Reference Conditions and 15% O₂ in the exhaust gases on a dry volume basis) as measured using the KWCG Emissions Measurement Methodology, and all as more particularly set out in the KWCG Peaking Generation Contract.

TransCanada must provide evidence to support the stated emission levels of NO_x and CO in the form of a signed certificate by an authorized representative of any of: (1) the original equipment manufacturer of the proposed Facility's turbines, (2) the supplier or manufacturer of any post combustion emission control equipment utilized by the proposed Facility, or (3) the engineering company responsible for the design of the proposed Facility, which certificate must state that the proposed Facility, as designed, will operate within these stated limits for NO_x and CO.

The KWCG Peaking Generation Contract will require that the emission limits for NO_x and CO as specified in the Proposal, pursuant to this Section, be (i) incorporated into the proposed Facility's Environmental Review Report prepared as part of its environmental assessment process or otherwise reflected in its completed environmental assessment, and (ii) ultimately reflected in the proposed Facility's application to the Ministry of the Environment for a Certificate of Approval (Air & Noise) Operating Permit, together with a request that such limits be imposed as a condition in such certificate of approval.

The emission limits for NO_x and CO stated in the KWCG Peaking Generation Contract will form the basis of an ongoing operating requirement. For greater certainty, the OPA is not requiring TransCanada to adopt any specific facility design or utilize any particular control equipment with respect to air emissions, provided, however, that the proposed Facility must comply with the NO_x and CO limits specified in Sections

Aleksandar Kojic

From: Safouh Soufi [safouh@smsenergy-engineering.com]
Sent: January 19, 2011 3:49 PM
To: Deborah Langelaan
Cc: Michael Killeavy; 'Orlando J. Lameda'
Subject: RE: TransCanada / OPA Meeting - Proposed Agenda for today

Deborah:

This is, for understandable reasons, a preliminary document at this point. There should be a reference to specific ramp rate requirements. Also, fast start capability is not mentioned and I guess this will have to wait until the OPA makes a decision on this and informs TCE.

In my mind, this facility should provide operational flexibilities in the form of min load and min run time. Quick turnaround is another operational flexibility that the system may value. I expect the min load to be 60% but we should still ask the question if anything less than 60% is doable from emission and operations perspectives.

If you like, you could allude to the above requirements in your meeting with TCE tomorrow and we can get to more details later.

Thanks,
Safouh

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: January 19, 2011 2:51 PM
To: Safouh Soufi
Cc: Michael Killeavy
Subject: RE: TransCanada / OPA Meeting - Proposed Agenda for today

Safouh;

Attached is the Technical Design Requirements document TCE provided to the OPA last Thursday. Michael and I are meeting with PSP tomorrow morning at 8:00 to discuss their comments regarding it.

Deborah

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: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]
Sent: January 19, 2011 2:40 PM
To: Deborah Langelaan
Cc: rsebastiano@osler.com; esmith@osler.com
Subject: RE: TransCanada / OPA Meeting - Proposed Agenda for today

Hello Deborah:

I reviewed the minutes so that I understand what is going on. I found couple of typos which I have highlighted in the bold blue font in the attached.

One question for you: has JM sent MK a first draft of the technical parameters as promised at the meeting.

Thanks,
Safouh

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: January 13, 2011 2:00 PM
To: rsebastiano@osler.com; esmith@osler.com; safouh@smsenergy-engineering.com
Subject: Fw: TransCanada / OPA Meeting - Proposed Agenda for today

FYI

From: Chris Cinnamon [mailto:christine_cinnamon@transcanada.com]
Sent: Thursday, January 13, 2011 01:53 PM
To: John Mikkelsen <john_mikkelsen@transcanada.com>; Deborah Langelaan; Michael Killeavy; Terri Steeves <terri_steeves@transcanada.com>; Larry Scheuerman <larry_scheuerman@transcanada.com>; Chris Breen <chris_breen@transcanada.com>
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Sent: Thursday, January 13, 2011 10:59 AM
To: Deborah Langelaan; Michael Killeavy (michael.killeavy@powerauthority.on.ca); Terri Steeves; Larry Scheuerman; Chris Cinnamon; Chris Breen
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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 19, 2011 4:10 PM
To: Michael Killeavy; 'Sebastiano, Rocco'; 'Safouh Soufi'
Cc: 'Smith, Elliot'
Subject: FW: Revised Technical Design Requirements
Attachments: IA Sch A Technical Design Requirements.doc

Gentlemen;

Attached is TCE's revised Technical Design Requirements document for your review.

Michael and Rocco – TCE has confirmed that they are looking for a letter from OPA designating the Implementation Agreement (draft and final versions) pursuant to Section 25.13(3) of the Electricity Act.

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: January 19, 2011 4:05 PM
To: Deborah Langelaan
Cc: John Cashin; Geoff Murray
Subject: RE: Revised Technical Design Requirements

Attached.

Further to your voice mail, yes it is the Implementation Agreement that we would currently wish to have the OPA designate as confidential under the Electricity Act.

I haven't a position on the final contract itself yet but will follow up with our wish on that shortly.

Many thanks,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

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From: Deborah Langelaan [<mailto:Deborah.Langelaan@powerauthority.on.ca>]
Sent: Wednesday, January 19, 2011 2:52 PM
To: John Mikkelsen
Cc: John Cashin; Geoff Murray; Terri Steeves; Terry Bennett; Larry Scheuerman; Michael Killeavy
Subject: RE: Revised Technical Design Requirements

John;

It would be very helpful if you would also send a black line version of the document.

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: January 19, 2011 2:37 PM
To: Deborah Langelaan
Cc: John Cashin; Geoff Murray; Terri Steeves; Terry Bennett; Larry Scheuerman
Subject: Revised Technical Design Requirements

Deborah,

We have made some proposed modifications to the Technical Design Requirements presented last Thursday to reflect other components which we think are relevant and to align the language to the terminology we are using for the Potential Project.

It would be our intention to include it as a schedule to the Implementation Agreement.

We have not modified any of the previously discussed items requiring OPA input. Can you please review the attached, comment, populate or correct as required?

Please note the attached is still under review and subject to change.

Many thanks,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

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DRAFT FOR DISCUSSIONSCHEDULE A
Technical Design Requirements

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FacilityPotential Project

The proposed ~~FacilityPotential Project~~ must will:

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- (a) be a ~~D~~dispatchable ~~F~~facility.
- (b) be a simple cycle configuration generating facility.
- (c) utilize ~~G~~gas (which has been defined as natural gas supplied by pipeline) as the ~~F~~fuel.
- (d) be designed, constructed and operated in compliance with all relevant requirements of the Market Rules, the Transmission System Code, the Distribution System Code and all other laws and regulations, as applicable
- (de) must comply with Section 6 (Generation Connection Criteria), as specified in the 'Ontario Resources and Transmission Assessment Criteria' document published by the IESO. **[NTD: is this not covered by the Contract obligation to comply with applicable laws and regs?]** (and available at AssessmentCriteria.pdf). For greater certainty, the proposed Facility must also comply with all other requirements referenced therein including that the proposed Facility must be in compliance with all applicable Generation Facility Requirements.

Contract Capacity

The proposed ~~Contract FacilityPotential Project~~ must will be a single generating facility and must will

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- (a) be able to provide a minimum of xxx MW at 30 °C under both N-1 System Conditions and N-1 Generating Facility Conditions simultaneously. For further clarity, the proposed ~~Contract FacilityPotential Project~~ must be designed to supply either transmission circuit (M20D or M21D) at all times. Each unit must be able to supply either transmission circuit at all times;
- (b) [be able to provide a minimum of xxx MW at 30 °C under N-2 System Conditions;]
- (c) have a Season 3 Contract Capacity of no less than xxx[450] MW; and
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Electrical Connection

The proposed ~~Contract FacilityPotential Project~~ must will be connected directly to the IESO-Controlled Grid via new double circuit 230 kV transmission lines. [Notwithstanding the foregoing, a proposed ~~Contract FacilityPotential Project~~ may connect to a Local Distribution System for the purpose of providing Islanding Capability and still be eligible.]

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The proposed ~~Contract FacilityPotential Project~~ must will have a ~~C~~connection ~~P~~point (the "**Required Connection Points**") located with a direct connection to the Hydro One circuits M20D and M21D between the xxxth transmission tower (Tower #xx) leaving the Preston TS connecting to the Galt TS. [Assumes TCE builds the transmission line to Boxwood]

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Operation Following a N-2 Contingency (Load Restoration)[does OPA want this?]

Emissions Requirements

In addition to meeting all requirements set out in the *Environmental Protection Act* (Ontario) and regulations thereunder (including Ontario Regulation 419/05 Air Pollution – Local Air Quality); as well as the Ministry of the Environment's Guideline A-5, Atmospheric Emissions from Stationary Combustion Turbines (revised March 1994), and any other regulatory requirements to

~~which the proposed Facility may be subject, the proposed Facility must meet the specific limitations regarding air emissions set out in this Section.~~

~~Specifically, the proposed Facility Potential Project must will not emit:~~

- ~~(i) -Nitrogen Oxides (NOx) in a concentration that exceeds 15 ppmv (based upon Reference Conditions and 15% O2 in the exhaust gases on a dry volume basis) as measured using the KWCG Emissions Measurement Methodology, and all as more particularly set out in the KWCG Peaking-Generation-Contract; or~~
- ~~(ii) -Carbon Monoxide (CO) in a concentration that exceeds 15 ppmv (based upon Reference Conditions and 15% O2 in the exhaust gases on a dry volume basis) as measured using the KWCG Emissions Measurement Methodology, and all as more particularly set out in the KWCG Peaking-Generation-Contract.~~

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~~TransCanada-TCE must will provide evidence [NTD: when?] to support the stated emission levels of NOx and CO in the form of a signed certificate by an authorized representative of any of: (1) the original equipment manufacturer of the proposed Facility's Potential Project's turbines, (2) the supplier or manufacturer of any post combustion emission control equipment utilized by the proposed Facility Potential Project, or (3) the engineering company responsible for the design of the proposed Facility Potential Project, which certificate must state that the proposed Facility Potential Project, as designed, will operate within these stated limits for NOx and CO.~~

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~~The KWCG Peaking-Generation-Contract will require that the emission limits for NOx and CO as specified in the Proposal, pursuant to this Section, be (i) incorporated into the proposed Facility's Potential Project's Environmental Review Report prepared as part of its environmental assessment process or otherwise reflected in its completed environmental assessment, and (ii) ultimately reflected in the proposed Facility's Potential Project's application to the Ministry of the Environment for a Certificate of Approval (Air & Noise) Operating Permit, together with a request that such limits be imposed as a condition in such certificate of approval.~~

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Fuel Supply

~~The Potential Project will obtain gas distribution services from Union Gas Limited. and TCE cannot by-pass Union Gas Limited.~~

Equipment

~~The Potential Project will be designed utilizing (2) Mitsubishi heavy Industries M501GAC Fast Start gas gas-fired combustion turbine generators (the "Generators"), with evaporative cooling and emission reduction equipment. Each Generator shall be nominally rated at [250] MW (measured at the Generator's output terminals) new and clean, at ISO conditions. TCE shall negotiate the purchase contract for the Generators with the Generator vendor.~~

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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 19, 2011 4:14 PM
To: Bob Chow; Reena Kwong
Cc: Michael Killeavy
Subject: FW: Revised Technical Design Requirements
Attachments: IA Sch A Technical Design Requirements.doc

Bob and Reena;

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Suite 1600 - 120 Adelaide St. W. | Toronto, ON M5H 1T1 |
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Sent: January 19, 2011 4:05 PM
To: Deborah Langelaan
Cc: John Cashin; Geoff Murray
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Director, Eastern Canada, Power Development

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Operation Following a N-2 Contingency (Load Restoration)[does OPA want this?]

Emissions Requirements

In addition to meeting all requirements set out in the *Environmental Protection Act* (Ontario) and regulations thereunder (including Ontario Regulation 419/05 Air Pollution - Local Air Quality), as well as the Ministry of the Environment's Guideline A-5, Atmospheric Emissions from Stationary Combustion Turbines (revised March 1994), and any other regulatory requirements to

~~which the proposed Facility may be subject, the proposed Facility must meet the specific limitations regarding air emissions set out in this Section.~~

~~Specifically, the proposed Facility Potential Project must will not emit:~~

~~(i) Nitrogen Oxides (NOx) in a concentration that exceeds 15 ppmv (based upon Reference Conditions and 15% O2 in the exhaust gases on a dry volume basis) as measured using the KWCG Emissions Measurement Methodology, and all as more particularly set out in the~~

~~KWCG Peaking Generation Contract; or~~

~~(ii) Carbon Monoxide (CO) in a concentration that exceeds 15 ppmv (based upon Reference Conditions and 15% O2 in the exhaust gases on a dry volume basis) as measured using the KWCG Emissions Measurement Methodology, and all as more particularly set out in the KWCG Peaking Generation Contract.~~

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~~TransCanada TCE must will provide evidence [NTD: when?] to support the stated emission levels of NOx and CO in the form of a signed certificate by an authorized representative of any of: (1) the original equipment manufacturer of the proposed Facility's Potential Project's turbines, (2) the supplier or manufacturer of any post combustion emission control equipment utilized by the proposed Facility Potential Project, or (3) the engineering company responsible for the design of the proposed Facility Potential Project, which certificate must state that the proposed Facility Potential Project, as designed, will operate within these stated limits for NOx and CO.~~

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~~The KWCG Peaking Generation Contract will require that the emission limits for NOx and CO as specified in the Proposal, pursuant to this Section, be (i) incorporated into the proposed Facility's Potential Project's Environmental Review Report prepared as part of its environmental assessment process or otherwise reflected in its completed environmental assessment, and (ii) ultimately reflected in the proposed Facility's Potential Project's application to the Ministry of the Environment for a Certificate of Approval (Air & Noise) Operating Permit, together with a request that such limits be imposed as a condition in such certificate of approval.~~

~~The emission limits for NOx and CO stated in the KWCG Peaking Generation Contract will form the basis of an ongoing operating requirement. For greater certainty, the OPA is not requiring TransCanada TCE to adopt any specific facility design or utilize any particular control equipment with respect to air emissions, provided, however, that the proposed Facility Potential Project must comply with the NOx and CO limits specified in Sections set out above~~

Fuel Supply

~~The Potential Project will obtain gas distribution services from Union Gas Limited, and TCE cannot by-pass Union Gas Limited.~~

Equipment

~~The Potential Project will be designed utilizing (2) Mitsubishi heavy Industries M501 GAC Fast Start gas gas-fired combustion turbine generators (the "Generators"), with evaporative cooling and emission reduction equipment. Each Generator shall be nominally rated at [250] MW (measured at the Generator's output terminals) new and clean, at ISO conditions. TCE shall negotiate the purchase contract for the Generators with the Generator vendor.~~

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New Roman, 11 pt

Aleksandar Kojic

From: Susan Kennedy
Sent: January 19, 2011 5:44 PM
To: 'rsebastiano@osler.com'
Cc: Michael Killeavy; Deborah Langelaan; 'esmith@osler.com'
Subject: Re: Ministry of Energy Request

No, I'm good, I was aware of that on YEC - I was sort of thinking that if there was a "legal" exemption, then one was in compliance because the relevant local provision was no longer applicable - however, I take the point that my logic is a bit headache inducing given the overall context.

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: Wednesday, January 19, 2011 10:44 AM
To: Susan Kennedy
Cc: Michael Killeavy; Deborah Langelaan; Smith, Elliot <ESmith@osler.com>
Subject: Re: Ministry of Energy Request

The Government issued an exemption of all Planning Act approvals for YEC back in June or July of 2010 and thereby getting around attempts by King Township to pass by-laws (as Oakville did) to prevent getting site plan approvals. In the mid-90's, the Government passed a regulation exempting the PEC site from having to obtain any municipal approvals (including getting a building permit) from the City of Toronto. I can send you a copies of these documents if you need them.

Thanks, Rocco

From: Susan Kennedy [mailto:Susan.Kennedy@powerauthority.on.ca]
Sent: Wednesday, January 19, 2011 10:34 AM
To: Sebastiano, Rocco
Cc: Michael Killeavy <Michael.Killeavy@powerauthority.on.ca>; Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>; Smith, Elliot
Subject: RE: Ministry of Energy Request

Rocco,

Question, can you clarify something in your draft note:

[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.] [NTD: Consider whether this statement should be deleted. JoAnne Butler has suggested considering a strategy whereby the OPA/Province provides some sort of assistance on permitting risk in exchange for a reduction in the NRR. This statement may inadvertently tie our hands if left in the Direction. Furthermore, this statement is not technically correct for all electricity generation projects procured by the OPA (e.g., legal exemptions granted to YEC and PEC).]

What exceptions were made for these projects? I probably should be aware but am not and, if I relay this to the Ministry, they will be asking.

Thanks,

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: January 17, 2011 6:55 PM
To: Susan Kennedy
Cc: Michael Killeavy; Deborah Langelaan; Ivanoff, Paul; Smith, Elliot
Subject: RE: Ministry of Energy Request

Susan,

Regarding your question about disclosing the OPA letter of October 7 to TCE, I agree with your assessment that the October 8 Confidentiality Agreement does not cover this letter. This was quite purposeful. The letter does state that the OPA would undertake not to disclose the letter without giving prior notice to TCE. Although this statement may be a bit self-serving, it would be prudent to comply with it even though the OPA is disclosing it only to the Government of Ontario and TCE probably already does assume that the Government has a copy.

I wonder whether this letter would constitute Confidential Information under Section 8.1 of the Agreement. If so, the OPA may be able to disclose it to the Government under Section 8.1(a) or the OPA's Representative if it's for the purpose of assisting the OPA in complying with its obligations under the Agreement.... perhaps a bit of a stretch as the letter is about cancelling the project and terminating the Agreement.

I know that you did not ask us to review the draft Direction, but we'd like to propose a few suggested revisions if there is still an opportunity to make changes to it. I realize that the operative language in page 2 of the letter comes from the Minister's Direction on Goreway, but there was some language in the Minister's Direction on PEC in lieu of the indemnity language under the implementation agreement that would be preferable.

Also, we'd like to avoid including any specific language in the Direction around costs incurred by TCE or the financial value of the SWGTA Contract. We have replaced it with more general language which should provide the OPA with the flexibility it needs for assessing the appropriate economic value of the contract for the KWC Project, but at the same time, avoiding the language in the October 7 letter being incorporated into the Direction and having it come back to bite us in any future litigation. In other words, we have not yet given up the fight with TCE that the October 7 letter is a "without prejudice" letter, but if this language becomes part of the Direction we may be stuck with it forever. I realize that there needs to be a balance with the OPA being able to justify the NRR under the KWC contract, while at the same time protecting the OPA's position in the event of future litigation.

Another addition, is a statement that if the OPA and TCE cannot reach agreement on a contract for the KWC Project, the OPA can recover its costs under the implementation agreement. This statement also comes out of the PEC Direction.

Lastly, consider whether to drop the statement about the KWC Project having to undergo all permitting requirements. The statement is not true for all OPA procured projects (e.g., YEC and PEC). Furthermore, it would preclude JoAnne's idea of trading some permitting risk for a lower NRR.

