

Director, Eastern Canada, Power Development

TransCanada

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

Tel: 416.869.2102

Fax: 416.869.2056

Cell: 416.559.1664

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

Sent: Monday, February 14, 2011 5:41 PM

To: John Mikkelsen

Subject: Re: TransCanada Cambridge Capex

John;

We have the same understanding and I will provide you with potential meeting times tomorrow morning.

Deb

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

Sent: Monday, February 14, 2011 05:28 PM

To: Deborah Langelaan; Michael Killeavy

Subject: TransCanada Cambridge Capex

Dear Deborah,

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Aleksandar Kojic

From: JoAnne Butler
Sent: February 15, 2011 4:59 PM
To: Deborah Langelaan; Michael Killeavy
Subject: Re: TransCanada Cambridge Capex

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Subject: FW: TransCanada Cambridge Capex

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Aleksandar Kojic

From: Michael Killeavy
Sent: February 15, 2011 5:06 PM
To: JoAnne Butler; Deborah Langelaan
Subject: Re: TransCanada Cambridge Capex

Ok.

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
Toronto, Ontario M5J 2J1

Tel: 416.869.2102

Fax: 416.869.2056

Cell: 416.559.1664

From: Deborah Langelaan [<mailto:Deborah.Langelaan@powerauthority.on.ca>]
Sent: Monday, February 14, 2011 5:41 PM
To: John Mikkelsen
Subject: Re: TransCanada Cambridge Capex

John;

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Deb

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Monday, February 14, 2011 05:28 PM
To: Deborah Langelaan; Michael Killeavy
Subject: TransCanada Cambridge Capex

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Aleksandar Kojic

From: Deborah Langelaan
Sent: February 15, 2011 5:10 PM
To: Michael Killeavy
Subject: Re: TransCanada Cambridge Capex

WTF?

From: Michael Killeavy
Sent: Tuesday, February 15, 2011 05:06 PM
To: JoAnne Butler; Deborah Langelaan
Subject: Re: TransCanada Cambridge Capex

Ok.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
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Aleksandar Kojic

From: Michael Killeavy
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It is up to TCE to defend its work, too. Safouh made a very preliminary estimate of capex, which I think was based on PEC to some degree. It is likely nowhere as detailed as what TCE has done. A line by line comparison may not be possible because Safouh's estimate is broken down differently from TCE's.

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TransCanada

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Fax: 416.869.2056

Cell: 416.559.1664

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Sent: Tuesday, February 15, 2011 10:39 AM

To: John Mikkelsen

Subject: RE: TransCanada Cambridge Capex

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From: Michael Killeavy
Sent: Tuesday, February 15, 2011 05:11 PM
To: JoAnne Butler
Subject: Re: TransCanada Cambridge Capex

It is up to TCE to defend its work, too. Safouh made a very preliminary estimate of capex, which I think was based on PEC to some degree. It is likely nowhere as detailed as what TCE has done. A line by line comparison may not be possible because Safouh's estimate is broken down differently from TCE's.

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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: February 15, 2011 4:23 PM
To: Deborah Langelaan
Cc: Terry Bennett; Geoff Murray; Brandon Anderson
Subject: RE: TransCanada Cambridge Capex

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Fax: 416.869.2056

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I just left you a voice mail. I understand that Brandon Anderson and Terry Bennett met with JoAnne Butler this afternoon. My understanding coming out of that meeting is that we are to get together with your team as soon as possible to review the capital cost build-up for Cambridge. Can you please confirm this is your understanding?

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John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

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200 Bay Street
24th Floor, South Tower
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Tel: 416.869.2102

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Aleksandar Kojic

From: Deborah Langelaan
Sent: February 15, 2011 5:19 PM
To: Michael Killeavy
Subject: Re: TransCanada Cambridge Capex

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From: Michael Killeavy
Sent: Tuesday, February 15, 2011 05:17 PM
To: Deborah Langelaan
Subject: Re: TransCanada Cambridge Capex

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Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
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416-969-6288 (office)
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Michael.killeavy@powerauthority.on.ca

From: Deborah Langelaan
Sent: Tuesday, February 15, 2011 05:15 PM
To: Michael Killeavy
Subject: Re: TransCanada Cambridge Capex

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From: Michael Killeavy
Sent: Tuesday, February 15, 2011 05:13 PM
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From: JoAnne Butler
Sent: Tuesday, February 15, 2011 04:59 PM
To: Deborah Langelaan; Michael Killeavy
Subject: Re: TransCanada Cambridge Capex

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Sent: Tuesday, February 15, 2011 04:26 PM
To: Michael Killeavy; 'Safouh Soufi' <safouh@smsenergy-engineering.com>
Cc: JoAnne Butler
Subject: FW: TransCanada Cambridge Capex

Fellas...can we discuss this tomorrow?

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From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: February 15, 2011 4:23 PM
To: Deborah Langelaan
Cc: Terry Bennett; Geoff Murray; Brandon Anderson
Subject: RE: TransCanada Cambridge Capex

Dear Deborah,

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What are your thoughts on such an analysis? If you are in agreement that such a process is an expeditious approach, the first step is sharing the OPA's Cost Estimate with TCE such that we can identify the gaps and prepare information in response.

If the OPA has a different approach in mind it is critical that the OPA communicate that prior to our meeting(s). As the OPA is looking for TCE to provide complete and detailed information to satisfy the OPA it is important that the OPA advise TCE of exactly what information is required to satisfy the OPA's needs.

We remain willing, interested and available to meet prior to Thursday and believe that assembling a smaller group (the core business teams from each side: Geoff, John, Deb, and Michael) for an initial discussion is required to meet the direction of senior management. Please let us know if the OPA can find a slot for this discussion.

Best regards,

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From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Tuesday, February 15, 2011 2:00 PM
To: John Mikkelsen
Subject: RE: TransCanada Cambridge Capex

John;

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From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: February 15, 2011 11:01 AM
To: Deborah Langelaan
Subject: RE: TransCanada Cambridge Capex

Deborah,

Thanks for getting back. Based on the discussions between Terry, Brandon and JoAnne on Monday we are to have the capital cost issues resolved by Friday for a follow-up meeting with JoAnne next Tuesday. While I appreciate that you need to schedule your team's availability, I don't see how we can meet the Friday deliverable if we start on Thursday afternoon. We believe this discussion needs to start today.

Geoff and I are available now through Friday and we can bring in our team members as required (by phone, by telepresence or in person). Can you please review at your earliest convenience and let us know if a meeting this afternoon is possible?

Also can you please update us on the status of the blackline to the Implementation Agreement, Schedule A (the Technical Requirements), and your capital cost estimate?

Many thanks,

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From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Tuesday, February 15, 2011 10:39 AM
To: John Mikkelsen
Subject: RE: TransCanada Cambridge Capex

John;

I think it's a good idea that your engineers be at the meeting. OPA attendees will be Michael Killeavy, Safouh Soufi, Anshul Mathur, Rocco Sebastiano and me. Based on everyone's schedules the soonest we can meet is Thursday afternoon at our prearranged time of 2:30 p.m.

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From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: February 14, 2011 5:46 PM
To: Deborah Langelaan
Subject: RE: TransCanada Cambridge Capex

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Talk to you tomorrow,

Regards,

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Sent: Monday, February 14, 2011 5:41 PM

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John;

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Sent: February 15, 2011 5:21 PM
To: Deborah Langelaan
Subject: Re: TransCanada Cambridge Capex

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Aleksandar Kojic

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To: Michael Killeavy
Subject: Re: TransCanada Cambridge Capex

Absolutely, they need to defend it. But I committed to use this week to get to a point on Capex so if Safouh's work is not comprehensive then we need to get it there because if not, how are we ever going to defend our Capex assumptions? If Safouh can't do it, then find someone who can....

JCB

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Sent: Tuesday, February 15, 2011 05:11 PM
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Subject: Re: TransCanada Cambridge Capex

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In an effort to make the meeting(s) more productive we believe that the deal teams should perform a "gap analysis" to help the OPA gain comfort with the capital cost estimate. This process starts with our respective capital cost estimates (you have ours and we believe yours totals \$450 million based on discussions with JoAnne) and we will then compare the line items of the cost estimates to determine the largest "gaps" between our respective estimates. This will guide the discussion to focus on areas of greatest concern first. In order to chase this down we need the OPA's current cost estimate, ideally in a format that has the same line items as the TCE Cost Estimate presented at our January 25th meeting.

What are your thoughts on such an analysis? If you are in agreement that such a process is an expeditious approach, the first step is sharing the OPA's Cost Estimate with TCE such that we can identify the gaps and prepare information in response.

If the OPA has a different approach in mind it is critical that the OPA communicate that prior to our meeting(s). As the OPA is looking for TCE to provide complete and detailed information to satisfy the OPA it is important that the OPA advise TCE of exactly what information is required to satisfy the OPA's needs.