We'd be glad to discuss our suggested changes further with you, if you would like. Regards, Rocco

From: Susan Kennedy [mailto:Susan.Kennedy@powerauthority.on.ca]
Sent: Monday, January 17, 2011 4:19 PM
To: Sebastiano, Rocco; Deborah Langelaan; Michael Killeavy
Cc: Ivanoff, Paul
Subject: Ministry of Energy Request

Privileged and Confidential (Solicitor and Client Privilege)

***This email contains privileged legal advice and should not be forwarded to parties outside of OPA.
Please limit internal circulation.***

In furtherance of getting a directive in connection with the SWGTA/Cambridge matter, we have been asked by MEI Legal to provide them with a copy of the October 7th letter from the OPA to TCE. Specifically, MEI legal wants to see the language re "...the OPA acknowledges that you are entitled to your reasonable damages from the OPA, including the anticipated financial value of the Contract." (see attached re current draft – Ministry would like to go without the two section that are flagged by "comment boxes").

MEI legal wants the letter in furtherance of getting approval to include the language re "anticipated financial value of the Contract" into the directive.

On my read, the October 7 letter is not subject [retroactively or otherwise] to the "as of" October 8 Confidentiality Agreement, so the only obligation on the OPA regarding the October 7 letter is contained in the final sentence of the letter itself which requires us to give TCE prior notice before we disclose letter to MEI (my guess is that TCE likely assumes Government already has an actual copy of the letter – certainly, folks at the Government knew what it said given their involvement in the negotiation thereof).

Please let me know if I've missed anything.

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

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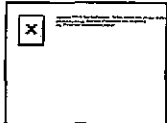
Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: January 19, 2011 6:13 PM
To: Michael Killeavy; Deborah Langelaan
Cc: Smith, Elliot; Ivanoff, Paul
Subject: Rumour re TCE Cambridge is on the Street

Just heard through another client that the word is on the street that the "OPA is going to reward TCE with a project in KW... there are going to be law suits over this.... Why doesn't TCE come to speak to us about our site, it's better than TCE's... Why don't they speak to Epcor as they have a fully permitted site and spent \$5 million getting it permitted?"

Not concerned about the potential lawsuit, but why doesn't TCE speak to Pristine, Northland and Epcor about buying their sites as opposed to trying to negotiate with the City of Cambridge on the Boxwood site?

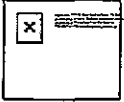
Consider raising this with Ben. Thanks, Rocco



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



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Aleksandar Kojic

From: Ben Chin
Sent: January 20, 2011 7:54 AM
To: Deborah Langelaan
Cc: JoAnne Butler; Michael Killeavy
Subject: Re: Rumour re TCE Cambridge is on the Street

It's a good point. I can't come but will raise with Breen

From: Deborah Langelaan
Sent: Thursday, January 20, 2011 07:38 AM
To: Ben Chin
Cc: JoAnne Butler; Michael Killeavy
Subject: FW: Rumour re TCE Cambridge is on the Street

Ben;

Let's discuss this. Will you be attending this afternoon's meeting with TCE at 2:30?

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: Sebastiano, Rocco [<mailto:RSebastiano@osler.com>]
Sent: January 19, 2011 6:13 PM
To: Michael Killeavy; Deborah Langelaan
Cc: Smith, Elliot; Ivanoff, Paul
Subject: Rumour re TCE Cambridge is on the Street

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Not concerned about the potential lawsuit, but why doesn't TCE speak to Pristine, Northland and Epcor about buying their sites as opposed to trying to negotiate with the City of Cambridge on the Boxwood site?

Consider raising this with Ben. Thanks, Rocco

OSLER

Rocco Sebastiano
Partner

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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 20, 2011 1:18 PM
To: Michael Killeavy; 'Sebastiano, Rocco'; 'Smith, Elliot'
Subject: TCE/MPS Letter Agreement
Attachments: OPA Comments - Proposed Letter Agreement dated Dec. 31/10

Fellas;

During today's meeting TCE would like to discuss the OPA's comments with respect to the Letter Agreement between MPS and TCE. The OPA provided its comments to them on December 30th via e-mail which I have attached. The OPA was not provided a copy of the Letter Agreement – due to its confidential nature it was given to Oslers and Michael and I had to review it from your office.

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 |

Aleksandar Kojic

From: Deborah Langeilaan
Sent: December 30, 2010 3:54 PM
To: John Mikkelsen (John_mikkelsen@transcanada.com)
Cc: Michael Killeavy; Susan Kennedy; Rocco Sebastiano (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 Budgetary 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 Technical 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

Aleksandar Kojic

From: Michael Killeavy
Sent: January 20, 2011 1:19 PM
To: Deborah Langelaan; 'RSebastiano@osler.com'; 'ESmith@osler.com'
Subject: Re: TCE/MPS Letter Agreement

Swell.

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: Thursday, January 20, 2011 01:17 PM
To: Michael Killeavy; 'Sebastiano, Rocco' <RSebastiano@osler.com>; 'Smith, Elliot' <ESmith@osler.com>
Subject: TCE/MPS Letter Agreement

Fellas;

During today's meeting TCE would like to discuss the OPA's comments with respect to the Letter Agreement between MPS and TCE. The OPA provided its comments to them on December 30th via e-mail which I have attached. The OPA was not provided a copy of the Letter Agreement – due to its confidential nature it was given to Oslers and Michael and I had to review it from your office.

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 |

Aleksandar Kojic

From: Michael Killeavy
Sent: January 20, 2011 3:52 PM
To: Susan Kennedy
Subject: Re: Directive - Status Update?

Any thoughts on the indemnification for the GTs as a recoverable cost in any Implementation 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)
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416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

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

From: Susan Kennedy
Sent: Thursday, January 20, 2011 03:47 PM
To: Michael Killeavy
Subject: RE: Directive - Status Update?

I doubt we will have a directive this week. I'm still playing with language to deal with the fact that the Ministry doesn't want to talk about costs and once I get something (which is proving less easy than I had hoped). Once I get something, I'm going to need internal [OPA] buy in before sending it to the Ministry.

I don't think the OPA can show a draft directive to a third party (at the end of the day the directives come from/belong to MEI). In any event, a decision to do so is way above my pay grade (and would probably have to be cleared with MEI regardless).

I don't think MEI would relish input from a potential contract counterparty but I really don't know for sure.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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

From: Michael Killeavy
Sent: January 20, 2011 3:43 PM
To: Susan Kennedy
Subject: Directive - Status Update?

Susan,

How are we doing on the directive?

TCE is requesting that some sort of indemnification be built into the Implementation Agreement to cover the gas turbine agreement costs. Can we do this if we consider it to be part of their development costs?

TCE also wants to see a copy of the draft directive. Do we ever do this?

I am in the TCE meeting now.

Michael

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

Aleksandar Kojic

From: Susan Kennedy
Sent: January 20, 2011 4:41 PM
To: Michael Killeavy; Michael Lyle; JoAnne Butler; Deborah Langelaan
Subject: Revised draft KWC directive
Attachments: KWC TransCanada Direction 20 12 2010 - OPA Comments_110120.docx

I've been going back and forth with the Ministry on a draft MEI directive. Latest from Ministry Legal is that MO is not amenable [at all] to the following paragraph(s):

"In negotiating this contract, it is anticipated that the OPA will have regard to (i) a reasonable balancing of risk and reward for TCE, 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]**."

or

"In light of the foregoing, the Ministry of Energy has concluded that it is prudent to negotiate a contract with TransCanada for the KWC Project in lieu of the Oakville Generating Station. The Ministry of Energy has had discussions with TransCanada regarding such a project."

It was articulated as "nothing about costs".

In light of this, I've changed the language somewhat to hopefully give us the latitude we need to factor in SWGTA termination costs in the KWC negotiations. Please see attached draft.

January 11, 2011

Mr. Colin Andersen
Chief Executive Officer
Ontario Power Authority
Suite 1600
120 Adelaide Street West
Toronto, ON M5H 1T1

Dear Mr. Andersen,

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 the 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 gas-fired 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, the Ministry of Energy has concluded that it is prudent to negotiate a contract with TransCanada for the KWC Project in lieu of the Oakville Generating Station. The Ministry of Energy has 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 may, among other things, require that the OPA provide TransCanada with certain interim financial guarantees or recoverable assistance pending the completion of a final contract with respect to certain costs that TransCanada must incur for work on the project during the course of the negotiations, but before the contract is executed, if an in-service date of the [spring of 2014] is to be met; and
- 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 a reasonable balance of risk and reward for TransCanada, in the context of the mutual termination of the contract for the Oakville Generating Station, in assessing the appropriate economic value of the contract for 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. In such event, it is understood that the OPA may seek to recover its costs, if any, relating to the implementation agreement by using its statutory authority for cost recovery.

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

Comment [OPA1]: Consider whether this statement should be deleted. OPA is considering a strategy whereby the OPA/Province provides some sort of assistance on permitting risk in exchange for a reduction in the NRRs. This statement may inadvertently prevent use of such a strategy. In addition, this statement is not actually correct for all electricity generation projects procured by the OPA (e.g., legal exemptions granted to YEC and PEC). OPA understands that there is some possibility of facilitative regulation for KWC Project and this statement could be limiting.

Aleksandar Kojic

From: Michael Killeavy
Sent: January 20, 2011 4:42 PM
To: Susan Kennedy
Subject: Re: Revised draft KWC directive

May I share this with Osler?

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, January 20, 2011 04:40 PM
To: Michael Killeavy; Michael Lyle; JoAnne Butler; Deborah Langelaan
Subject: Revised draft KWC directive

I've been going back and forth with the Ministry on a draft MEI directive. Latest from Ministry Legal is that MO is not amenable [at all] to the following paragraph(s):

"In negotiating this contract, it is anticipated that the OPA will have regard to (i) a reasonable balancing of risk and reward for TCE, 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]."

or

"In light of the foregoing, the Ministry of Energy has concluded that it is prudent to negotiate a contract with TransCanada for the KWC Project in lieu of the Oakville Generating Station. The Ministry of Energy has had discussions with TransCanada regarding such a project."

It was articulated as "nothing about costs".

In light of this, I've changed the language somewhat to hopefully give us the latitude we need to factor in SWGTA termination costs in the KWC negotiations. Please see attached draft.

Aleksandar Kojic

From: Susan Kennedy
Sent: January 20, 2011 5:12 PM
To: Michael Killeavy
Subject: Re: Revised draft KWC directive

I've got no objection.

From: Michael Killeavy
Sent: Thursday, January 20, 2011 04:41 PM
To: Susan Kennedy
Subject: Re: Revised draft KWC directive

May I share this with Osler?

Michael Killeavy, LL.B., MBA, P.Eng.
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In light of this, I've changed the language somewhat to hopefully give us the latitude we need to factor in SWGTA termination costs in the KWC negotiations. Please see attached draft.

Aleksandar Kojic

From: Michael Killeavy
Sent: January 20, 2011 5:13 PM
To: 'RSebastiano@osler.com'
Subject: Fw: Revised draft KWC directive
Attachments: KWC TransCanada Direction 20 12 2010 - OPA Comments_110120.docx

FYI I am really concerned about 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: Susan Kennedy
Sent: Thursday, January 20, 2011 04:40 PM
To: Michael Killeavy; Michael Lyle; JoAnne Butler; Deborah Langelaan
Subject: Revised draft KWC directive

I've been going back and forth with the Ministry on a draft MEI directive. Latest from Ministry Legal is that MO is not amenable [at all] to the following paragraph(s):

"In negotiating this contract, it is anticipated that the OPA will have regard to (i) a reasonable balancing of risk and reward for TCE, 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]."

or

"In light of the foregoing, the Ministry of Energy has concluded that it is prudent to negotiate a contract with TransCanada for the KWC Project in lieu of the Oakville Generating Station. The Ministry of Energy has had discussions with TransCanada regarding such a project."

It was articulated as "nothing about costs".

In light of this, I've changed the language somewhat to hopefully give us the latitude we need to factor in SWGTA termination costs in the KWC negotiations. Please see attached draft.

January 11, 2011

Mr. Colin Andersen
Chief Executive Officer
Ontario Power Authority
Suite 1600
120 Adelaide Street West
Toronto, ON M5H 1T1

Dear Mr. Andersen,

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 the 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 gas-fired 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, the Ministry of Energy has concluded that it is prudent to negotiate a contract with TransCanada for the KWC Project in lieu of the Oakville Generating Station. The Ministry of Energy has 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 may, among other things, require that the OPA provide TransCanada with certain interim financial guarantees or recoverable assistance pending the completion of a final contract with respect to certain costs that TransCanada must incur for work on the project during the course of the negotiations, but before the contract is executed, if an in-service date of the [spring of 2014] is to be met; and
- 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 a reasonable balance of risk and reward for TransCanada, in the context of the mutual termination of the contract for the Oakville Generating Station, in assessing the appropriate economic value of the contract for 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. In such event, it is understood that the OPA may seek to recover its costs, if any, relating to the implementation agreement by using its statutory authority for cost recovery.

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

Comment [OPA1]: Consider whether this statement should be deleted. OPA is considering a strategy whereby the OPA/Province provides some sort of assistance on permitting risk in exchange for a reduction in the NRR. This statement may inadvertently prevent use of such a strategy. In addition, this statement is not actually correct for all electricity generation projects procured by the OPA (e.g. legal exemptions granted to YEC and PEC). OPA understands that there is some possibility of facilitative regulation for KWC project and this statement could be limiting.

Aleksandar Kojic

From: Susan Kennedy
Sent: January 20, 2011 5:13 PM
To: Michael Killeavy
Subject: Re: Directive - Status Update?

I think that would make sense.

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

From: Michael Killeavy
Sent: Thursday, January 20, 2011 03:52 PM
To: Susan Kennedy
Subject: Re: Directive - Status Update?

Any thoughts on the indemnification for the GTs as a recoverable cost in any Implementation 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)
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Michael.killeavy@powerauthority.on.ca

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Sent: Thursday, January 20, 2011 03:47 PM
To: Michael Killeavy
Subject: RE: Directive - Status Update?

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I don't think the OPA can show a draft directive to a third party (at the end of the day the directives come from/belong to MEI). In any event, s decision to do so is way above my pay grade (and would probably have to be cleared with MEI regardless).

I don't think MEI would relish input from a potential contract counterparty but I really don't know for sure.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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

From: Michael Killeavy
Sent: January 20, 2011 3:43 PM

To: Susan Kennedy
Subject: Directive - Status Update?

Susan,

How are we doing on the directive?

TCE is requesting that some sort of indemnification be built into the Implementation Agreement to cover the gas turbine agreement costs. Can we do this if we consider it to be part of their development costs?

TCE also wants to see a copy of the draft directive. Do we ever do this?

I am in the TCE meeting now.

Michael

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Michael.killeavy@powerauthority.on.ca

Aleksandar Kojic

From: Michael Killeavy
Sent: January 20, 2011 5:16 PM
To: Susan Kennedy
Subject: Re: Directive - Status Update?

My thinking is that any turbine cancellation cost is a legitimate development cost in the context of K-W.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
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Sent: Thursday, January 20, 2011 05:13 PM
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Michael.killeavy@powerauthority.on.ca

Aleksandar Kojic

From: Michael Killeavy
Sent: January 20, 2011 5:24 PM
To: 'RSebastiano@osler.com'
Subject: Fw: Directive - Status Update?

FYI ...

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
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Toronto, Ontario, M5H 1T1
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Michael.killeavy@powerauthority.on.ca

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Sent: Thursday, January 20, 2011 05:13 PM
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Subject: Re: Directive - Status Update?

I think that would make sense.

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Susan H. Kennedy
Director, Corporate/Commercial Law Group

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

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Michael.killeavy@powerauthority.on.ca

Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: January 20, 2011 5:28 PM
To: Michael Killeavy; Deborah Langeaan
Cc: Smith, Elliot
Subject: FW: MPS "Other third party"

Geoff just called me as a follow-up to his email below. As he put it, the point about information from third parties in the TCE/MPS letter agreement is about MPS's concern that their suppliers and subcontractors come back and ask for more money to cover off delay and suspension costs as opposed to scope costs. He said that perhaps our concerns will be partly allayed when we get the third bucket break-down of the \$33 million and see that the amount for delay/suspension is "not a very large dollar amount"... I guess we'll see tomorrow.

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

From: Geoff Murray [mailto:geoff_murray@transcanada.com]
Sent: Thursday, January 20, 2011 5:15 PM
To: Sebastiano, Rocco
Subject: MPS "Other third party"

Rocco:

I have had a quick chat with Terri about the MPS letter language and I think I have a better understanding of why that language is there.

If you have time give me a shout before you draft your sentence. 508-768-8859.

Geoff

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 20, 2011 5:34 PM
To: 'RSebastiano@osler.com'; Deborah Langelaan
Cc: 'ESmith@osler.com'
Subject: Re: MPS "Other third party"

Ok. Can you please let him know that all communications are through Deb, for clarity.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
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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: Thursday, January 20, 2011 05:27 PM
To: Michael Killeavy; Deborah Langelaan
Cc: Smith, Elliot <ESmith@osler.com>
Subject: FW: MPS "Other third party"

Geoff just called me as a follow-up to his email below. As he put it, the point about information from third parties in the TCE/MPS letter agreement is about MPS's concern that their suppliers and subcontractors come back and ask for more money to cover off delay and suspension costs as opposed to scope costs. He said that perhaps our concerns will be partly allayed when we get the third bucket break-down of the \$33 million and see that the amount for delay/suspension is "not a very large dollar amount"... I guess we'll see tomorrow.

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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 20, 2011 9:58 PM
To: Michael Killeavy
Subject: Re: K-W Directive

Will do.

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

From: Michael Killeavy
Sent: Thursday, January 20, 2011 08:04 PM
To: Deborah Langelaan
Cc: Susan Kennedy
Subject: K-W Directive

Deb,

Could you please let TCE know that we cannot share a copy of the draft directive with TCE.

Thanks,
Michael

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
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416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

Aleksandar Kojic

From: Susan Kennedy
Sent: January 21, 2011 9:25 AM
To: Michael Killeavy
Subject: RE: K-W Directive

And it wouldn't be at all helpful -- negotiating a directive with MEI is waaaaaay outside the realm of something they would be able to get their heads around.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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

From: Michael Killeavy
Sent: January 21, 2011 9:10 AM
To: Susan Kennedy
Subject: Re: K-W Directive

The request pissed me off yesterday it's as if we don't have enough negotiation to do ... I do not like multiparty negotiations.

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: Friday, January 21, 2011 09:08 AM
To: Michael Killeavy
Subject: RE: K-W Directive

I'm all for that ...

'Cause it isn't ...

Not that I'm sure we wouldn't appreciate the help ...

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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

From: Michael Killeavy
Sent: January 21, 2011 8:58 AM
To: Susan Kennedy

Subject: Re: K-W Directive

Could we say it's none of their goddamn business?

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: Friday, January 21, 2011 08:51 AM
To: Deborah Langelaan
Cc: Michael Killeavy; Michael Lyle
Subject: RE: K-W Directive

My response to Michael Killeavy:

"I doubt we will have a directive this week. I'm still playing with language to deal with the fact that the Ministry doesn't want to talk about costs and once I get something (which is proving less easy than I had hoped). Once I get something, I'm going to need internal [OPA] buy in before sending it to the Ministry.