We remain willing, interested and available to meet prior to Thursday and believe that assembling a smaller group (the core business teams from each side: Geoff, John, Deb, and Michael) for an initial discussion is required to meet the direction of senior management. Please let us know if the OPA can find a slot for this discussion.

Best regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

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

Tel: 416.869.2102

Fax: 416.869.2056

Cell: 416.559.1664

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

Sent: Tuesday, February 15, 2011 2:00 PM

To: John Mikkelsen

Subject: RE: TransCanada Cambridge Capex

John;

JoAnne indicated to us that it is the negotiating team's objective this week to review and understand TCE's capital cost build-up for Cambridge and understand how the figures presented to us on January 25th were derived. TCE has to provide complete and detailed information to satisfy the OPA project review and due diligence process, so that we can understand how the CAPEX was built up. The OPA recognizes the urgency on TCE's behalf in scheduling the next meeting; however, our schedules are such that Thursday afternoon is the earliest we can meet. We are available to meet on Thursday from 2:30 p.m. to 6:00 p.m., if necessary.

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: February 15, 2011 11:01 AM

To: Deborah Langelaan

Subject: RE: TransCanada Cambridge Capex

Deborah,

Thanks for getting back. Based on the discussions between Terry, Brandon and JoAnne on Monday we are to have the capital cost issues resolved by Friday for a follow-up meeting with JoAnne next Tuesday. While I appreciate that you need to schedule your team's availability, I don't see how we can meet the Friday deliverable if we start on Thursday afternoon. We believe this discussion needs to start today.

Geoff and I are available now through Friday and we can bring in our team members as required (by phone, by telepresence or in person). Can you please review at your earliest convenience and let us know if a meeting this afternoon is possible?

Also can you please update us on the status of the blackline to the Implementation Agreement, Schedule A (the Technical Requirements), and your capital cost estimate?

Many thanks,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

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Tel: 416.869.2102

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Cell: 416.559.1664

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Tuesday, February 15, 2011 10:39 AM
To: John Mikkelsen
Subject: RE: TransCanada Cambridge Capex

John;

I think it's a good idea that your engineers be at the meeting. OPA attendees will be Michael Killeavy, Safouh Soufi, Anshul Mathur, Rocco Sebastiano and me. Based on everyone's schedules the soonest we can meet is Thursday afternoon at our prearranged time of 2:30 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 |

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: February 14, 2011 5:46 PM
To: Deborah Langelaan
Subject: RE: TransCanada Cambridge Capex

Thank you.

I would like to bring our engineering team out to assist with the discussion of the assumptions. Geoff and I are able to meet tomorrow but we would need a days notice to get Andy Mather and Larry here. We have a telepresence room here which is also an alternative.

Talk to you tomorrow,

Regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

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From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Monday, February 14, 2011 5:41 PM
To: John Mikkelsen
Subject: Re: TransCanada Cambridge Capex

John;

We have the same understanding and I will provide you with potential meeting times tomorrow morning..

Deb

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Monday, February 14, 2011 05:28 PM
To: Deborah Langelaan; Michael Killeavy
Subject: TransCanada Cambridge Capex

Dear Deborah,

I just left you a voice mail. I understand that Brandon Anderson and Terry Bennett met with JoAnne Butler this afternoon. My understanding coming out of that meeting is that we are to get together with your team as soon as possible to review the capital cost build-up for Cambridge. Can you please confirm this is your understanding?

Also assuming this is the plan, can you let me know when and who should be available for such a meeting so I can plan to get the right people here.

Many thanks,

John Mikkelsen, P.Eng.

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Aleksandar Kojic

From: Michael Killeavy
Sent: February 15, 2011 5:32 PM
To: JoAnne Butler
Subject: Re: TransCanada Cambridge Capex

I don't know if that's the issue. TCE is the developer, not us. We are trying to follow the process used for PEC - they do the build up, we ask questions, and they either provide satisfactory answers or some form of independent substantiation. It worked for PEC, so we've adopted that process here.

I do not want us having the table turned on us and have us on the defensive and having to justify our estimate of costs. We don't have TCE's experience in doing this or access to the data it has.

My understanding from last night is that we were to (a) understand where there are differences and (b) try to figure out why there are differences.

As I said last night, I think (b) is relatively easy - there is no site yet, and there are a lot of contingencies being accounted for in their estimate.