I don't think the OPA can show a draft directive to a third party (at the end of the day the directives come from/belong to MEI). In any event, a decision to do so is way above my pay grade (and would probably have to be cleared with MEI regardless).

I don't think MEI would relish input from a potential contract counterparty but I really don't know for sure."

I will also tell you quite frankly that it is not dissimilar to us asking them for approval rights on their board resolutions, which I am highly confident they will find cheeky.

We absolutely could not provide it without the consent of Mike Lyle (possibly Colin) and, for sure, the Ministry.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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

From: Deborah Langelaan
Sent: January 21, 2011 8:47 AM
To: Susan Kennedy
Subject: FW: K-W Directive

Susan;

Before I advise TCE that we cannot share a copy of the draft Directive would you mind providing me with a reason why? I understand the confidential nature of the document but they will probably press me for an explanation.

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 |

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

From: Michael Killeavy
Sent: January 20, 2011 8:04 PM
To: Deborah Langelaan
Cc: Susan Kennedy
Subject: K-W Directive

Deb,

Could you please let TCE know that we cannot share a copy of the draft directive with TCE.

Thanks,
Michael

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416-969-6288 (office)
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416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

Aleksandar Kojic

From: Michael Killeavy
Sent: January 21, 2011 10:03 AM
To: Susan Kennedy
Subject: Re: K-W Directive

Hmmm I wonder how keen TCE would be on a directive that didn't mention OGS costs?

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: Friday, January 21, 2011 09:30 AM
To: Deborah Langelaan
Cc: Michael Killeavy; Michael Lyle
Subject: RE: K-W Directive

Dibs on floating that one with MEI...

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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

From: Deborah Langelaan
Sent: January 21, 2011 9:29 AM
To: Susan Kennedy
Cc: Michael Killeavy; Michael Lyle
Subject: RE: K-W Directive

Susan;

As expected TCE was not happy with our response. They asked if there would be some opportunity for them to review the language in the Directive before it is formally issued to the OPA. I advised TCE I would run it up the chain of command.

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: Susan Kennedy

Sent: January 21, 2011 8:52 AM
To: Deborah Langelaan
Cc: Michael Killeavy; Michael Lyle
Subject: RE: K-W Directive

My response to Michael Killeavy:

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Michael.killeavy@powerauthority.on.ca

Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: January 21, 2011 10:06 AM
To: Deborah Langelaan; Michael Killeavy
Cc: Smith, Elliot
Subject: RE: Couple of Items

I don't think that we should comment on this chronology. What is the purpose of this? It certainly does nothing to help our cause. If TCE wants to create a chronology then let them do so. We have not had any direct dealing with MPS other than JoAnne's meeting this past Wednesday, nor do we want to be seen as blessing anything they have been doing with MPS. Furthermore, in light of Terri's "melt-down" during yesterday's meeting when she tried to make us out to be overly aggressive toward these poor guys at MPS who have gone out of their way to be helpful...

I would suggest responding to John saying that the OPA has no comment to make in respect of the chronology, but it is important to we do respond so that he does not take our silence as somehow tacitly agreeing to anything in this chronology.

Thanks, Rocco

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

From: Deborah Langelaan [<mailto:Deborah.Langelaan@powerauthority.on.ca>]
Sent: Wednesday, January 19, 2011 8:41 AM
To: Michael Killeavy; Sebastiano, Rocco
Cc: Smith, Elliot
Subject: FW: Couple of Items

Gentlemen;

Please see John's comments below. It would be appreciated if you would review the attached chronology TCE has drafted and provide me with your comments, if any.

Rocco - with respect to John's comment regarding feedback on the technical requirements, we provided him with a couple of follow-up questions yesterday and I will forward them to you under separate cover.

Thanks,
Deb

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

From: John Mikkelsen [<mailto:john.mikkelsen@transcanada.com>]
Sent: January 18, 2011 5:57 PM
To: Deborah Langelaan
Cc: Terry Bennett; Terri Steeves; Geoff Murray; John Cashin
Subject: RE: Couple of Items

Deb,

Sorry I missed you this afternoon.

We are working on the Implementation Agreement and incorporating the necessary new elements that differentiate this from the Portlands baseline. We believe we will have a draft to you by Monday of next week. We expect to be in a position to discuss some of the concepts in it on Thursday. Per my voice mail we have added Geoff Murray to the project team. In addition

to assisting in expediting this agreement Geoff will bring more horsepower to the parallel development activities.

John Cashin is focused on the agreement construction and is not planning to come out for Thursday's meeting and we don't see a need for the legal team until the draft is available.

Attached is the MPS exchange chronology that we have been working on.

Any feedback on the technical requirements provided last week or the directive?

Let's plan to talk tomorrow about the plan for Thursday.

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

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

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

Sent: Tuesday, January 18, 2011 5:22 PM

To: John Mikkelsen

Subject: Couple of Items

Hi John;

Just following up on a few things:

1. When can we expect to receive a draft version of the Implementation Agreement?
2. Will lawyers be attending this Thursday's meeting?
3. When will you be providing the log of technical documents?

Deb

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 21, 2011 10:14 AM
To: 'RSebastiano@osler.com'; Deborah Langelaan
Cc: 'ESmith@osler.com'
Subject: Re: Couple of Items

I had no intention of commenting. As Rocco says we have had a single meeting.

As for MPS, I have no sympathy either. If they want spinning turbines in K-W ... Let them work 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: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: Friday, January 21, 2011 10:06 AM
To: Deborah Langelaan; Michael Killeavy
Cc: Smith, Elliot <ESmith@osler.com>
Subject: RE: Couple of Items

I don't think that we should comment on this chronology. What is the purpose of this? It certainly does nothing to help our cause. If TCE wants to create a chronology then let them do so. We have not had any direct dealing with MPS other than JoAnne's meeting this past Wednesday, nor do we want to be seen as blessing anything they have been doing with MPS. Furthermore, in light of Terri's "melt-down" during yesterday's meeting when she tried to make us out to be overly aggressive toward these poor guys at MPS who have gone out of their way to be helpful...

I would suggest responding to John saying that the OPA has no comment to make in respect of the chronology, but it is important to we do respond so that he does not take our silence as somehow tacitly agreeing to anything in this chronology.

Thanks, Rocco

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

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Wednesday, January 19, 2011 8:41 AM
To: Michael Killeavy; Sebastiano, Rocco
Cc: Smith, Elliot
Subject: FW: Couple of Items

Gentlemen;

Please see John's comments below. It would be appreciated if you would review the attached chronology TCE has drafted and provide me with your comments, if any.

Rocco - with respect to John's comment regarding feedback on the technical requirements, we provided him with a couple of follow-up questions yesterday and I will forward them to you under separate cover.

Thanks,
Deb

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

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: January 18, 2011 5:57 PM
To: Deborah Langelaan
Cc: Terry Bennett; Terri Steeves; Geoff Murray; John Cashin
Subject: RE: Couple of Items

Deb,

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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 21, 2011 12:54 PM
To: Michael Killeavy; 'Rocco Sebastiano (rsebastiano@osler.com)'
Subject: TCE - GT Indemnity Agreement

Fellas;

In spite of the OPA advising TCE yesterday that it cannot provide it with an indemnification for the gas turbines this morning they have suggested that TCE commence the crafting of such a document. Their rationale is that it is their perspective that the Implementation Agreement will not be finalized by next Friday and therefore require indemnification by the OPA. If TCE would provide the OPA with the draft IA we could start negotiations on it and reduce the probability of not meeting next Friday's deadline.

Thoughts?

Deb

Deborah Langelaan | Manager, Natural Gas Projects | OPA |
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Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: January 21, 2011 1:06 PM
To: Deborah Langelaan; Michael Killeavy
Cc: Smith, Elliot
Subject: Re: TCE - GT Indemnity Agreement

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Thanks, Rocco

From: Deborah Langelaan [<mailto:Deborah.Langelaan@powerauthority.on.ca>]
Sent: Friday, January 21, 2011 12:54 PM
To: Michael Killeavy <Michael.Killeavy@powerauthority.on.ca>; Sebastiano, Rocco
Subject: TCE - GT Indemnity Agreement

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 21, 2011 1:11 PM
To: Deborah Langelaan; 'RSebastiano@osler.com'
Subject: Re: TCE - GT Indemnity Agreement

Entering into an agreement that we have no power to make affords TCE little protection. I'm not sure where this is coming from but since Geoff is new and raised it yesterday, it's likely his idea.

Rocco and will discuss. I had thought that David Lever et al had done an analysis of the OPA's powers to enter into contracts. Have we seen this yet?

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Michael.killeavy@powerauthority.on.ca

From: Deborah Langelaan
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Aleksandar Kojic

From: Michael Killeavy
Sent: January 21, 2011 1:13 PM
To: 'RSebastiano@osler.com'; Deborah Langelaan
Cc: 'ESmith@osler.com'
Subject: Re: TCE - GT Indemnity Agreement

Agreed. This is a silly approach to take. An agreement we can't legally enter into is not the way to get cover.

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416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Sebastiano, Rocco [<mailto:RSebastiano@osler.com>]
Sent: Friday, January 21, 2011 01:06 PM
To: Deborah Langelaan; Michael Killeavy
Cc: Smith, Elliot <ESmith@osler.com>
Subject: Re: TCE - GT Indemnity Agreement

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Thanks, Rocco

From: Deborah Langelaan [<mailto:Deborah.Langelaan@powerauthority.on.ca>]
Sent: Friday, January 21, 2011 12:54 PM
To: Michael Killeavy <Michael.Killeavy@powerauthority.on.ca>; Sebastiano, Rocco
Subject: TCE - GT Indemnity Agreement

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 21, 2011 1:21 PM
To: Susan Kennedy
Cc: Deborah Langelaan
Subject: Fw: TCE - GT Indemnity Agreement

Susan,

Your analysis of the OPA's powers to contract haven't changed, have they? TCE is again asking us for an indemnity to cover the turbine cancellation fees. I believe you and Mike had concluded that the OPA didn't have the statutory authority to provide any such indemnity, with or without a directive. Is this still correct?

Michael

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From: Deborah Langelaan
Sent: Friday, January 21, 2011 12:54 PM
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From: Michael Killeavy
Sent: January 21, 2011 1:22 PM
To: 'RSebastiano@osler.com'; Deborah Langelaan
Cc: 'ESmith@osler.com'
Subject: Re: TCE - GT Indemnity Agreement

Let's make sure that Susan's thinking hasn't changed at all. I've informed her of the latest request and asked if her position is the same.

Michael Killeavy, LL.B., MBA, P.Eng.
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416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Michael Killeavy
Sent: Friday, January 21, 2011 01:12 PM
To: 'RSebastiano@osler.com' <RSebastiano@osler.com>; Deborah Langelaan
Cc: 'ESmith@osler.com' <ESmith@osler.com>
Subject: Re: TCE - GT Indemnity Agreement

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From: Sebastiano, Rocco [<mailto:RSebastiano@osler.com>]
Sent: Friday, January 21, 2011 01:06 PM
To: Deborah Langelaan; Michael Killeavy
Cc: Smith, Elliot <ESmith@osler.com>
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To: Michael Killeavy <Michael.Killeavy@powerauthority.on.ca>; Sebastiano, Rocco
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From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: January 21, 2011 1:29 PM
To: Michael Killeavy; Deborah Langelaan
Cc: Smith, Elliot; Susan Kennedy
Subject: Re: TCE - GT Indemnity Agreement

Michael, I discussed this with Lever before Christmas and he said that their legal analysis was not as definitive as what we stated to TCE about the limitations on the OPA's statutory authority to sign the GT indemnity agreement they drafted, either with or without a Minister's directive. He indicated that there was an argument that the OPA could do this under the authority of a Minister's directive. I then pushed him to state whether he was prepared to give an unqualified legal opinion to this effect to the OPA and TCE and then he started to back peddle... We then agreed to disagree and focus on reaching an agreement on the reliance letter instead.

Regards, Rocco

From: Michael Killeavy [<mailto:Michael.Killeavy@powerauthority.on.ca>]
Sent: Friday, January 21, 2011 01:10 PM
To: Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>; Sebastiano, Rocco
Subject: Re: TCE - GT Indemnity Agreement

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Aleksandar Kojic

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Sent: January 21, 2011 1:31 PM
To: 'RSebastiano@osler.com'; Deborah Langelaan
Cc: 'ESmith@osler.com'; Susan Kennedy
Subject: Re: TCE - GT Indemnity Agreement

I remember this. This has to be Geoff's idea.

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From: Michael Killeavy [<mailto:Michael.Killeavy@powerauthority.on.ca>]
Sent: Friday, January 21, 2011 01:10 PM
To: Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>; Sebastiano, Rocco
Subject: Re: TCE - GT Indemnity Agreement

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Director, Contract Management

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Aleksandar Kojic

From: Susan Kennedy
Sent: January 21, 2011 1:50 PM
To: Michael Killeavy; 'RSebastiano@osler.com'; Deborah Langelaan
Cc: 'ESmith@osler.com'
Subject: RE: TCE - GT Indemnity Agreement

This is starting to feel like "Groundhog Day" ...

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Michael Killeavy
Sent: January 21, 2011 1:31 PM
To: 'RSebastiano@osler.com'; Deborah Langelaan
Cc: 'ESmith@osler.com'; Susan Kennedy
Subject: Re: TCE - GT Indemnity Agreement

I remember this. This has to be Geoff's idea.

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, January 21, 2011 01:29 PM
To: Michael Killeavy; Deborah Langelaan
Cc: Smith, Elliot <ESmith@osler.com>; Susan Kennedy
Subject: Re: TCE - GT Indemnity Agreement

Michael, I discussed this with Lever before Christmas and he said that their legal analysis was not as definitive as what we stated to TCE about the limitations on the OPA's statutory authority to sign the GT indemnity agreement they drafted, either with or without a Minister's directive. He indicated that there was an argument that the OPA could do this under the authority of a Minister's directive. I then pushed him to state whether he was prepared to give an unqualified legal opinion to this effect to the OPA and TCE and then he started to back peddle... We then agreed to disagree and focus on reaching an agreement on the reliance letter instead.

Regards, Rocco

From: Michael Killeavy [<mailto:Michael.Killeavy@powerauthority.on.ca>]
Sent: Friday, January 21, 2011 01:10 PM
To: Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>; Sebastiano, Rocco

Subject: Re: TCE - GT Indemnity Agreement

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From: Deborah Langelaan
Sent: Friday, January 21, 2011 12:54 PM
To: Michael Killeavy; Rocco Sebastiano (rsebastiano@osler.com) <rsebastiano@osler.com>
Subject: TCE - GT Indemnity Agreement

Fellas;

In spite of the OPA advising TCE yesterday that it cannot provide it with an indemnification for the gas turbines this morning they have suggested that TCE commence the crafting of such a document. Their rationale is that it is their perspective that the Implementation Agreement will not be finalized by next Friday and therefore require indemnification by the OPA. If TCE would provide the OPA with the draft IA we could start negotiations on it and reduce the probability of not meeting next Friday's deadline.

Thoughts?

Deb

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 21, 2011 1:57 PM
To: Susan Kennedy; 'RSebastiano@osler.com'; Deborah Langelaan
Cc: 'ESmith@osler.com'
Subject: Re: TCE - GT Indemnity Agreement

Yes.

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Subject: RE: TCE - GT Indemnity Agreement

This is starting to feel like "Groundhog Day" ...

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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From: Michael Killeavy
Sent: January 21, 2011 3:55 PM
To: Susan Kennedy; Michael Lyle; JoAnne Butler; Deborah Langelaan
Cc: 'RSebastiano@osler.com'
Subject: Re: Revised draft KWC directive

Thank you.

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It was articulated as “nothing about costs”.

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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 21, 2011 4:18 PM
To: 'John Mikkelsen'
Cc: Michael Killeavy
Subject: GT Indemnification Agreement

John;

I acknowledge receipt of your voice message from this morning suggesting that TCE commence the crafting of a GT indemnity agreement in the event we are unable to finalize the Implementation Agreement by January 28, 2011. As mentioned during yesterday's meeting TCE's request is outside of the OPA's statutory authority and therefore we are unable to provide you with the requested indemnity. The OPA respectfully requests that TCE provide it with the draft Implementation Agreement as soon as possible so we can work toward meeting next Friday's deadline.

Kind Regards,
Deb

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From: Susan Kennedy
Sent: January 21, 2011 4:57 PM
To: Michael Killeavy; Michael Lyle; JoAnne Butler; Deborah Langelaan
Cc: 'RSebastiano@osler.com'
Subject: RE: Revised draft KWC directive
Attachments: Blackline.docx

This time with attachment – apologies.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Susan Kennedy
Sent: January 21, 2011 3:51 PM
To: Susan Kennedy; Michael Killeavy; Michael Lyle; JoAnne Butler; Deborah Langelaan
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Subject: RE: Revised draft KWC directive

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or

“In light of the foregoing, the Ministry of Energy has concluded that it is prudent to negotiate a contract with TransCanada for the KWC Project in lieu of the Oakville Generating Station. The Ministry of Energy has had discussions with TransCanada regarding such a project.”

It was articulated as “nothing about costs”.

In light of this, I’ve changed the language somewhat to hopefully give us the latitude we need to factor in SWGTA termination costs in the KWC negotiations. Please see attached draft.

December ■, 2010

January ■, 2011

Mr. Colin Anderson ~~Andersen~~
Chief Executive Officer
Ontario Power Authority
Suite 1600
120 Adelaide Street West
Toronto, ON M5H 1T1

Dear Mr. Anderson ~~Andersen~~,

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 the 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 ~~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 gas-fired 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 Station no longer necessary.

Procurement of Kitchener-Waterloo-Cambridge Area New Supply

In light of the foregoing, the Ministry of Energy has concluded that it is prudent to negotiate a contract with TransCanada for the KWC Project in lieu of the Oakville Generating Station. The Ministry of Energy has 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:

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- a) negotiating and executing an implementation agreement which would ~~may~~, among other things, ~~provide~~ require that the OPA ~~indemnify~~ provide TransCanada with certain interim financial guarantees or recoverable assistance pending the completion of a final contract with respect to certain costs that TransCanada must incur for work on the project during the course of the negotiations, but before the contract is executed, if an in-service date of the [spring of 2014] is to be met; and
- b) concluding and executing a definitive contract with TransCanada by [June 30, 2011], which will address the reliability needs described above.

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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) ~~in the costs reasonably incurred by TransCanada with respect to~~ context of the mutual termination of the contract for the Oakville Generating Station, in assessing the appropriate economic value of the contract for 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. In such event, it is understood that the OPA may seek to recover its costs, if any, relating to the implementation agreement by using its statutory authority for cost recovery.

I further direct that the 2008 Direction is hereby revoked.

This direction shall be effective and binding as of the date hereof.

Comment [OPA1]: Consider whether this statement should be deleted. OPA is considering a strategy whereby the OPA/Province provides some sort of assistance on permitting risk in exchange for a reduction in the NRR. This statement may inadvertently prevent use of such a strategy. In addition, this statement is not actually correct for all electricity generation projects procured by the OPA (e.g. legal exemptions granted to YFC and PEC). OPA understands that there is some possibility of facilitative regulation for KWC project and this statement could be limiting.