My \$450 million capex estimate was a rule of thumb approximation on a \$/MW cost. It's not a real build up of capex.

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

From: JoAnne Butler
Sent: Tuesday, February 15, 2011 05:23 PM
To: Michael Killeavy
Subject: Re: TransCanada Cambridge Capex

Absolutely, they need to defend it. But I committed to use this week to get to a point on Capex so if Safouh's work is not comprehensive then we need to get it there because if not, how are we ever going to defend our Capex assumptions? If Safouh can't do it, then find someone who can....

JCB

From: Michael Killeavy
Sent: Tuesday, February 15, 2011 05:11 PM
To: JoAnne Butler
Subject: Re: TransCanada Cambridge Capex

It is up to TCE to defend its work, too. Safouh made a very preliminary estimate of capex, which I think was based on PEC to some degree. It is likely nowhere as detailed as what TCE has done. A line by line comparison may not be possible because Safouh's estimate is broken down differently from TCE's.

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

From: JoAnne Butler
Sent: Tuesday, February 15, 2011 04:59 PM
To: Deborah Langelaan; Michael Killeavy
Subject: Re: TransCanada Cambridge Capex

Maybe I did not make myself clear yesterday but I did commit to a line by line review and a sharing of data. I am assuming that Safouh's work is defensible - that is what we hired him for. Please get our work up over to them tomorrow morning. We do not have to end up agreeing nor getting "comfortable" with their estimates, but we do need to know the gaps and why.

Also, the \$450mm number did not come from me - they "believe" it to be that...

JCB

From: Deborah Langelaan
Sent: Tuesday, February 15, 2011 04:26 PM
To: Michael Killeavy; 'Safouh Soufi' <safouh@smsenergy-engineering.com>
Cc: JoAnne Butler
Subject: FW: TransCanada Cambridge Capex

Fellas...can we discuss this tomorrow?

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: February 15, 2011 4:23 PM
To: Deborah Langelaan
Cc: Terry Bennett; Geoff Murray; Brandon Anderson
Subject: RE: TransCanada Cambridge Capex

Dear Deborah,

As you are aware we have been prevented from initiating many of the development activities that we would normally have kicked off to be able to determine the project feasibility and provide solid information to support our Capex estimates. The information that you are proposing to review now is the same as what was presented on January 25th. At that time we presented a methodology under an open book process leading to a final Capex in May and precisely how the figures would be derived. There has been little change since that time.

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Best regards,

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From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Tuesday, February 15, 2011 2:00 PM
To: John Mikkelsen
Subject: RE: TransCanada Cambridge Capex

John;

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

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Director, Eastern Canada, Power Development

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

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Monday, February 14, 2011 05:28 PM
To: Deborah Langelaan; Michael Killeavy
Subject: TransCanada Cambridge Capex

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Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: February 15, 2011 7:33 PM
To: Deborah Langelaan
Cc: Michael Killeavy; Susan Kennedy; Smith, Elliot
Subject: RE: Latest Attempt at Directive

Paul suggested deleting the words "settlement discussions" and replacing with the word "negotiations". With this change, the sentence would read as follows:

"To best protect electricity rate payers, the OPA should, if it deems appropriate, combine such negotiations with negotiations in respect of the mutual termination of the contract for the Oakville Generating Station..."

Thanks, Rocco

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

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Tuesday, February 15, 2011 9:50 AM
To: Sebastiano, Rocco
Cc: Michael Killeavy
Subject: FW: Latest Attempt at Directive

Rocco;

Do you have any comments on the latest version of the Directive? I recall you mentioning a concern with the "settlement discussions" language.

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: February 8, 2011 9:31 AM
To: JoAnne Butler; Michael Killeavy; Michael Lyle; Deborah Langelaan; ''
Subject: RE: Latest Attempt at Directive

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.

Further to the below, attached is my "later [and greater, hopefully] attempt at a KWC Directive that might meet MEI and OPA needs if not wants).

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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

From: JoAnne Butler

Sent: February 4, 2011 1:59 PM

To: Michael Killeavy; Michael Lyle; Deborah Langelaan; Susan Kennedy; ''; ''

Subject: RE: Latest Attempt at Directive

Yes, that could work - it would need to be changed in both background and directive paragraph. I am comfortable with the other red lines that Susan made....

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: Viernes, 04 de Febrero de 2011 01:34 p.m.

To: Michael Lyle; Deborah Langelaan; Susan Kennedy; JoAnne Butler; ''; ''

Subject: RE: Latest Attempt at Directive

Sure, up to 500 MW is good.