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1
Brad Duguid
Minister of Energy

Aleksandar Kojic

From: Michael Killeavy
Sent: January 21, 2011 4:59 PM
To: Susan Kennedy
Subject: Re: Revised draft KWC directive

It always helps

Michael Killeavy, LL.B., MBA, P.Eng.
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Ontario Power Authority
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From: Susan Kennedy
Sent: Friday, January 21, 2011 04:57 PM
To: Michael Killeavy; Michael Lyle; JoAnne Butler; Deborah Langelaan
Cc: 'RSebastiano@osler.com' <RSebastiano@osler.com>
Subject: RE: Revised draft KWC directive

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Director, Corporate/Commercial Law Group

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Sent: January 21, 2011 3:51 PM
To: Susan Kennedy; Michael Killeavy; Michael Lyle; JoAnne Butler; Deborah Langelaan
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Cc: 'ESmith@osler.com'
Subject: Re: Revised draft KWC directive

We need the language in there that protects us. If necessary, we take it to higher levels.

We can catch up on Monday.

JCB

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Sent: Friday, January 21, 2011 05:27 PM
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Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Susan Kennedy
Sent: January 20, 2011 4:41 PM
To: Michael Killeavy; Michael Lyle; JoAnne Butler; Deborah Langelaan
Subject: Revised draft KWC directive

I've been going back and forth with the Ministry on a draft MEI directive. Latest from Ministry Legal is that MO is not amenable [at all] to the following paragraph(s):

"In negotiating this contract, it is anticipated that the OPA will have regard to (i) a reasonable balancing of risk and reward for TCE, 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]."

or

"In light of the foregoing, the Ministry of Energy has concluded that it is prudent to negotiate a contract with TransCanada for the KWC Project in lieu of the Oakville Generating Station. The Ministry of Energy has had discussions with TransCanada regarding such a project."

It was articulated as "nothing about costs".

In light of this, I've changed the language somewhat to hopefully give us the latitude we need to factor in SWGTA termination costs in the KWC negotiations. Please see attached draft.

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Aleksandar Kojic

From: John Mikkelsen [john_mikkelsen@transcanada.com]
Sent: January 21, 2011 5:40 PM
To: Michael Killeavy; Deborah Langelaan
Cc: John Cashin; Terry Bennett; Terri Steeves; Geoff Murray
Subject: FW: [REPLY about PRICE]Re: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Deborah,

Further to your request for additional price resolution on the budgetary proposal from MPS Canada, Inc. please find following response 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

From: KNamba@mpshq.com [mailto:KNamba@mpshq.com]
Sent: Friday, January 21, 2011 5:11 PM
To: Terri Steeves
Cc: George.Papaioanou@mpshq.com; John Mikkelsen; jpm-tec@comcast.net; KNamba@mpshq.com; Mark Brache; Phil.Prigge@mpshq.com; Bill Small; newsomb@osc.mpsHQ.com; sueki@mpshq.com; wunderg@osc.mpsHQ.com; KNamba@mpshq.com
Subject: [REPLY about PRICE]Re: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Terri-san,

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[REPLY] US\$ 15 Million

(c) additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works); and

[REPLY] US\$ 15 Million

(d) conversion of the M501GAC to M501GAS Fast Start gas turbine;

[REPLY] US\$ 3 Million

Best regards,

Namba (MPS)

Terri Steeves <terri_steeves@transcanada.com>

2011/01/10 11:18

To "Prigge, Phil" <Phil.Prigge@mpshq.com>, <KNamba@mpshq.com>

cc "Papaioanou, George" <George.Papaioanou@mpshq.com>, Bill Small <william_small@transcanada.com>, Mark Brache <mark_brache@transcanada.com>, <jpm-tec@comcast.net>, John Mikkelsen <john_mikkelsen@transcanada.com>, Bill Small <william_small@transcanada.com>

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If you have any questions, please let me know, otherwise we can discuss tomorrow.

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

Sent: Friday, January 07, 2011 3:49 PM

To: John Mikkelsen

Cc: Deborah Langelaan; Susan Kennedy; Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot; Safouh Soufi

Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information

Importance: High

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Sent: January 21, 2011 5:44 PM
To: 'RSebastiano@osler.com'; 'ESmith@osler.com'
Cc: Deborah Langelaan
Subject: Fw: [REPLY about PRICE]Re: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

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Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
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416-969-6071 (fax)
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2011/01/10 11:18

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Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: January 21, 2011 5:59 PM
To: Michael Killeavy; Smith, Elliot
Cc: Deborah Langelaan; Ivanoff, Paul
Subject: RE: [REPLY about PRICE]Re: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

They want a 10% increase to the total contract price because of the delay... and Terri thinks they are being so nice to us!

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Cc: Deborah Langelaan; 'PIvanoff@osler.com'
Subject: Re: [REPLY about PRICE]Re: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Yes ... This is just dumb. There is no justification for an increase in the fee of \$33M. TCE is doing zero due diligence on its vendor costs. This is no way to start a negotiation.

Let's regroup on Monday.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
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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, January 21, 2011 05:58 PM
To: Michael Killeavy; Smith, Elliot <ESmith@osler.com>
Cc: Deborah Langelaan; Ivanoff, Paul <PIvanoff@osler.com>
Subject: RE: [REPLY about PRICE]Re: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

They want a 10% increase to the total contract price because of the delay... and Terri thinks they are being so nice to us!

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]
Sent: Friday, January 21, 2011 5:44 PM
To: Sebastiano, Rocco; Smith, Elliot
Cc: Deborah Langelaan
Subject: Fw: [REPLY about PRICE]Re: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

As we suspected Please see below.

Michael Killeavy, LL.B., MBA, P.Eng.
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416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Friday, January 21, 2011 05:40 PM
To: Michael Killeavy; Deborah Langelaan
Cc: John Cashin <john_cashin@transcanada.com>; Terry Bennett <terry_bennett@transcanada.com>; Terri Steeves <terri_steeves@transcanada.com>; Geoff Murray <geoff_murray@transcanada.com>
Subject: FW: [REPLY about PRICE]Re: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Deborah,

Further to your request for additional price resolution on the budgetary proposal from MPS Canada, Inc. please find following response 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

From: KNamba@mpshq.com [mailto:KNamba@mpshq.com]
Sent: Friday, January 21, 2011 5:11 PM
To: Terri Steeves
Cc: George.Papaioanou@mpshq.com; John Mikkelsen; jpm-tec@comcast.net; KNamba@mpshq.com; Mark Brache; Phil.Prigge@mpshq.com; Bill Small; newsomb@osc.mpsHQ.com; sueki@mpshq.com; wunderg@osc.mpsHQ.com; KNamba@mpshq.com
Subject: [REPLY about PRICE]Re: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Terri-san,

As for your question No.1, please see our reply as follows.
As agreed with you, buckets (a) and (b) are combined.

We hope this information will help you to make a decision by January 28 (Fri).

1. Price – We have been given an aggregate price for a number of different items. It seems that the price stated in the December 2010 Fast Start Proposal ("the Proposal") includes some cost provisions related to project schedule change/delay/suspension.

Could you please itemize:

(a) suspension from October 7, 2010 to 31 December 2010 and (b) delayed delivery;

[REPLY] US\$ 15 Million

(c) additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works); and

[REPLY] US\$ 15 Million

(d) conversion of the M501GAC to M501GAS Fast Start gas turbine;

[REPLY] US\$ 3 Million

Best regards,

Namba (MPS)

Terri Steeves <terri_steeves@transcanada.com>

2011/01/10 11:18

To "Prigge, Phil" <Phil.Prigge@mpshq.com>, <KNamba@mpshq.com>

cc "Papaioanou, George" <George.Papaioanou@mpshq.com>, Bill Small <william_small@transcanada.com>, Mark Brache <mark_brache@transcanada.com>, John Mikkelsen <john_mikkelsen@transcanada.com>, Bi Small <william_small@transcanada.com>

Subject FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Phil / Namba-san,

Please find attached the request for additional information from the OPA. As I suspected, the OPA is looking for a more detailed breakdown of the costs. I believe the OPA needs to be able to reconcile the estimate and demonstrate to their decision makers that the cost is justified. Without the breakdown, they are having difficulty with their justification. I believe the breakdown would demonstrate further that the fast start conversion is very economic (versus going simple cycle with the original GAC machine).

If you have any questions, please let me know; otherwise we can discuss tomorrow.

Thank you,
Terri

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

Sent: Friday, January 07, 2011 3:49 PM

To: John Mikkelsen

Cc: Deborah Langelaan; Susan Kennedy; Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot; Safouh Soufi

Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Importance: High

John,

We've the following questions and comments:

1. Price – We have been given an aggregate price for a number of different items. It seems that the price stated in the December 2010 Fast Start Proposal ("the Proposal") includes some cost provisions related to project schedule change/delay/suspension.

Could you please itemize:

(a) suspension from October 7, 2010 to 31 December 2010;

(b) delayed delivery;

(c) additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works); and

(d) conversion of the M501GAC to M501GAS Fast Start gas turbine;

2. Fast Start - The Equipment Supply Agreement ("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. Is this correct?

3. SFC - 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. MPS to confirm if the M501GAC package comes with SFC starting device rated at 4MW as a standard supply from Mitsubishi? If not, what is the standard supply for starting device? The reference to 7MW may indicate 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. Start-up Curve - 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;

1. Purge Credit - MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and needs more clarification;

2. SC v. CC - 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 could provide a start-up curve for the machine described in Appendix I, having SFC of 4MW, operating in Simple Cycle configuration

3. Synchronisation Time - It would appear that 5 minutes to synchronize is used in the original start-up curve whereas the latest curve assumes 1 minute. We would like MPS to confirm this;

5. Additional Technical Information – We would very much like the ramp rates for Simple Cycle operation. Could MPS please provide the machine's (M501GAC) normal and maximum ramp up rates together with the baseload curve for a temperature range from 16 – 100°F? More specifically, we'd like ramp rates for the following cases:

1. To 100% speed no load,
2. To 60% load and;
3. From 60 to 100% load

Thank you,
Michael

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 23, 2011 7:30 PM
To: Deborah Langelaan
Subject: Re: Tomorrow's BOD Meeting

Just a brief update on status. We'll talk with Ben and JoAnne in the morning I think, right? Two decisions need to be made: Emissions limited to 15 ppm and Fast-start proposal. If we have to have 15 ppm then we have to have the fast-start conversion, I think. We can let the BOD know about the Implementation Agreement, TCE desire for an indemnity and our inability to give it, the delay in contacting the City of Cambridge, and the fact that we've mentioned FN.

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416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

From: Deborah Langelaan
Sent: Sunday, January 23, 2011 07:21 PM
To: Michael Killeavy
Subject: Tomorrow's BOD Meeting

Hi Michael;

What is our plan for tomorrow's presentation to the Board?

Deb

Aleksandar Kojic

From: Michael Killeavy
Sent: January 23, 2011 8:12 PM
To: Deborah Langelaan
Subject: RE: Tomorrow's BOD Meeting
Attachments: OGS_BOD_CM_24_Jan_2011.ppt

Deb,

I put together this rough presentation for the BOD tomorrow. It's very much a work in progress. Please have an look at it and comment as you see fit.

Michael

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
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Michael.killeavy@powerauthority.on.ca

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

From: Deborah Langelaan
Sent: Sun 23-Jan-11 7:21 PM
To: Michael Killeavy
Subject: Tomorrow's BOD Meeting

Hi Michael;

What is our plan for tomorrow's presentation to the Board?

Deb



Winding Up of the Oakville Generating Station (OGS) Contract

Board of Directors

January 24, 2011

Privileged and Confidential – Prepared in Contemplation of Litigation

OGS Update

- We have met TCE five times since the last Board update.
- Discussions surrounding the “winding-up” of the Contract have been productive.
- TCE has concluded a settlement agreement with Ford.
- TCE concluded a settlement for legal costs with the Town of Oakville.

Replacement Generation Project

- TCE is leaning towards development of the Boxwood site next to the Toyota plant. Other sites are available, though.
- It is waiting for government authorization to contact the City of Cambridge about the proposed project.
- The delay in contacting the City of Cambridge is becoming a problem, as word is starting to leak out about the replacement project.

Replacement Generation Project

- Tx connection at Boxwood will be longer than 2 km, so Leave to Construction from the OEB will be required. This may take some time to accomplish.
- Another site may alleviate this problem. In any event, we maintain that siting the plant is TCE's responsibility and risk.
- We want a targeted COD of late-Q1 2014.

Implementation Agreement

- TCE indicated that it wants a project implementation agreement to cover its costs for the replacement project in Cambridge (“Implementation Agreement”).
- The Implementation Agreement will set out the approach for developing the final project agreement between TCE and the OPA.
- It will also contain a project budget and TCE wants the OPA to indemnify it for its costs to develop if no agreement is concluded (“break fee”).

Implementation Agreement

- Deadline for execution is 31 January 2011.
- TCE is drafting it based on the agreement used for Portlands Energy Centre (“PEC”).
- We are scheduled to see a first draft of this agreement today.

Ministry Directive

- We are working with the Ministry on the drafting of a Directive to authorize negotiations with TCE for the replacement plant.
- We need this Directive to execute the Implementation Agreement.
- Ministry wants the Directive to be silent on including the financial value of the OGS Contract into any net revenue requirement for the replacement facility.

Turbine Cancellation Indemnity

- TCE still wants the OPA to provide an indemnity to it in the event that the Equipment Supply Agreement (“ESA”) with Mitsubishi is cancelled.
- Our legal advice is that the OPA has no power to provide any such indemnity, even if it were directed to do so by the Minister.
- When this first arose in December, we provided a letter that TCE could rely upon to sue the OPA for the cancellation fee in the event that the ESA is cancelled.

Turbine Cancellation Indemnity

- We very likely will need to do the same thing again.
- We cannot contract for something we don't have the power to do.

Fast Start Conversion

- It has been determined that the replacement 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.

Fast Start Conversion

- 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 and still achieve emissions of 15 ppm Nox.
- 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).
- The conversion of the GTs is only \$3 million.
- Conversion from combined-cycle to simple cycle for a peaking plant is \$15 million.
- MPS has tacked on an additional \$15 million for delayed delivery and suspension costs.

Price of Fast Start Conversion

- The incremental price for GT fast start conversion and simple cycle conversion look reasonable.
- We do not agree on why the delay and suspension costs amount to \$15 million and we will attempt to have this substantiated or excluded from any negotiated NRR or break fee.
- MPS has tacked on an additional \$15 million for delayed delivery and suspension costs.

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.

Next Steps

- Continue discussions with TCE to achieve the following:
 - Agreement to proceed with fast-start conversion proposal for the GTs so that they can be reused;
 - Location of replacement facility;
 - Execution of the Implementation Agreement;
 - Disposition of the Indemnity for Turbine Cancellation;
 - TCE plan for handling First Nations issues.

Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: January 24, 2011 9:43 AM
To: JoAnne Butler; Susan Kennedy; Michael Killeavy; Michael Lyle; Deborah Langelaan
Cc: Smith, Elliot
Subject: RE: Revised draft KWC directive

Susan,

A few comments on the revised draft Directive,

- In the first paragraph under "Background", consider deleting "an additional". Although this is an additional gas plant in Ontario, it is not "an additional gas plant in Kitchener-Waterloo-Cambridge" as far as I am aware. Also, in the next sentence, add a space between the words in "the KWC Area"
- Under the heading "Direction", in the paragraph starting "As with all electricity generation projects...", if this is to remain in the directive then consider adding the word "applicable" before "local, municipal..." and delete the word "local" as the word does not have a legal meaning given that "municipal" is already there. So, it would read "undergo all applicable municipal and environmental approvals..." This way, if the project is exempted from certain municipal approvals (as in the case of PEC and YEC), then they would not be applicable.
- Regarding the sentence "In negotiating...", I think that the revised words circulated on Friday, do not provide the OPA with the comfort it needs to include costs from OGS, but at least there is some reference to it. Deleting the sentence altogether is not the answer, but I can't think of something to replace it with without a reference back to OGS. I agree with JoAnne, that we need to do whatever we can to insist that the language remain in the directive otherwise we'll either be stuck with a law suit on our hands by TCE or alternatively, the OPA may be stuck with a challenge from at the OEB if it includes OGS costs in the KWC contract without a directive to do so.

Thanks, Rocco

From: JoAnne Butler [mailto:joanne.butler@powerauthority.on.ca]
Sent: Friday, January 21, 2011 5:33 PM
To: Sebastiano, Rocco; Susan Kennedy; Michael Killeavy; Michael Lyle; Deborah Langelaan
Cc: Smith, Elliot
Subject: Re: Revised draft KWC directive

We need the language in there that protects us. If necessary, we take it to higher levels.

We can catch up on Monday.

JCB

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: Friday, January 21, 2011 05:27 PM
To: Susan Kennedy; Michael Killeavy; Michael Lyle; JoAnne Butler; Deborah Langelaan
Cc: Smith, Elliot <ESmith@osler.com>

Subject: RE: Revised draft KWC directive

Susan, I'll give this some thought over the weekend, but at first blush, there isn't any easy way to delete that key sentence and replace it with something which gives the OPA the necessary negotiating parameters...

From: Susan Kennedy [mailto:Susan.Kennedy@powerauthority.on.ca]
Sent: Friday, January 21, 2011 4:57 PM
To: Michael Killeavy; Michael Lyle; JoAnne Butler; Deborah Langelaan
Cc: Sebastiano, Rocco
Subject: RE: Revised draft KWC directive

This time with attachment – apologies.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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From: Susan Kennedy
Sent: January 21, 2011 3:51 PM
To: Susan Kennedy; Michael Killeavy; Michael Lyle; JoAnne Butler; Deborah Langelaan
Cc: 'RSebastiano@osler.com'
Subject: RE: Revised draft KWC directive

Further to the below, I've had a request from MEI to get them something as soon as possible. I've followed up and said "today if I can" and "Monday at the latest". With a view to meeting that timeline, I am putting out a call for comments/inputs/suggestions.

In case it is helpful, I've attached a blackline which compares the version I circulated per the below email to the version MEI sent over (i.e. the version we've been editing from).

As some additional colour, I note that I have been told that the MO does not even want the following language in the directive, "In negotiating this contract, it is anticipated that the OPA will have regard to a reasonable balance of risk and reward for TransCanada ..." When I was drafting I wasn't feeling creative enough to do without this but if someone can figure out a way to eliminate it (while still giving us appropriate negotiating parameters), I'd welcome the suggestion.

In order to meet the Monday deadline (I expect if I don't get it to them by noon, there will be some panic), I'd appreciate receiving comments by 10AM on Monday.

Many thanks,

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Susan Kennedy
Sent: January 20, 2011 4:41 PM
To: Michael Killeavy; Michael Lyle; JoAnne Butler; Deborah Langelaan
Subject: Revised draft KWC directive

I've been going back and forth with the Ministry on a draft MEI directive. Latest from Ministry Legal is that MO is not amenable [at all] to the following paragraph(s):

"In negotiating this contract, it is anticipated that the OPA will have regard to (i) a reasonable balancing of risk and reward for TCE, 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]."

or

"In light of the foregoing, the Ministry of Energy has concluded that it is prudent to negotiate a contract with TransCanada for the KWC Project in lieu of the Oakville Generating Station. The Ministry of Energy has had discussions with TransCanada regarding such a project."

It was articulated as "nothing about costs".

In light of this, I've changed the language somewhat to hopefully give us the latitude we need to factor in SWGTA termination costs in the KWC negotiations. Please see attached draft.

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Aleksandar Kojic

From: Susan Kennedy
Sent: January 24, 2011 10:17 AM
To: Michael Killeavy; JoAnne Butler; 'Sebastiano, Rocco'
Cc: Michael Lyle
Subject: Directive
Attachments: RE: Directive Blackline; Directive Blackline; Draft Directive

Importance: High

Attached, fyi, is what I just sent to MEI legal – sorry for the jam but Craig MacLennan gave MEI legal 30 minutes to get him a draft, so we were very much in rush mode.

Based on input from Rocco, I reverted to the earlier language regarding taking into account “costs or damages” (on the theory that the most conservative ask was the best way to go).

Having said that, I have been told by MEI legal that the MO is dead set against any reference to costs, so we need to be prepared to deal with being told they won't do it.

On a related note, could one of Michael or Deb let TCE know that we are sharing the October 7 letter with MEI, I need to get it over to them ASAP in order to support the ask for the cost reference(s).

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

Aleksandar Kojic

From: Susan Kennedy
Sent: January 24, 2011 10:12 AM
To: 'Calwell, Carolyn (MEI)'
Subject: RE: Directive Blackline

Further to the below, I could not find language that got us comfortable that we could factor in Oakville cost in negotiating for a Cambridge plant unless directed to do so. My attempts to include language along the lines of "taking into account the context of the negotiations" just didn't get us there from a comfort perspective.

I have confirmed I can send you the October letter. We just need to give TCE prior notice that we are doing so.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Susan Kennedy
Sent: January 24, 2011 10:10 AM
To: 'Calwell, Carolyn (MEI)'
Subject: Directive Blackline

Attached.

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

Aleksandar Kojic

From: Susan Kennedy
Sent: January 24, 2011 10:06 AM
To: 'Calwell, Carolyn (MEI)'
Subject: Draft Directive
Attachments: KWC TransCanada Direction 20 12 2010 - OPA Comments_110124.docx

I'll follow with a blackline.

Susan H. Kennedy
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Ontario Power Authority
T: 416-969-6054
F: 416-969-6383
E: susan.kennedy@powerauthority.on.ca

January 11, 2011

Mr. Colin Andersen
Chief Executive Officer
Ontario Power Authority
Suite 1600
120 Adelaide Street West
Toronto, ON M5H 1T1

Dear Mr. Andersen,

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 the need for a 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 gas-fired 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, the Ministry of Energy has concluded that it is prudent to negotiate a contract with TransCanada for the KWC Project in lieu of the Oakville Generating Station. The Ministry of Energy has 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 may, among other things, require that the OPA provide TransCanada with certain interim financial guarantees or recoverable assistance pending the completion of a final contract with respect to certain costs that TransCanada must incur for work on the project during the course of the negotiations, but before the contract is executed, if an in-service date of the [spring of 2014] is to be met; and
- 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) certain costs or damages associated with the mutual termination of the contract for the Oakville Generating Station in assessing the appropriate economic value of the contract for 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 [applicable] 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. In such event, it is understood that the OPA may seek to recover its costs, if any, relating to the implementation agreement by using its statutory authority for cost recovery.

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

Comment [SHK1]: As per October discussions and October 7 letter, this was agreed to with TCE. Language is needed if this is to be considered as part of new plant pricing.

Comment [SHK2]: Under the heading "Direction" in the paragraph starting "As with all electricity generation projects..." if this is to remain in the directive then consider adding the word "applicable" before "local municipal" and delete the word "local" as the word does not have a local meaning given that "municipal" is already there. So it would read "undergo all applicable municipal and environmental approvals". This way if the project is exempted from certain municipal approvals (as in the case of PEC and YEC) then they would not be applicable.

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Aleksandar Kojic

From: Susan Kennedy
Sent: January 24, 2011 10:17 AM
To: Michael Killeavy; JoAnne Butler; 'Sebastiano, Rocco'
Cc: Michael Lyle
Subject: Directive
Attachments: RE: Directive Blackline; Directive Blackline; Draft Directive

Importance: High

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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

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From: Susan Kennedy
Sent: January 24, 2011 10:12 AM
To: 'Calwell, Carolyn (MEI)'
Subject: RE: Directive Blackline

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I have confirmed I can send you the October letter. We just need to give TCE prior notice that we are doing so.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Susan Kennedy
Sent: January 24, 2011 10:10 AM
To: 'Calwell, Carolyn (MEI)'
Subject: Directive Blackline

Attached.

Susan H. Kennedy
Director, Corporate/Commercial Law Group
Ontario Power Authority
T: 416-969-6054
F: 416-969-6383
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Aleksandar Kojic

From: Susan Kennedy
Sent: January 24, 2011 10:06 AM
To: 'Calwell, Carolyn (MEI)'
Subject: Draft Directive
Attachments: KWC TransCanada Direction 20 12 2010 - OPA Comments_110124.docx

I'll follow with a blackline.

Susan H. Kennedy
Director, Corporate/Commercial Law Group
Ontario Power Authority
T: 416-969-6054
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January ■, 2011

Mr. Colin Andersen
Chief Executive Officer
Ontario Power Authority
Suite 1600
120 Adelaide Street West
Toronto, ON M5H 1T1

Dear Mr. Andersen,

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 the need for a 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 gas-fired 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, the Ministry of Energy has concluded that it is prudent to negotiate a contract with TransCanada for the KWC Project in lieu of the Oakville Generating Station. The Ministry of Energy has 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 may, among other things, require that the OPA provide TransCanada with certain interim financial guarantees or recoverable assistance pending the completion of a final contract with respect to certain costs that TransCanada must incur for work on the project during the course of the negotiations, but before the contract is executed, if an in-service date of the [spring of 2014] is to be met; and
- 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) certain costs or damages associated with the mutual termination of the contract for the Oakville Generating Station in assessing the appropriate economic value of the contract for the KWC Project. It is further expected that the contract provide for an in service date of no later than [spring of 2014].

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Sent: January 24, 2011 10:21 AM
To: Deborah Langelaan
Subject: FW: Directive
Attachments: RE: Directive Blackline; Directive Blackline; Draft Directive

Importance: High

Deb,

Can you please send John an email letting him know that the 7 October 2010 letter will be shared with the Ministry.

Michael

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide Street West, Suite 1600
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January ■, 2011

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Chief Executive Officer
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Suite 1600
120 Adelaide Street West
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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 24, 2011 10:27 AM
To: Michael Killeavy
Subject: RE: Directive

Will do.

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: January 24, 2011 10:21 AM
To: Deborah Langelaan
Subject: FW: Directive
Importance: High

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Can you please send John an email letting him know that the 7 October 2010 letter will be shared with the Ministry.

Michael

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide Street West, Suite 1600
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Cc: Michael Lyle
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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 24, 2011 12:39 PM
To: Michael Killeavy; 'Rocco Sebastiano (rsebastiano@osler.com)'; 'Elliot Smith (esmith@osler.com)'
Subject: Implementation Agreement

TCE has indicated that it will provide the OPA with the draft Implementation Agreement mid afternoon today.

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 |

Aleksandar Kojic

From: Smith, Elliot [ESmith@osler.com]
Sent: January 24, 2011 12:41 PM
To: Michael Killeavy; Deborah Langelaan; Sebastiano, Rocco
Subject: RE: Implementation Agreement

Yes, but you're not allowed to keep any copies of it.

From: Michael Killeavy [<mailto:Michael.Killeavy@powerauthority.on.ca>]
Sent: Monday, January 24, 2011 12:40 PM
To: Deborah Langelaan; Sebastiano, Rocco; Smith, Elliot
Subject: RE: Implementation Agreement

I can hardly wait. Are we expected to sign it back by the end of business today?

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
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Aleksandar Kojic

From: Safouh Soufi [safouh@smsenergy-engineering.com]
Sent: January 24, 2011 12:55 PM
To: Deborah Langelaan; Michael Killeavy
Subject: FW: TransCanada M501F & M501GAC Fast Start Indicative Information

I may refer to this email during our conference call today.

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: November 17, 2010 7:18 AM
To: Amir Shalaby; Michael Killeavy; rsebastiano@osler.com; esmith@osler.com; safouh@smsenergy-engineering.com
Cc: JoAnne Butler; Ben Chin
Subject: Fw: TransCanada M501F & M501GAC Fast Start Indicative Information

TCE is inquiring into OPA's response to MPS's offer to extend suspension of contract until end of year. TCE is meeting with MPS this week (I think tomorrow) to advise decision.

During Monday's meeting we were in agreement to extend the deadline - how should we communicate this to TCE?

Deb

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

From: Terry Bennett <terry_bennett@transcanada.com>
To: Deborah Langelaan
Sent: Tue Nov 16 18:52:07 2010
Subject: Fw: TransCanada M501F & M501GAC Fast Start Indicative Information

Deborah, please see the email chain below in response to your request on fast start costs.

Please pass along to your team as appropriate.

Would you like to schedule a call tomorrow to discuss your response to the MPA extension offer?

Regards,
Terry

From: Terri Steeves
Sent: Tuesday, November 16, 2010 04:31 PM
To: Terry Bennett
Subject: FW: TransCanada M501F & M501GAC Fast Start Indicative Information

Please find attached an excerpt from an e-mail from MPS regarding estimated cost for conversion to GAC fast start. Please note the items not included in the estimate. \$20 million may be a more realistic end point.

Thanks,

Terri

From: Prigge, Phil [mailto:Phil.Prigge@mpshq.com]

Sent: Friday, November 05, 2010 9:59 AM

To: Terri Steeves; CHRIS Douglass; Bill Small

Cc: Hasegawa, Koji; Muyama, Akimasa; Koeneke, Carlos; Hiura, Daisuke; McDeed, David; Pyros, George; Ishikura, Kazuki; Yoshida, Minoru; Ueki, Shinichi; Dueck, Robert; Newsom, Bill; Namba, Kotaro; Wunder, Gregory; Prigge, Phil

Subject: TransCanada M501F & M501GAC Fast Start Indicative Information

Dear Terri,

In reply to your request, please see the following.

3. Preliminary price adder to convert from 501GAC to 501GAC Fast

US\$15Million per 2 GTs

[Conditions]

(1) This price adder is based on the same site condition (Oakville generation station).

(2) This price adder is based on the assumption that only if 501GAC is converted to 501GAC Fast right now so that escalation factor etc. for the future when possibly the conversion will be made is not included.

(3) The size of generators may need to be changed due to the size change of SFC. Generator size change price is not included in the above price adder.

(4) Any costs due to the suspension such as storage fee, escalation, payment interest, engineering and administration cost to re-start the project and any modification due to site condition and specification changes are not included in the above price adder.

(5) This price is only preliminary and nonbinding budgetary number with above conditions. Once the detail new project specification (such as new site condition, expected delivery date) is fixed, price must be quoted officially.

Please let me know if you have any questions,

Best regards,

Phil

This is a confidential communication. The information contained in this e-mail message is intended only for the use of the individual or entity to which it is addressed. Information contained herein may be protected from further dissemination or disclosure under applicable laws. If the reader of this transmission is not the intended recipient or the employee or agent responsible for delivering the transmission to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this transmission or its contents is strictly prohibited. If you have received this transmission in error, please notify the e-mail sender. 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.

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 24, 2011 1:21 PM
To: 'Sebastiano, Rocco'; 'Smith, Elliot'
Cc: Deborah Langelaan
Subject: TCE Matter - MPS Suspension and Delayed Delivery Costs ...

Rocco/Elliot,

What does the MPS-TCE ESA say about responsibility and apportionment of suspension and delay costs? A figure of \$15 million was quoted this past Friday. Is the delayed delivery due to the plant cancellation or due to the Force Majeures? Was MPS under suspension on or before 7 October 2010?

Michael

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

From: Deborah Langelaan
Sent: January 24, 2011 1:50 PM
To: 'John Mikkelsen'
Cc: Michael Killeavy
Subject: RE: [REPLY about PRICE] 20110121
Attachments: Fw: TransCanada M501F & M501GAC Fast Start Indicative Information

John;

I have attached an e-mail from Terry Bennett dated November 16, 2010 that contains an excerpt of an e-mail from MPS regarding the estimated cost for conversion from M501GAC to M501GAC Fast start. You will see that MPS has quoted a price of \$15 MM along with a set of conditions that the quote is based upon. The OPA would like to know why the price has changed so dramatically and whether or not the conversion price of \$3MM referenced in your e-mail dated January 21, 2011 are subject to the same set of conditions?

Thanks,
Deb

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

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: January 21, 2011 5:40 PM
To: Michael Killeavy; Deborah Langelaan
Cc: John Cashin; Terry Bennett; Terri Steeves; Geoff Murray
Subject: FW: [REPLY about PRICE] 20110121

Deborah,

Further to your request for additional price resolution on the budgetary proposal from MPS Canada, Inc. please find following response 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

From: KNamba@mpshq.com [mailto:KNamba@mpshq.com]

Sent: Friday, January 21, 2011 5:11 PM

To: Terri Steeves

Cc: George.Papaioanou@mpshq.com; John Mikkelsen; jpm-tec@comcast.net; KNamba@mpshq.com; Mark Brache; Phil.Prigge@mpshq.com; Bill Small; newsomb@osc.mpsqh.com; sueki@mpshq.com; wunderg@osc.mpsqh.com; KNamba@mpshq.com

Subject: [REPLY about PRICE]Re: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Terri-san,

As for your question No.1, please see our reply as follows.

As agreed with you, buckets (a) and (b) are combined.

We hope this information will help you to make a decision by January 28 (Fri).

1. Price – We have been given an aggregate price for a number of different items. It seems that the price stated in the December 2010 Fast Start Proposal ("the Proposal") includes some cost provisions related to project schedule change/delay/suspension.

Could you please itemize:

(a) suspension from October 7, 2010 to 31 December 2010 and (b) delayed delivery;

[REPLY] US\$ 15 Million

(c) additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works); and

[REPLY] US\$ 15 Million

(d) conversion of the M501GAC to M501GAS Fast Start gas turbine;

[REPLY] US\$ 3 Million

Best regards,

Namba (MPS)

Terri Steeves <terri_steeves@transcanada.com>

2011/01/10 11:18

To "Prigge, Phil" <Phil.Prigge@mpshq.com>, <KNamba@mpshq.com>

cc "Papaioanou, George" <George.Papaioanou@mpshq.com>, Bill Small <william_small@transcanada.com>, Mark Brache <mark_brache@transcanada.com>, <jpm-tec@comcast.net>, John Mikkelsen <john_mikkelsen@transcanada.com>, Bill Small <william_small@transcanada.com>

Subject FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Phil / Namba-san,

Please find attached the request for additional information from the OPA. As I suspected, the OPA is looking for a more

detailed breakdown of the costs. I believe the OPA needs to be able to reconcile the estimate and demonstrate to their decision makers that the cost is justified. Without the breakdown, they are having difficulty with their justification. I believe the breakdown would demonstrate further that the fast start conversion is very economic (versus going simple cycle with the original GAC machine).

If you have any questions, please let me know, otherwise we can discuss tomorrow.

Thank you,
Terri

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]
Sent: Friday, January 07, 2011 3:49 PM
To: John Mikkelsen
Cc: Deborah Langelaan; Susan Kennedy; Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot; Safouh Soufi
Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...
Importance: High

John,

We've the following questions and comments:

1. Price – We have been given an aggregate price for a number of different items. It seems that the price stated in the December 2010 Fast Start Proposal ("the Proposal") includes some cost provisions related to project schedule change/delay/suspension.

Could you please itemize:

- (a) suspension from October 7, 2010 to 31 December 2010;
- (b) delayed delivery;
- (c) additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works); and
- (d) conversion of the M501GAC to M501GAS Fast Start gas turbine;

2. Fast Start - The Equipment Supply Agreement ("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. Is this correct?

3. SFC - 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. MPS to confirm if the M501GAC package comes with SFC starting device rated at 4MW as a standard supply from Mitsubishi? If not, what is the standard supply for starting device? The reference to 7MW may indicate 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. Start-up Curve - 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;

1. Purge Credit - MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and needs more clarification;

2. SC v. CC - 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 could provide a start-up curve for the machine described in Appendix I, having SFC of 4MW, operating in Simple Cycle configuration

3. Synchronisation Time - It would appear that 5 minutes to synchronize is used in the original start-up curve whereas the latest curve assumes 1 minute. We would like MPS to confirm this;

5. Additional Technical Information – We would very much like the ramp rates for Simple Cycle operation. Could MPS please provide the machine's (M501GAC) normal and maximum ramp up rates together with the baseload curve for a temperature range from 16 – 100°F? More specifically, we'd like ramp rates for the following cases:

1. To 100% speed no load,
2. To 60% load and;
3. From 60 to 100% load

Thank 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
416-520-9788 (CELL)
416-967-1947 (FAX)

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If you have received this message in error, please notify the sender immediately and delete the original message. Thank you.

Aleksandar Kojic

From: Terry Bennett [terry_bennett@transcanada.com]
Sent: November 16, 2010 6:52 PM
To: Deborah Langelaan
Subject: Fw: TransCanada M501F & M501GAC Fast Start Indicative Information

Deborah, please see the email chain below in response to your request on fast start costs.

Please pass along to your team as appropriate.

Would you like to schedule a call tomorrow to discuss your response to the MPA extension offer?

Regards,
Terry

From: Terri Steeves
Sent: Tuesday, November 16, 2010 04:31 PM
To: Terry Bennett
Subject: FW: TransCanada M501F & M501GAC Fast Start Indicative Information

Please find attached an excerpt from an e-mail from MPS regarding estimated cost for conversion to GAC fast start. Please note the items not included in the estimate. \$20 million may be a more realistic end point.

Thanks,
Terri

From: Prigge, Phil [mailto:Phil.Prigge@mpshq.com]
Sent: Friday, November 05, 2010 9:59 AM
To: Terri Steeves; CHRIS Douglass; Bill Small
Cc: Hasegawa, Koji; Muyama, Akimasa; Koenke, Carlos; Hiura, Daisuke; McDeed, David; Pyros, George; Ishikura, Kazuki; Yoshida, Minoru; Ueki, Shinichi; Dueck, Robert; Newsom, Bill; Namba, Kotaro; Wunder, Gregory; Prigge, Phil
Subject: TransCanada M501F & M501GAC Fast Start Indicative Information

Dear Terri,

In reply to your request, please see the following.

3. Preliminary price adder to convert from 501GAC to 501GAC Fast

US\$15Million per 2 GTs

[Conditions]

- (1) This price adder is based on the same site condition (Oakville generation station).
- (2) This price adder is based on the assumption that only if 501GAC is converted to 501GAC Fast right now so that escalation factor etc. for the future when possibly the conversion will be made is not included.
- (3) The size of generators may need to be changed due to the size change of SFC. Generator size change price is not included in the above price adder.
- (4) Any costs due to the suspension such as storage fee, escalation, payment interest, engineering and administration cost to re-start the project and any modification due to site condition and specification changes are not included in the above price adder.