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

Director, Contract Management

Ontario Power Authority

120 Adelaide St. West, Suite 1600

Toronto, Ontario, M5H 1T1

416-969-6288 (office)

416-969-6071 (fax)

416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

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

From: Michael Lyle

Sent: Fri 04-Feb-11 1:28 PM

To: Deborah Langelaan; Michael Killeavy; Susan Kennedy; JoAnne Butler; ''; ''

Subject: RE: Latest Attempt at Directive

Other option is "up to 500 MW".

Michael Lyle

General Counsel and Vice President

Legal, Aboriginal & Regulatory Affairs

Ontario Power Authority

120 Adelaide Street West, Suite 1600

Toronto, Ontario, M5H 1T1

Direct: 416-969-6035

Fax: 416.969.6383
Email: michael.lyle@powerauthority.on.ca

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

From: Deborah Langelaan
Sent: February 4, 2011 1:28 PM
To: Michael Killeavy; Susan Kennedy; Michael Lyle; JoAnne Butler; ;
Subject: RE: Latest Attempt at Directive

I specifically asked Susan to include Contract Capacity of 450 MW but based on yesterday's discussions it looks like we need a little wiggle room. Perhaps the language could be "approximately 450 MW".

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: February 4, 2011 1:20 PM
To: Susan Kennedy; Michael Lyle; Deborah Langelaan; JoAnne Butler; 'rsebastiano@osler.com'; 'ESmith@osler.com'
Subject: RE: Latest Attempt at Directive

Could we mention the nameplate capacity of instead of referring to the Contract Capacity, or not mention capacity at all? We may need some flexibility in this regard as we go forward with TCE.

Is it possible to mention the 7 October 2010 letter from the OPA to TCE in the last sentence on the second page, e.g., "... to reprofile investments already made by TransCanada and minimize overall costs in the context of the 7 October 2010 letter from the OPA to TransCanada"? I am thinking that we need something that links that letter's commitment to the negotiations, otherwise why are we doing it.

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: Susan Kennedy
Sent: Fri 04-Feb-11 9:18 AM
To: Michael Lyle; Michael Killeavy; Deborah Langelaan; JoAnne Butler;
'rsebastiano@osler.com'; 'ESmith@osler.com'
Subject: Latest Attempt at Directive

Privileged and Confidential (Solicitor and Client Privilege)

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Attached is my latest attempt at a KWC Directive that might meet MEI and OPA needs (if not wants).

All input welcome and appreciated.

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
<mailto:susan.kennedy@powerauthority.on.ca>

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Il est interdit de l'utiliser ou de le divulguer sans autorisation.

Aleksandar Kojic

From: Michael Killeavy
Sent: February 15, 2011 8:20 PM
To: Sebastiano, Rocco; Deborah Langelaan
Cc: Susan Kennedy; Smith, Elliot
Subject: RE: Latest Attempt at Directive

Thank you for this.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
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Further to the below, attached is my "later [and greater, hopefully] attempt at a KWC Directive that might meet MEI and OPA needs if not wants).

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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

From: JoAnne Butler
Sent: February 4, 2011 1:59 PM
To: Michael Killeavy; Michael Lyle; Deborah Langelaan; Susan Kennedy; ''; ''
Subject: RE: Latest Attempt at Directive

Yes, that could work - it would need to be changed in both background and directive paragraph. I am comfortable with the other red lines that Susan made....

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: Viernes, 04 de Febrero de 2011 01:34 p.m.
To: Michael Lyle; Deborah Langelaan; Susan Kennedy; JoAnne Butler; ''; ''
Subject: RE: Latest Attempt at Directive

Sure, up to 500 MW is good.

Michael Killeavy, LL.B., MBA, P.Eng.
Director, Contract Management
Ontario Power Authority
120 Adelaide St. West, Suite 1600
Toronto, Ontario, M5H 1T1
416-969-6288 (office)

416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

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

From: Michael Lyle
Sent: Fri 04-Feb-11 1:28 PM
To: Deborah Langelaan; Michael Killeavy; Susan Kennedy; JoAnne Butler; '';
Subject: RE: Latest Attempt at Directive

Other option is "up to 500 MW".