(5) This price is only preliminary and nonbinding budgetary number with above conditions. Once the detail new project specification (such as new site condition, expected delivery date) is fixed, price must be quoted officially.

Please let me know if you have any questions,

Best regards,

Phil

This is a confidential communication. The information contained in this e-mail message is intended only for the use of the individual or entity to which it is addressed. Information contained herein may be protected from further dissemination or disclosure under applicable laws. If the reader of this transmission is not the intended recipient or the employee or agent responsible for delivering the transmission to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this transmission or its contents is strictly prohibited. If you have received this transmission in error, please notify the e-mail sender. Thank you.

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Aleksandar Kojic

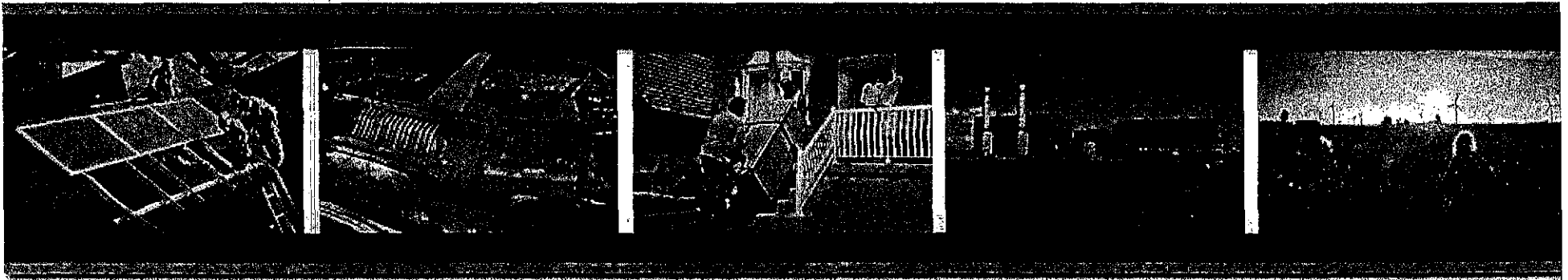
From: Michael Killeavy
Sent: January 24, 2011 2:30 PM
To: Deborah Langelaan
Subject: RE: Would you please send me a final version of today's Board presentation?
Attachments: OGS_BOD_CM_24_Jan_2011.ppt

As requested.

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 24, 2011 2:21 PM
To: Michael Killeavy
Subject: Would you please send me a final version of today's Board presentation?

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 |



Winding Up of the Oakville Generating Station (OGS) Contract

Board of Directors

January 24, 2011

Privileged and Confidential – Prepared in Contemplation of Litigation

OGS Update

- We have met TCE five times since the last Board update.
- Discussions surrounding the “winding-up” of the Contract have been productive.
- TCE has concluded a settlement agreement with Ford.
- TCE concluded a settlement for legal costs with the Town of Oakville.

Replacement Generation Project

- TCE is leaning towards development of the Boxwood site next to the Toyota plant. Other sites are available, though.
- It is waiting for government authorization to contact the City of Cambridge about the proposed project.
- The delay in contacting the City of Cambridge is becoming a problem, as word is starting to leak out about the replacement project.

Replacement Generation Project

- Tx connection at Boxwood will be longer than 2 km, so Leave to Construction from the OEB will be required. This may take some time to accomplish.
- Another site may alleviate this problem. In any event, we maintain that siting the plant is TCE's responsibility and risk.
- We want a targeted COD of late-Q1 2014.

Implementation Agreement

- TCE indicated that it wants a project implementation agreement to cover its costs for the replacement project in Cambridge (“Implementation Agreement”).
- The Implementation Agreement will set out the approach for developing the final project agreement between TCE and the OPA.
- It will also contain a project budget and TCE wants the OPA to indemnify it for its costs to develop if no agreement is concluded (“break fee”).

Implementation Agreement

- Deadline for execution is 31 January 2011.
- TCE is drafting it based on the agreement used for Portlands Energy Centre (“PEC”).
- We are scheduled to see a first draft of this agreement today.

Ministry Directive

- We are working with the Ministry on the drafting of a Directive to authorize negotiations with TCE for the replacement plant.
- We need this Directive to execute the Implementation Agreement.
- Ministry wants the Directive to be silent on including the financial value of the OGS Contract into any net revenue requirement for the replacement facility.

Turbine Cancellation Indemnity

- TCE still wants the OPA to provide an indemnity to it in the event that the Equipment Supply Agreement (“ESA”) with Mitsubishi is cancelled.
- Our legal advice is that the OPA has no power to provide any such indemnity, even if it were directed to do so by the Minister.
- When this first arose in December, we provided a letter that TCE could rely upon to sue the OPA for the cancellation fee in the event that the ESA is cancelled.

Turbine Cancellation Indemnity

- We very likely will need to do the same thing again.
- We cannot contract for something we don't have the power to do.

Fast Start Conversion

- It has been determined that the replacement 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.

Fast Start Conversion

- 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 and still achieve emissions of 15 ppm Nox.
- 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).
- The conversion of the GTs is only \$3 million.
- Conversion from combined-cycle to simple cycle for a peaking plant is \$15 million.
- MPS has tacked on an additional \$15 million for delayed delivery and suspension costs.

Price of Fast Start Conversion

- The incremental price for GT fast start conversion and simple cycle conversion look reasonable.
- We do not agree on why the delay and suspension costs amount to \$15 million and we will attempt to have this substantiated or excluded from any negotiated NRR or break fee.
- MPS has tacked on an additional \$15 million for delayed delivery and suspension costs.

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.

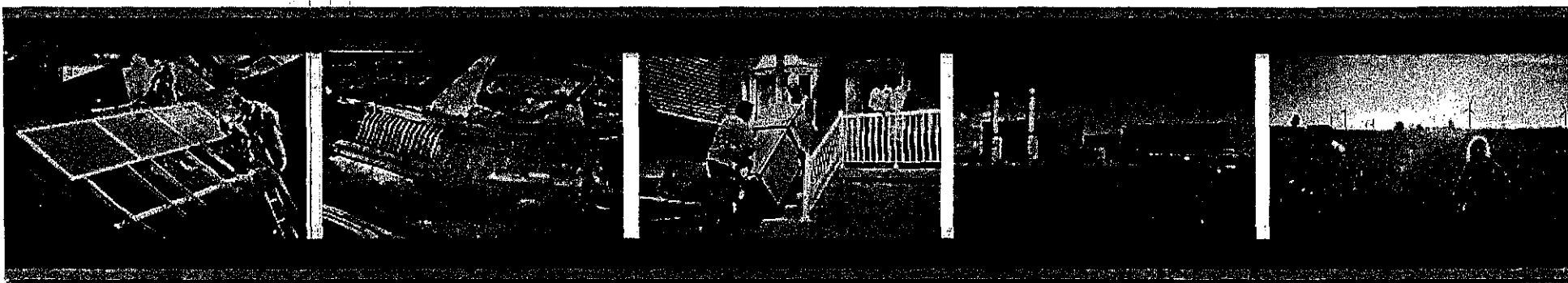
Next Steps

- Continue discussions with TCE to achieve the following:
 - Agreement to proceed with fast-start conversion proposal for the GTs so that they can be reused;
 - Location of replacement facility;
 - Execution of the Implementation Agreement;
 - Disposition of the Indemnity for Turbine Cancellation;
 - TCE plan for handling First Nations issues.

Aleksandar Kojic

From: Michael Killeavy
Sent: January 24, 2011 3:01 PM
To: Deborah Langelaan
Subject: OGS_BOD_CM_24_Jan_2011.ppt
Attachments: OGS_BOD_CM_24_Jan_2011.ppt

For your info



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Board of Directors

January 24, 2011

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- Discussions surrounding the “winding-up” of the Contract have been productive.
- TCE has concluded a settlement agreement with Ford.
- TCE concluded a settlement for legal costs with the Town of Oakville.

Memorandum of Understanding

- OPA executed an MOU with TCE at the end of December 2010.
- This MOU says that there is a project to which the OGS sunk costs can be applied.
- This was requested by TCE for its year-end financial reporting requirements.
- We have asked TCE to share with us what it will disclose in its year-end financials. This has not yet been done.

Replacement Generation Project

- TCE is leaning towards development of the Boxwood site next to the Toyota plant. Other sites are available, though. We are aware of five potential other sites, and one may already have permitting.
- TCE and OPA are waiting for government authorization to contact the City of Cambridge about the proposed project.
- The delay in contacting the City of Cambridge is becoming a problem, as word is starting to leak out about the replacement project.

Replacement Generation Project

- Tx connection at Boxwood will be longer than 2 km, so Leave to Construct from the OEB will be required. This adds additional risk to the project at this site.
- Another site may alleviate this problem. In any event, we maintain that siting the plant is TCE's responsibility and risk.
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Implementation Agreement

- TCE is attempting to impose a deadline for execution of 31 January 2011.
- TCE is drafting it based on the agreement used for Portlands Energy Centre (“PEC”).
- We are scheduled to see a first draft of this agreement today.

Ministry Directive

- We are working with the Ministry of Energy on the drafting of a Directive to authorize negotiations with TCE for the replacement plant.
- We need this Directive to execute the Implementation Agreement.
- Ministry wants the Directive to be silent on including the financial value of the OGS Contract into any net revenue requirement for the replacement facility.

Turbine Cancellation Indemnity

- TCE still wants the OPA to provide an indemnity to it in the event that the Equipment Supply Agreement (“ESA”) with Mitsubishi is cancelled.
- Our legal advice is that the OPA has no power to provide any such indemnity, even if it were directed to do so by the Minister, because there is no statutory authority.
- When this first arose in December, we provided a letter that TCE could rely upon to sue the OPA for the cancellation fee in the event that the ESA is cancelled.

Turbine Cancellation Indemnity

- We very likely will need to do the same thing again.
- We cannot contract for something we don't have the power to do.

Fast Start Conversion

- It has been determined that the replacement plant will be a gas-fired peaking generation plant with a contract 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.

Fast Start Conversion

- The 43 minute start 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”) revenue market that the IESO has.
- It is highly desirable to use the already-purchased GTs in order to minimize the cost to the ratepayer.
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- 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 and still achieve emissions of 15 ppm NOx.
- Consequently, to use the GTs we need to have TCE purchase the Fast Start conversion package.

Price of Peaking Plant Conversion

- The incremental price for this conversion is estimated at \$33 million (US) +/- 25%.
- The conversion of the GTs to fast start is \$3 million.
- Conversion from combined-cycle to simple cycle for the peaking plant is \$15 million.
- MPS has tacked on an additional \$15 million for delayed delivery and suspension costs under the original ESA.

Price of Peaking Plant Conversion

- The incremental price for GT fast start conversion looks reasonable. We need to investigate further the simple cycle conversion cost.
- We do not agree on why the delay and suspension costs amount to \$15 million and we will attempt to have this substantiated or excluded from any negotiated NRR or break fee.

Price of Peaking Plant Conversion

- 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.

Next Steps

- Continue discussions with TCE to achieve the following:
 - Agreement to proceed with fast-start conversion proposal for the GTs so that they can be used;
 - Finalize technical design requirements;
 - Siting of replacement facility;
 - Negotiation and execution of the Implementation Agreement;
 - Disposition of the Indemnity for Turbine Cancellation;
 - TCE plan for handling First Nations issues.

Aleksandar Kojic

From: Deborah Langelaan
Sent: January 24, 2011 3:30 PM
To: Michael Killeavy; 'rsebastiano@osler.com'
Cc: 'esmith@osler.com'
Subject: Fw: [REPLY about PRICE]Re: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

FYI

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]
Sent: Monday, January 24, 2011 03:18 PM
To: Deborah Langelaan
Subject: RE: [REPLY about PRICE]Re: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Hello Deborah:

We have reviewed MPS's price breakdown and our comments are as follows:

1. We noted from MPS response that it agreed with TCE to combine the costs of suspension and delayed delivery. We see no reason why the two costs should be combined.
2. MPS did not provide a cost breakdown for the \$15 Million equipment associated with cooling system and stack. Cost breakdown for this item is still outstanding.
3. The cost of conversion to fast start is \$3 Million according to MPS' cost breakdown. This suggests that the so called "cost of conversion to fast start" is actually the cost of upgrading the SFC from 4MW to 7MW.

If you have any question, please feel free to contact me at any time.

Thanks,
Safouh

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: January 23, 2011 9:25 AM
To: safouh@smsenergy-engineering.com
Subject: FW: [REPLY about PRICE]Re: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Safouh;

Please see below for the cost breakout from MPS of the \$33 MM.

Deborah

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Fri 21/01/2011 5:40 PM
To: Michael Killeavy; Deborah Langelaan
Cc: John Cashin; Terry Bennett; Terri Steeves; Geoff Murray
Subject: FW: [REPLY about PRICE]Re: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Deborah,

Further to your request for additional price resolution on the budgetary proposal from MPS Canada, Inc. please find following response 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

From: KNamba@mpshq.com [mailto:KNamba@mpshq.com]
Sent: Friday, January 21, 2011 5:11 PM
To: Terri Steeves
Cc: George.Papaioanou@mpshq.com; John Mikkelsen; jpm-tec@comcast.net; KNamba@mpshq.com; Mark Brache; Phil.Prigge@mpshq.com; Bill Small; newsomb@osc.mpsqh.com; sueki@mpshq.com; wunderg@osc.mpsqh.com; KNamba@mpshq.com
Subject: [REPLY about PRICE]Re: FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information Provided By MPS ...

Terri-san,

As for your question No.1, please see our reply as follows.
As agreed with you, buckets (a) and (b) are combined.
We hope this information will help you to make a decision by January 28 (Fri).

1. Price – We have been given an aggregate price for a number of different items. It seems that the price stated in the December 2010 Fast Start Proposal ("the Proposal") includes some cost provisions related to project schedule change/delay/suspension.

Could you please itemize:

(a) suspension from October 7, 2010 to 31 December 2010 and (b) delayed delivery;

[REPLY] US\$ 15 Million

(c) additional scope including but not limited to the cost of the increased exhaust and cooling system scope (delineated by major works); and

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[REPLY] US\$ 3 Million

Best regards,

Namba (MPS)

Terri Steeves <terri_steeves@transcanada.com>

2011/01/10 11:18

To "Prigge, Phil" <Phil.Prigge@mpshq.com>, <KNamba@mpshq.com>

cc "Papaioanou, George" <George.Papaioanou@mpshq.com>, Bill Small
<william_small@transcanada.com>, Mark Brache <mark_brache@transcanada.com>,
<jpm-lec@comcast.net>, John Mikkelsen <john_mikkelsen@transcanada.com>, Bill
Small <william_small@transcanada.com>

Subject FW: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review
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Phil / Namba-san,

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Terri

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

Sent: Friday, January 07, 2011 3:49 PM

To: John Mikkelsen

Cc: Deborah Langelaan; Susan Kennedy; Sebastiano, Rocco; Ivanoff, Paul; Smith, Elliot; Safouh Soufi

Subject: MPS-TCE Equipment Supply Agreement and MPS Fast Start Proposal - Review of Technical Information
Provided By MPS ...

Importance: High

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3. SFC - 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. MPS to confirm if the M501GAC package comes with SFC starting device rated at 4MW as a standard supply from Mitsubishi? If not, what is the standard supply for starting device? The reference to 7MW may indicate 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. Start-up Curve - 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;

1. Purge Credit - MPS statement concerning 5 minutes minimum purge is somewhat ambiguous and needs more clarification;

2. SC v. CC - 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 could provide a start-up curve for the machine described in Appendix I, having SFC of 4MW, operating in Simple Cycle configuration

3. Synchronisation Time - It would appear that 5 minutes to synchronize is used in the original start-up curve whereas the latest curve assumes 1 minute. We would like MPS to confirm this;

5. Additional Technical Information – We would very much like the ramp rates for Simple Cycle operation. Could MPS please provide the machine's (M501GAC) normal and maximum ramp up rates together with the baseload curve for a temperature range from 16 – 100°F? More specifically, we'd like ramp rates for the following cases:

1. To 100% speed no load,
2. To 60% load and;
3. From 60 to 100% load

Thank you,
Michael

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
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Aleksandar Kojic

From: Smith, Elliot [ESmith@osler.com]
Sent: January 24, 2011 4:46 PM
To: Michael Killeavy; Sebastiano, Rocco
Cc: Deborah Langelaan
Subject: RE: TCE Matter - MPS Suspension and Delayed Delivery Costs ...

Michael,

Further to your note below, I have reviewed the Energy Supply Contract (ESC) between MPS and TCE.

In accordance with Section 14.1 of the ESC, Purchaser has the right to suspend the Work for any reason at its convenience. In the event of any such suspension, Supplier is entitled to a Change Order. Similarly, any change to the Scheduled Delivery Dates is also addressed as a Change Order.

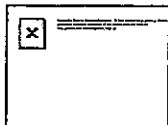
If the Parties cannot agree to the terms of a Change Order, this is subject to the Dispute Resolution provisions of the ESC; however, where the Parties cannot agree on a "firm fixed price", then the Parties are to proceed with the Change Order on a time and materials basis. The "time and materials" amount is calculated by adding the following three amounts (i) time for Supplier's personnel charged out at rates set out in an Appendix to the ESC, (ii) third party purchases plus a mark-up (the amount of which is redacted), and (iii) Supplier's manufactured materials at Supplier's published prices or if no such published prices exist, at a reasonable price quoted by Supplier. The Section goes on to state that "With respect to Change Orders on a time and materials basis, Supplier shall provide Purchaser with a reasonable breakdown of costs and supporting documentation to support the invoice amount associated with Change Order work performed on a time and materials basis."

As noted in Safouh's e-mail, there is no basis for MPS to combine the cost of suspension with the cost of delayed delivery, as these are separate issues under the ESC. The Jan 21 e-mail from Namba to Terri suggests that TCE agreed to these costs being combined. If we had individual costs for these, we could then decide whether or not to ask TCE to have MPS proceed on a "time and materials" basis, in which case MPS would be obliged to provide a cost breakdown. With respect to the suspension, I would note that the suspension was initiated by TCE on October 29, 2010 (not October 7, as stated in your e-mail of January 7, 2011). We should clarify this point with MPS to ensure the cost does not include any amount for the period between October 7 and October 29.

With respect to your question regarding whether the delayed delivery is due to Force Majeure (I presume you mean under the OPA contract) or due to the Government's announced cancellation of the OGS, I note that the first notice of suspension in my records is the October 29, 2010 "Letter Agreement", which states that the suspension is a result of TCE being told by the OPA that it would not proceed forward based on the current site location. I would also note that to the best of our knowledge, no Force Majeure claim was ever made pursuant to the ESC.

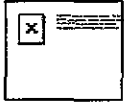
If you have any questions about this analysis, please let me know.

Elliot



Elliot Smith
Associate

416.862.6435 DIRECT
416.862.6666 FACSIMILE
esmith@osler.com



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: Monday, January 24, 2011 1:21 PM
To: Sebastiano, Rocco; Smith, Elliot
Cc: Deborah Langelaan
Subject: TCE Matter - MPS Suspension and Delayed Delivery Costs ...

Rocco/Elliot,

What does the MPS-TCE ESA say about responsibility and apportionment of suspension and delay costs? A figure of \$15 million was quoted this past Friday. Is the delayed delivery due to the plant cancellation or due to the Force Majeures? Was MPS under suspension on or before 7 October 2010?

Michael

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
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2025-01-15 10:10:10
2025-01-15 10:10:10

Aleksandar Kojic

From: Deborah Langelaan
Sent: January 24, 2011 4:47 PM
To: Michael Killeavy; 'Sebastiano, Rocco'; 'Smith, Elliot'
Subject: FW: TransCanada - Ontario Power Authority - Implementation Agreement
Attachments: IA Cambridge (draft Jan 24, 2011 v3).doc

Importance: High

Drum roll please.....attached is the draft Implementation Agreement.

TCE is asking if we still want to meet tomorrow at 3:00 p.m. to discuss or if we require more time to review? Please let me know what your preference is.

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: January 24, 2011 4:41 PM
To: Deborah Langelaan
Cc: Terry Bennett; Geoff Murray; John Cashin
Subject: TransCanada - Ontario Power Authority - Implementation Agreement

Deborah,

Attached please find attached draft Implementation Agreement for the Potential Project.

Best regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

Royal Bank Plaza
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24th Floor, South Tower
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TCE Draft – January 24, 2011

WITH PREJUDICE

IMPLEMENTATION AGREEMENT

between

TRANSCANADA ENERGY LTD.

and

ONTARIO POWER AUTHORITY

This IMPLEMENTATION AGREEMENT (the "**Agreement**"), effective as of •, 2011, is by and between (a) TransCanada Energy Ltd. ("**TCE**"), a Canadian corporation, and (b) the Ontario Power Authority, a statutory corporation established under Part II.1 and Part II.2 of the *Electricity Act, 1998* (Ontario) (the "**OPA**"), which are sometimes collectively referred to herein as the "**Parties**" or singularly as a "**Party**".

WHEREAS the OPA and TCE executed the Southwest GTA Clean Energy Supply (CES) Contract (the "**Original Contract**") dated October 9, 2009 for a power generation facility (the "**Facility**") to be built and operated by TCE in Oakville, Ontario;

AND WHEREAS TCE had entered into contracts and expended funds to develop the Facility;

AND WHEREAS by letter dated October 7, 2010, the OPA advised TCE that it would not proceed with the Original Contract and directed TCE to cease all further work and activities in connection with the Facility;

AND WHEREAS the OPA and TCE entered into a Confidentiality Agreement dated effective as of October 8, 2010 (the "**Confidentiality Agreement**") (a copy of which is attached as Exhibit I);

AND WHEREAS in accordance with the OPA's letter of October 7, 2010, the OPA and TCE have been working cooperatively to identify other generation projects;

AND WHEREAS in its 18-Month Outlook Update (December 3, 2010), the Independent Electricity System Operator ("**IESO**") confirmed the need for a peaking natural gas-fired power plant in the Kitchener-Waterloo-Cambridge area;

AND WHEREAS the OPA and TCE have been discussing the potential development of a simple cycle natural gas-fired power generation project in the Kitchener-Waterloo-Cambridge area having an approximate Season 3 (as defined in the Original Contract) contract capacity of 450 MW (the "**Potential Project**");

AND WHEREAS the OPA has delivered to TCE and MPS Canada Inc. an Acknowledgement dated December 17, 2010 and has delivered to TCE an Acknowledgement dated • (copies of which are attached as Exhibit II), and may at a future date designate specified information as confidential or highly confidential for the purposes of Section 17 of the *Freedom of Information and Protection of Privacy Act*

and provide additional acknowledgements of such designations (existing and future acknowledgements collectively referred to as the "**Acknowledgements**");

AND WHEREAS the OPA and TCE entered into a letter agreement dated December 21, 2010 regarding the Potential Project (the "**MOU**") (a copy of which is attached as Exhibit III);

AND WHEREAS on ●, 2011, the Minister of Energy of Ontario issued a directive (the "**Directive**") to the OPA (a copy of which is attached as Exhibit IV) to continue negotiations with TCE related to the Potential Project, with the view to concluding and executing a definitive contract for the Potential Project by June, 2011, which will address the system needs described above;

[NTD: TCE and the OPA to discuss what the expectation is *vis a vis* the timing and content of the Directive.]

AND WHEREAS the OPA and TCE desire to enter into an agreement setting forth the process for expediting TCE's development and construction of the Potential Project prior to finalizing the Contract (as defined herein);

NOW THEREFORE, in consideration of the agreements, premises and mutual covenants contained herein and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), TCE and the OPA agree as follows:

ARTICLE I TERM OF AGREEMENT

- 1.1 Unless extended by mutual written agreement of the Parties, and subject to earlier termination as set forth in Sections 1.2, the term of this Agreement (the "**Term**") shall be from the effective date hereof until the earlier of (i) 5:00 PM (Toronto time) on June 30, 2011 and (ii) execution and delivery by the Parties of the Contract.
- 1.2 This Agreement may be terminated at any time by mutual agreement of the Parties.
- 1.3 Notwithstanding termination of this Agreement by effluxion of time or otherwise as provided herein, the provisions of Sections 2.3, 2.4, 2.5, 3.3(a), 3.3(b), 6.1 and 6.2 and Articles V and VII shall survive if the Contract is not executed and delivered by the Parties; whereas if the Contract is executed and delivered by the Parties, only Sections 6.1 and 6.2 shall survive, unless otherwise set forth in the Contract.

ARTICLE II COMMITMENTS

- 2.1 TCE hereby covenants and agrees to proceed during the Term with the development of the Potential Project, with a target of achieving commercial operation by **[December 31, 2015]** and being registered and available as a dispatchable facility with the IESO by **[December 31, 2015]**. **[NTD; to be discussed re permit risk.]**
- 2.2 During the Term, the Parties covenant and agree to negotiate in good faith and to use their commercially reasonable efforts to execute an agreement (the "**Contract**") on the basis described in the Directive, the MOU and this Agreement for the development, construction and operation of the Potential Project and on terms and conditions acceptable to each of the Parties, acting reasonably. The Parties further covenant and agree that upon the execution and delivery of the

Contract, they will terminate the Original Contract. For greater certainty and without limiting the generality of the foregoing, the Parties acknowledge and agree that:

- (a) The Potential Project shall meet the Technical Design Requirements set out in Schedule A;
- (b) The Contract shall be based on the form of the Northern York Region Peaking Generation Contract (the "**NYR Contract**") and shall include the additional terms set out in Schedule B and such other terms as may be required by this Agreement;
- (c) The process for the good faith negotiations is set out in Schedule C;

provided that if, after negotiating in good faith, the Parties cannot agree on the appropriate amount to be the "Net Revenue Requirement", the O&M payment or any other variable to be included in Exhibit B of the Contract or any changes that should be made to the NYR Contract, the Parties shall be deemed to have negotiated the terms of the Contract in good faith and used commercially reasonable efforts.

2.3 In the event that the Parties do not enter into the Contract prior to the end of the Term, unless such event is the result of TCE not having negotiated the terms of the Contract in good faith or TCE not having used its commercially reasonable efforts to execute and deliver a Contract in the form that was negotiated and agreed by the Parties' respective negotiating teams, subject to Section 3.1(a), the OPA hereby indemnifies and holds TCE harmless against, and agrees to reimburse TCE for, all costs and expenses TCE reasonably incurs in undertaking its obligations pursuant to this Agreement as set forth in Schedule D hereto (as such Schedule may be revised from time to time in accordance with Section 3.1, all as more particularly described in Article III hereof), except that TCE shall not be entitled to indemnification for any particular costs and expenses incurred in terminating any commitments included in Schedule D to the extent that TCE has not used its commercially reasonable efforts to mitigate such costs and expenses following the end of the Term. At the request of the OPA, TCE shall,

- (a) provide copies of all work product, the cost and expense for which the OPA has reimbursed TCE or its affiliates pursuant to the indemnity herein (the "**Indemnified Work Product**");
- (b) grant to the OPA a license to use that portion of the Indemnified Work Product that does not constitute confidential information of TCE or any third party or is not otherwise proprietary with respect to the Potential Project;
- (c) upon the future productive use by TCE of any portion of the Indemnified Work Product, reimburse the OPA for the indemnified cost related to that portion of the Indemnified Work Product; and
- (d) to the extent that Indemnified Tangible Goods (as defined below) are assignable, transfer, assign or deliver Indemnified Tangible Goods to the OPA, without further liability of the OPA save and except for its assumption of any liabilities associated with such Indemnified Tangible Goods after the date of such transfer, assignment or delivery; for the purposes hereof "**Indemnified Tangible Goods**" includes TCE's or its affiliates' right, title and interest in and to any tangible goods, materials and equipment, the costs and expenses relating to which the OPA has reimbursed TCE or its affiliates pursuant to the indemnity herein.

For greater certainty, the Parties acknowledge and agree that (A) there is no intention that pursuant hereto TCE would transfer to the OPA any real property, intellectual property, processes, copyright, licences, permits or approvals or confidential proprietary information and work product; and (B) the OPA's obligation to indemnify TCE shall not exceed the aggregate of the Cap Amount, as hereafter defined.

The OPA also acknowledges that the Indemnified Work Product and Indemnified Tangible Goods are being prepared specifically for TCE as part of the Potential Project, and that they are not intended or represented to be suitable for reuse by the OPA in respect of any other project or for any other purpose. The transfer, assignment or delivery of the Indemnified Work Product and Indemnified Tangible Goods is made without any representation or warranty by TCE or the provider of the Indemnified Work Product or Indemnified Tangible Goods, including as to fitness for use, accuracy, quality or merchantability. Any use thereof by the OPA will be without any representation or warranty by TCE or the provider of the Indemnified Work Product or Indemnified Tangible Goods and at the OPA's sole risk and without liability or legal recourse to TCE or the provider of the Indemnified Work Product or Indemnified Tangible Goods.

- 2.4 If for any reason the Parties do not enter into the Contract prior to the end of the Term, then TCE shall be entitled to pursue all of its legal remedies against the OPA for claims arising out of the decision by the OPA not to proceed with the Original Contract, including for the repudiation of the Original Contract.
- 2.5 Notwithstanding any other provision of this Agreement, neither Party shall have any obligation or liability to the other for any indirect, special or consequential damages resulting from a breach of this Agreement. For greater certainty, no provision of this Agreement will in any way affect, limit or interfere with TCE's rights and remedies in respect of the Original Contract.

ARTICLE III BREAK-UP COSTS

- 3.1 (a) Schedule D attached hereto, as it may be revised and replaced from time to time in accordance with the procedure set forth in this Article III, sets forth the aggregate and the categories of the costs and expenses relating to the Potential Project for which the OPA agrees to indemnify TCE. The OPA acknowledges and agrees that the consent or approval of the OPA is not required if the allocations of the aggregate costs amongst the categories are changed by TCE provided that the OPA's obligations to indemnify TCE for its costs and expenses in accordance with the provisions of Section 2.3 at any given point shall not exceed the aggregate dollar amount of the costs and expenses set forth in Schedule D for that point in time plus \$1,000,000 (the "**Cap Amount**").
- (b) During the Term, with respect to any individual expenditure or commitment by TCE in excess of \$1,000,000 for which the OPA may be liable pursuant to Section 2.3, TCE shall provide written notice (as provided in Section 7.1 hereof) together with a brief explanation of the nature of the expenditure or commitment within five (5) Business Days of TCE having executed a written agreement to incur such expenditure. The OPA acknowledges that TCE has already made the expenditures or commitments identified in Schedule D as non recoverable costs for the Facility or owing to MPS Canada, Inc. and that no written notice of such expenditures or commitments is required.

(c) During the Term, if there occurs

- (i) any change in an expenditure or commitment provided for on Schedule D, or
- (ii) any new expenditure not included on Schedule D which TCE would intend to claim pursuant to Section 2.3,

which change or new expenditure would cause the total potential liability of the OPA under Section 2.3 to exceed the aggregate amount set forth in Schedule D at that point in time by an amount greater than \$1,000,000 and provided that such change or new expenditure is reasonably required to maintain the schedule to achieve the commercial operation milestone dates set forth in Section 2.1, TCE shall seek the consent of the OPA to such change or new expenditure, as set forth in Section 3.1(d) hereof.

- (d) In case of the occurrence of any event described in Section 3.1(c), TCE shall propose a revised Schedule D reflecting such expenditure or commitment or change in expenditure or commitment, together with a brief explanation thereof, including an explanation as to the impact on achieving the commercial operation milestone dates set forth in Section 2.1 if such expenditure, commitment or change is not made, and obtain the OPA's written consent to the revision prior to incurring such expenditure or making such commitment. In the event that the OPA does not respond to such proposed revision within five (5) Business Days of receipt of notice thereof from TCE as provided above, the OPA shall be deemed to have refused its consent. If the OPA provides its written consent to such revisions, then the revised Schedule D proposed by TCE and accepted by the OPA shall become the operative Schedule D for the purposes hereof until replaced in accordance with the terms hereof.

3.2 In the event the OPA does not consent to a revision to Schedule D proposed by TCE within five (5) Business Days of receipt of notice thereof from TCE, or is deemed not to have consented, the commercial operation milestone dates set forth in Section 2.1 may be adjusted by mutual agreement of the Parties.

- 3.3 (a) In the event that (i) this Agreement is terminated as provided in Section 1.2, or (ii) the Parties have not executed the Contract and terminated the Original Contract prior to the end of the Term, TCE shall, within thirty (30) Business Days of such termination or the end of the Term, as the case may be, submit to the OPA an invoice for the amounts for which it claims indemnification pursuant to Section 2.3, together with reasonable documentation in support of the invoice. The OPA may, acting reasonably, request additional supporting documentation. The OPA shall notify TCE of any dispute with any amounts so claimed within fifteen (15) Business Days of receipt thereof, in which case the provisions of Article V shall apply.

- (b) All amounts not subject to dispute shall be paid by the OPA to TCE within thirty (30) calendar days of the date of the invoice and all amounts settled pursuant to the dispute resolution provisions hereof shall be paid within ten (10) Business Days of their resolution. All amounts not paid when due shall bear interest from the date due hereunder to the date of payment at a rate equal to the annual rate of interest quoted by, published and commonly known as the "prime rate" of the Royal Bank of Canada at its main office in Toronto Ontario as the reference rate then in effect for interest rates on commercial demand loans made by it in Canadian dollars to its Canadian borrowers plus four percent (4%) per annum.

ARTICLE IV REPRESENTATIONS AND WARRANTIES

- 4.1 TCE represents and warrants to the OPA and acknowledges and confirms that the OPA is relying on such representations and warranties in connection with the transactions contemplated herein:
- (a) TCE is a corporation incorporated under the laws of the Canada and has the corporate power and authority to enter into and perform its obligations under this Agreement.
 - (b) The execution and delivery and performance by TCE of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of TCE.
 - (c) The execution and delivery of and performance by TCE of this Agreement:
 - (i) do not and will not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) constitute or result in a violation or breach of, or conflict with any of the terms or provisions of the constating documents or by-laws of TCE, as applicable;
 - (ii) do not and will not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) constitute or result in a breach or violation of, or conflict with or allow any other person or entity to exercise any rights under; any of the terms or provisions of any contract, agreement or instrument to which TCE is a party; and
 - (iii) do not and will not result in the violation of any applicable (x) laws, statutes, codes, ordinances, principles of common law and equity, orders, decrees, rules and regulations or (y) judicial, arbitral, administrative, ministerial, departmental and regulatory judgments, orders, writs, injunctions, decisions, and awards of any governmental entity, in each case binding on or affecting TCE.
 - (d) This Agreement has been duly executed and delivered by TCE and constitutes legal, valid and binding agreements of TCE (excluding any agreements to agree set forth in this Agreement), enforceable against it in accordance with their respective terms subject only to any limitation under applicable laws relating to (i) bankruptcy, winding-up, insolvency, arrangement, fraudulent preference and conveyance, assignment and preference and other similar laws of general application affecting creditors' rights, and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction.
- 4.2 The OPA represents and warrants to TCE and acknowledges and confirms that TCE is relying on such representations and warranties in connection with the transactions contemplated herein:
- (a) The OPA is a statutory corporation incorporated and existing under Parts II.1 and II.2 of the *Electricity Act, 1998* (Ontario) and has the corporate power and authority to enter into and perform its obligations under this Agreement.
 - (b) The execution and delivery of and performance by the OPA of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of the OPA.

- (c) The execution and delivery of and performance by the OPA of this Agreement:
- (i) do not and will not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) constitute or result in a violation or breach of, or conflict with any of the terms or provisions of its constating documents or by-laws;
 - (ii) do not and will not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) constitute or result in a breach or violation of, or conflict with or allow any other person or entity to exercise any rights under, any of the terms or provisions of any contract, agreement or instrument to which it is a party; and
 - (iii) do not and will not result in the violation of any applicable (x) laws, statutes, codes, ordinances, principles of common law and equity, orders, decrees, rules and regulations or (y) judicial, arbitral, administrative, ministerial, departmental and regulatory judgments, orders, writs, injunctions, decisions, and awards of any governmental entity, in each case binding on or affecting the OPA.
- (d) This Agreement has been duly executed and delivered by the OPA and constitutes legal, valid and binding agreements of the OPA (excluding any agreements to agree set forth in this Agreement), enforceable against it in accordance with their respective terms subject only to any limitation under applicable laws relating to (i) bankruptcy, winding-up, insolvency, arrangement, fraudulent preference and conveyance, assignment and preference and other similar laws of general application affecting creditors' rights, and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction.

[NTD: OPA to confirm that this is a "procurement contract" for the purposes of the *Electricity Act, 1998*.]

- (e) This Agreement is a "procurement contract" for the purposes of Section 25.31 of the *Electricity Act, 1998* (Ontario).

ARTICLE V DISPUTE RESOLUTION

- 5.1 If any dispute, claim, question or difference (each a "**Dispute**") arises with respect to this Agreement, including Schedule D and the amounts owing by the OPA to TCE pursuant to Section 2.3 hereof, one senior executive of TCE and one from the OPA will use their reasonable best efforts to settle the Dispute. Notwithstanding the foregoing, the Parties agree that the provisions of this Article V shall not apply to any disputes relating to the negotiation of the terms and conditions of the Contract.
-
- 5.2 If the Parties do not reach a solution pursuant to Section 5.1 within five (5) Business Days following receipt of the notice of the Dispute by either Party to the other, then either Party can deliver a written notice to the other Party requiring the Dispute to be finally settled by arbitration in accordance with the provisions of the *Arbitration Act, 1991* (Ontario) and the national arbitration rules of the ADR Institute of Canada, based upon the following:

- (a) The arbitration tribunal shall consist of one arbitrator appointed by mutual agreement of the Parties. In the event of failure to agree within three (3) Business Days following delivery of the written notice to arbitrate, each of the Parties to the Dispute shall designate an arm's-length third party within a further three (3) Business Days who together shall agree upon and appoint an arbitrator. In the event such third parties fail to appoint the arbitrator within three (3) Business Days after their appointment, either Party may apply to a judge of the Ontario Superior Court of Justice to appoint an arbitrator.
- (b) The arbitrator shall be instructed that time is of the essence in the arbitration proceeding and, in any event, the arbitration award must be made within fifteen (15) Business Days after the arbitrator has been appointed.

[NTD: These timelines are extremely tight. This may be limiting the pool of arbitrators to people who do not get a lot of arbitration work.]

- (c) The arbitration shall take place in Toronto, Ontario and shall be conducted in English.
- (d) The arbitration award shall be given in writing and shall be final and binding on the Parties, not subject to any appeal (other than those limited rights of appeal set forth in the *Arbitration Act, 1991* (Ontario)), and shall deal with the question of costs of arbitration and all related matters. The costs of arbitration include the arbitrators' fees and expenses, the provision of a reporter and transcripts, reasonable legal fees and reasonable costs of preparation of the Parties.
- (e) Judgment upon any award may be entered in any Court having jurisdiction or application may be made to the Court for a judicial recognition of the award or an order of enforcement, as the case may be.

- 5.3 After written notice is given to refer any Dispute to arbitration, the Parties will meet within five (5) Business Days of delivery of the notice and will negotiate in good faith any changes to these arbitration provisions or the rules of arbitration which are herein adopted, in an effort to expedite the process and otherwise ensure that the process is appropriate given the nature of the Dispute and the values at risk.

ARTICLE VI CONFIDENTIALITY, ANNOUNCEMENTS AND DEALING WITH THE OPA

- 6.1 The Parties acknowledge that this Agreement is confidential and is subject to the terms of the Confidentiality Agreement.
- 6.2 **[TCE acknowledges that the OPA is subject to the Freedom of Information and Protection of Privacy Act (Ontario) ("FIPPA") and that FIPPA applies to and governs all confidential information in the custody or control of the OPA ("FIPPA Records") and may, subject to FIPPA, require the disclosure of such FIPPA Records to third parties. TCE agrees to provide a copy of any FIPPA Records that it previously provided to the OPA if TCE continues to possess such FIPPA Records in a readily deliverable form at the time of the OPA's request. Information stored in any computer archive shall not be considered to be in a readily deliverable form. If TCE does possess such FIPPA Records in a readily deliverable form, it shall provide the same within a reasonable time after being directed to do so by the OPA. The OPA acknowledges that FIPPA Records do not include any**

document or information provided to the OPA or its representatives pursuant to the Acknowledgements. The provisions of this Section 6.2 shall prevail over, and in lieu of, any other applicable provisions in this Agreement.]

[NTD: The foregoing provision to be discussed with the OPA.]

- 6.3 No press release, public statement, announcement or other public disclosure (a "Public Statement") with respect to this Agreement, the Contract or the transactions contemplated in this Agreement may be made by either Party unless with the prior written consent and joint approval of the other Party except as may be required by law or a governmental entity. Where the Public Statement is required by law or by a governmental entity, the Party required to make the Public Statement will use its best effort to obtain the approval of the other Party as to the form, nature and extent of the disclosure.
- 6.4 Either Party shall be free to communicate, or initiate any discussions or exchanges of information, with the Ministry of Energy (Ontario) ("OME") or any other ministry of the Province of Ontario regarding any role the OME or such other ministry may have with respect to the Potential Project, including in respect of any required regulatory approvals.

ARTICLE VII MISCELLANEOUS

- 7.1 Any notice, direction or other communication (each a "Notice") given regarding the matters contemplated by this Agreement must be in writing, sent by personal delivery, courier or facsimile, along with a copy by electronic mail, and addressed:

to the OPA at:

120 Adelaide St. W.
Suite 1600
Toronto, ON M5H 1T1

Attention: •

Telephone: •

Facsimile: •

e-mail: •

with a copy to:

Osler, Hoskin & Harcourt LLP P.O. Box 50, 61st Floor
1 First Canadian Place
Toronto, ON M5X 1B8

Attention: Rocco Sebastiano

Telephone: 416-862-5859

Facsimile: 416-862-6666

e-mail: rsebastiano@osler.com

to TCE at:

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

Attention: Terry Bennett, Vice-President, Power Generation Development

Telephone: 416-869-21330
Facsimile: 416-869-2056
e-mail: terry_bennett@transcanada.com

A Notice is deemed to be delivered and received (i) if sent by personal delivery, on the date of delivery if it is a Business Day and the delivery was made prior to 4:00 p.m. (Toronto time) and otherwise on the next Business Day, (ii) if sent by same-day courier service, on the date of delivery if sent on a Business Day and delivery was made prior to 4:00 p.m. (Toronto time) and otherwise on the next Business Day, (iii) if sent by overnight courier, on the next Business Day, or (iv) if sent by facsimile, on the Business Day following the date of confirmation of transmission by the originating facsimile. A Party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the Party at its changed address. Any element of a Party's address that is not specifically changed in a Notice will be assumed not to be changed. Sending a copy of a Notice to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the Notice to that Party. The failure to send a copy of a Notice by electronic mail or to legal counsel does not invalidate delivery of that Notice to a Party.

- 7.2 Time is of the essence in this Agreement.
- 7.3 The Parties intend that this Agreement will not benefit or create any right or cause of action in favour of, any person or entity, other than the Parties to this Agreement. The Parties acknowledge and agree that at the conclusion of good faith negotiations of a Contract, the approval of their respective boards of directors (in such boards' sole discretion) will be required for execution and delivery of such Contract.
- 7.4 Except as otherwise expressly provided in this Agreement, each Party shall be responsible for its own costs and expenses incurred in connection with the negotiation, execution and performance of this Agreement and the Contract.
- 7.5 This Agreement may only be amended, supplemented or otherwise modified by written agreement executed by the Parties. Subject to Section 1.3, if the Contract is executed and delivered by the Parties, the terms of the Contract shall supersede and govern over the terms of this Agreement.
- 7.6 No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the Party to be bound by the waiver. A Party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a Party from any other or further exercise of that right or the exercise of any other right it may have.

- 7.7 This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their permitted successors and assigns. TCE shall be entitled to assign this Agreement, in whole or in part, with notice to the OPA, to one or more corporations, limited or general partnerships and/or other entities of which TCE or its affiliates retain control. Upon TCE giving notice to the OPA of any such assignment, all references herein to TCE shall to the extent appropriate be deemed to be and include such assignee or assignees. For the purposes hereof "control" shall have the meaning given thereto in the *Business Corporations Act* (Ontario).
- 7.8 If any provision of this Agreement is determined to be illegal, invalid or unenforceable by an arbitrator or any court of competent jurisdiction from which no appeal exists or is taken, that provision will be severed from this Agreement and the remaining provisions will remain in full force and effect.
- 7.9 This Agreement will be governed by, interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- 7.10 For purposes of this Agreement, "Business Day" means any day of the year other than a Saturday, Sunday or any day on which major banks are closed for business in Toronto, Ontario.
- 7.11 This Agreement may be executed in any number of counterparts (including counterparts by electronic mail) and all such counterparts taken together will be deemed to constitute one and the same instrument.
- 7.12 This Agreement, along with Exhibits I, II, III, and IV and Schedules A, B, C and D hereto, together constitute the entire agreement between the Parties pertaining to the subject matter of this Agreement. Any conflict or inconsistency between the Agreement and the Exhibits or Schedules shall be resolved by interpreting such documents in the following order, from highest to lowest priority, namely: [NTD: To be confirmed.]
- (i) the Agreement;
 - (ii) Exhibit II;
 - (iii) Exhibit III;
 - (iv) Exhibit IV;
 - (v) Exhibit I;
 - (vi) Schedule D;
 - (vii) Schedule B;
 - (viii) ~~Schedule C; and~~
 - (ix) Schedule A.

where a document of a higher priority shall govern over a document of a lower priority to the extent of any conflict or inconsistency.

IN WITNESS WHEREOF, the Parties have executed this Implementation Agreement

TRANSCANADA ENERGY LTD.

By: _____

Name:

Title:

By: _____

Name:

Title:

ONTARIO POWER AUTHORITY

By: _____

Name:

Title:

EXHIBIT I
CONFIDENTIALITY AGREEMENT

EXHIBIT II
ACKNOWLEDGEMENTS

EXHIBIT III
MOU

EXHIBIT IV
MINISTER'S DIRECTIVE

SCHEDULE A TECHNICAL DESIGN REQUIREMENTS

[NTD: Further discussion required.]

Potential Project

The Potential Project will:

- (a) be a dispatchable facility.
- (b) be a simple cycle configuration generating facility.
- (c) utilize gas (which has been defined as natural gas supplied by pipeline) as the fuel.
- (d) have a minimum Ramp Rate, over a single five minute interval, of a least 20 MW/minute, and will be capable of responding to market prices at its specified Ramp Rate, both increasing and decreasing output.

Contract Capacity

The Potential Project will be a single generating facility and will

- (a) be able to provide a minimum of 125 MW at 35 °C under both N-1 System Conditions and N-1 Generating Facility Conditions simultaneously. For further clarity, the Potential Project must be designed to supply either transmission circuit (M20D or M21D) at all times. Each unit must be able to supply either transmission circuit at all times;
- (b) be able to provide a minimum of [450] MW at 35 °C under N-2 System Conditions;
- (c) have a Season 3 Contract Capacity of no less than 250 MW; and
- (d) have a Contract Capacity of no more than [550] MW in any Season.

Electrical Connection

The Potential Project will be connected directly to the IESO-Controlled Grid via new double circuit 230 kV transmission lines. The Potential Project will have a direct connection to the Hydro One circuits M20D and M21D with a connection point located at or near the Preston TS.

Emissions Requirements

The Potential Project will not emit:

- (i) Nitrogen Oxides (NO_x) in a concentration that exceeds 15 ppmv (based upon Reference Conditions and 15% O₂ in the exhaust gases on a dry volume basis) as measured using the KWCG Emissions Measurement Methodology, and all as more particularly set out in the Contract; or
- (ii) Carbon Monoxide (CO) in a concentration that exceeds 15 ppmv (based upon Reference Conditions and 15% O₂ in the exhaust gases on a dry volume basis) as measured using the KWCG Emissions Measurement Methodology, and all as more particularly set out in the Contract.

The Contract will require that the emission limits for NO_x and CO pursuant to this Section, be (i) incorporated into the Potential Project's Environmental Review Report prepared as part of its environmental assessment process or otherwise reflected in its completed environmental assessment, and (ii) ultimately reflected in the Potential Project's application to the Ministry of the Environment for a Certificate of Approval (Air & Noise) Operating Permit, together with a request that such limits be imposed as a condition in such certificate of approval.

The emission limits for NO_x and CO stated in the Contract will form the basis of an ongoing operating requirement. For greater certainty, the OPA is not requiring TCE to adopt any specific facility design or utilize any particular control equipment with respect to air emissions, provided, however, that the Potential Project must comply with the NO_x and CO limits set out above

Fuel Supply

The Potential Project will obtain gas distribution services from Union Gas Limited, and TCE cannot by-pass Union Gas Limited.

Equipment

The Potential Project will be designed utilizing (2) Mitsubishi heavy Industries M501GAC Fast Start gas gas-fired combustion turbine generators (the "Generators"), with evaporative cooling and emission reduction equipment as purchased under 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 November 19, 2010 and December 31, 2010 and as may be further amended from time to time. Each Generator shall be nominally rated at [250] MW (measured at the Generator's output terminals) new and clean, at ISO conditions.

SCHEDULE B
ADDITIONAL CONTACT TERMS

[NTD: details to follow.]

NRR

Permits and Approvals

Gas Delivery and Management Services Costs

Interconnection Costs

Operating Reserve

Option to Extend Term

Future Changes – Risk Mitigation

\

**SCHEDULE C
PROCESS**

[NTD: to be provided separately.]

SCHEDULE D
PROJECTED COSTS AND EXPENSES
DURING THE TERM

[NTD: The following is preliminary and subject to change.]

	Cancellation Schedule	January 2011	February 2011	March 2011	April 2011	May 2011	June 2011
		Values are in millions and are cumulative month to month					
	Non-Recoverable costs for the Facility	\$33.6	\$33.6	\$33.6	\$33.6	\$33.6	\$33.6
	MPS Canada, Inc. ESA US\$	\$108.5	\$130.2	\$137.5	\$143.3	\$144.7	\$144.7
	Hedging Costs US\$ to Cdn\$	\$12.4	\$12.4	\$12.4	\$12.4	\$12.4	\$12.4
	MPS Canada, Inc. ESA f/s Option	\$34.6	\$34.6	\$34.6	\$34.6	\$34.6	\$34.6
	MPS Canada, Inc. LTSA	\$4.1	\$4.1	\$4.1	\$4.1	\$4.1	\$4.1
	MPS Canada, Inc. TRA	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5	\$7.5
	TransCanada Business Development		\$0.1	\$0.1	\$0.2	\$0.3	\$0.3
	TransCanada Development Engineering	\$0.2	\$0.3	\$0.6	\$0.7	\$1.0	\$1.1
	External Detailed Design Engineering	\$-	\$0.8	\$1.7	\$2.6	\$3.3	\$4.0
	Other Engineering Consulting	\$0.1	\$0.3	\$0.5	\$0.7	\$0.8	\$0.9
	Consultant Environmental		\$0.1	\$0.2	\$0.3	\$0.4	\$0.5
	Land Options Costs and Real Estate			\$0.5	\$0.5	\$0.5	\$0.5

	Community and Public Relations		\$0.0	\$0.1	\$0.1	\$0.1	\$0.1
	External Legal		\$0.0	\$0.0	\$0.0	\$0.0	\$0.1
	Union Gas		\$0.0	\$0.0	\$0.0	\$0.0	\$0.1
	Other		\$0.1	\$0.1	\$0.2	\$0.2	\$0.3
	Total	\$200.9	\$224.1	\$233.4	\$240.7	\$243.5	\$244.7

Aleksandar Kojic

From: Susan Kennedy
Sent: January 24, 2011 5:34 PM
To: Michael Killeavy
Subject: Re: Follow-up

I don't recall him saying that (which, presumably, means I missed or misunderstood some email communication). We have all the powers of a natural person, so from a purely authority perspective, we totally have capacity/authority.

Whether a payment amount is deemed approved by the OEB (ie. whether we can pay something without OEB approval - by way of including said item in our budget - is a different question).

We can recover from GAM without OEB [budget] if it is per a procurement contract (a contract for generation or conservation), we need a directive to do the procurement.

Let's talk tomorrow, as I may be looped out on a relevant fact or we may somehow not be talking about exactly same thing.

From: Michael Killeavy
Sent: Monday, January 24, 2011 05:09 PM
To: Susan Kennedy
Subject: Re: Follow-up

Rocco said that there's no statutory authority for us to enter into an indemnity agreement.

I thought you were in agreement with this advice?

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: Monday, January 24, 2011 05:01 PM
To: Michael Killeavy
Subject: Follow-up

Mike Lyle asked me to follow-up on your walk-in presentation at the board. Specifically, he understood you to say that we have received a legal opinion that we cannot give TCE an indemnity period. In other words, he understood you to have said that even if we receive a directive we do not have the authority to indemnify TCE.

Since the above is all I know about what was said, can we please touch base as to what you may or may not have actually said. Also assuming you said essentially what is described above, may I get some details as to specifically what/what kind of indemnity and the source of the legal opinion.

Let's find a time to chat tomorrow – I'm around, if you are, and I'd prefer not to sway extensive emails on this file.

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

Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: January 24, 2011 6:32 PM
To: Deborah Langelaan; Michael Killeavy; Smith, Elliot
Subject: RE: TransCanada - Ontario Power Authority - Implementation Agreement

There is a meeting between 12 and 2 pm tomorrow with TCE. If we could meet between 2 and 3 pm to discuss the draft IA (perhaps TCE could let us use one of their rooms so that you don't waste time going back and forth) then perhaps we could have a productive meeting with TCE and have them walk us through it, including their thoughts on the draft exhibits/schedules, including what to expect with the missing ones. Even if it's a short meeting, we should meet with them to at least show that we are doing whatever we can to meet their Friday deadline.

Thanks, Rocco

From: Deborah Langelaan [<mailto:Deborah.Langelaan@powerauthority.on.ca>]
Sent: Monday, January 24, 2011 4:47 PM
To: Michael Killeavy; Sebastiano, Rocco; Smith, Elliot
Subject: FW: TransCanada - Ontario Power Authority - Implementation Agreement
Importance: High

Drum roll please.....attached is the draft Implementation Agreement.

TCE is asking if we still want to meet tomorrow at 3:00 p.m. to discuss or if we require more time to review? Please let me know what your preference is.

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: January 24, 2011 4:41 PM
To: Deborah Langelaan
Cc: Terry Bennett; Geoff Murray; John Cashin
Subject: TransCanada - Ontario Power Authority - Implementation Agreement

Deborah,

Attached please find attached draft Implementation Agreement for the Potential Project.

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

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Aleksandar Kojic

From: Michael Killeavy
Sent: January 24, 2011 6:41 PM
To: 'RSebastiano@osler.com'; Deborah Langelaan; 'ESmith@osler.com'
Subject: Re: TransCanada - Ontario Power Authority - Implementation Agreement

Ok with 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: Sebastiano, Rocco [<mailto:RSebastiano@osler.com>]
Sent: Monday, January 24, 2011 06:31 PM
To: Deborah Langelaan; Michael Killeavy; Smith, Elliot <ESmith@osler.com>
Subject: RE: TransCanada - Ontario Power Authority - Implementation Agreement

There is a meeting between 12 and 2 pm tomorrow with TCE. If we could meet between 2 and 3 pm to discuss the draft IA (perhaps TCE could let us use one of their rooms so that you don't waste time going back and forth) then perhaps we could have a productive meeting with TCE and have them walk us through it, including their thoughts on the draft exhibits/schedules, including what to expect with the missing ones. Even if it's a short meeting, we should meet with them to at least show that we are doing whatever we can to meet their Friday deadline.

Thanks, Rocco

From: Deborah Langelaan [<mailto:Deborah.Langelaan@powerauthority.on.ca>]
Sent: Monday, January 24, 2011 4:47 PM
To: Michael Killeavy; Sebastiano, Rocco; Smith, Elliot
Subject: FW: TransCanada - Ontario Power Authority - Implementation Agreement
Importance: High

Drum roll please.....attached is the draft Implementation Agreement.

TCE is asking if we still want to meet tomorrow at 3:00 p.m. to discuss or if we require more time to review?
Please let me know what your preference is.

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: January 24, 2011 4:41 PM
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Director, Eastern Canada, Power Development

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Aleksandar Kojic

From: Deborah Langelaan
Sent: January 24, 2011 6:43 PM
To: Michael Killeavy; 'rsebastiano@osler.com'; 'esmith@osler.com'
Subject: Re: TransCanada - Ontario Power Authority - Implementation Agreement

I have advised TCE that we still want to meet at 3:00 and asked if we could have access to a meeting room between 2:00 and 3:00.

Deb

From: Michael Killeavy
Sent: Monday, January 24, 2011 06:41 PM
To: 'RSebastiano@osler.com' <RSebastiano@osler.com>; Deborah Langelaan; 'ESmith@osler.com' <ESmith@osler.com>
Subject: Re: TransCanada - Ontario Power Authority - Implementation Agreement

Ok with me.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
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416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

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