Michael Lyle
General Counsel and Vice President
Legal, Aboriginal & Regulatory Affairs
Ontario Power Authority
120 Adelaide Street West, Suite 1600
Toronto, Ontario, M5H 1T1
Direct: 416-969-6035
Fax: 416.969.6383
Email: michael.lyle@powerauthority.on.ca

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

From: Deborah Langelaan
Sent: February 4, 2011 1:28 PM
To: Michael Killeavy; Susan Kennedy; Michael Lyle; JoAnne Butler; ;
Subject: RE: Latest Attempt at Directive

I specifically asked Susan to include Contract Capacity of 450 MW but based on yesterday's discussions it looks like we need a little wiggle room. Perhaps the language could be "approximately 450 MW".

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: February 4, 2011 1:20 PM
To: Susan Kennedy; Michael Lyle; Deborah Langelaan; JoAnne Butler; 'rsebastiano@osler.com'; 'ESmith@osler.com'
Subject: RE: Latest Attempt at Directive

Could we mention the nameplate capacity of instead of referring to the Contract Capacity, or not mention capacity at all? We may need some flexibility in this regard as we go forward with TCE.

Is it possible to mention the 7 October 2010 letter from the OPA to TCE in the last sentence on the second page, e.g., "... to reprofile investments already made by TransCanada and minimize overall costs in the context of the 7 October 2010 letter from the OPA to TransCanada"? I am thinking that we need something that links that letter's commitment to the negotiations, otherwise why are we doing it.

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: Susan Kennedy
Sent: Fri 04-Feb-11 9:18 AM
To: Michael Lyle; Michael Killeavy; Deborah Langelaan; JoAnne Butler;
'rsebastiano@osler.com'; 'ESmith@osler.com'
Subject: Latest Attempt at Directive

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Attached is my latest attempt at a KWC Directive that might meet MEI and OPA needs (if not wants).

All input welcome and appreciated.

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
<mailto:susan.kennedy@powerauthority.on.ca>

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

Aleksandar Kojic

From: Safouh Soufi [safouh@smsenergy-engineering.com]
Sent: February 15, 2011 8:27 PM
To: Deborah Langelaan; Michael Killeavy
Cc: JoAnne Butler
Subject: RE: TransCanada Cambridge Capex

Importance: High

Hello Deborah:

I am available from 10:15 to noon and after 3:15 pm.

I have quickly reviewed the thread of messages below and am deeply concerned about what is being proposed (i.e. gap analysis) for the upcoming Thursday meeting. I have few comments and questions which I am listing below and hope to discuss further with the group tomorrow.

Facts:

1. TCE CAPEX of January 25th is preliminary, doesn't include sufficient breakdown and was qualified as having +/- 30%.
2. In his Feb 25 email John Mikkelsen mentioned that TCE is not able "to provide solid information to support our (their) CAPEX estimates" which confirms what TCE told us January 25th.

Questions:

1. Does the OPA have a credible capital cost estimate breakdown for Cambridge? If so, where did the OPA get it from? I know SMS wasn't asked by the OPA to prepare one nor could SMS prepare a credible estimate, at this time, for the same reasons that prevent TCE from doing the same at this time, see John Mikkelsen Feb 25 email.
2. Where the \$450 million CAPEX is coming from? What does it include or exclude? What is its range of accuracy?

Gap Analysis:

1. Assuming the OPA has a capital cost estimate breakdown for Cambridge and it is in the order of +/-30%. Further assuming that the OPA breakdown of costs is of the same format as TCE and the scopes of the respective estimates correspond to each other (almost impossible for all line items). Then the benefit of a gap analysis study is limited by virtue of the fact that both estimates are +/-30%. The same couldn't be said if one of the estimates is +/-10% - 15%. In responding to John's question about your thoughts on such analysis, you may want to suggest that given the +/-30% and the cost breakdown levels (not many), a gap analysis will be of little value if any to the OPA and to the negotiation process. One cannot draw solid conclusions from it or upon it and so it is not an expeditious approach.

Different Approach:

John Mikkelsen in his email below is asking the OPA if it "has a different approach in mind" and he recognizes that "the OPA is looking for TCE to provide complete and detailed information" but wants to know what this approach might be. To be reasonable to TCE, I believe the OPA should propose an approach that satisfies it. Our recommendation would be to use an approach similar to Portland which TCE is very familiar with and even though it was not perfect but given the circumstances it did satisfy the interest of both parties in as far as CAPEX is concerned. I will be happy to discuss this approach with you tomorrow.

Thanks,
Safouh

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: February 15, 2011 4:26 PM
To: Michael Killeavy; Safouh Soufi
Cc: JoAnne Butler
Subject: FW: TransCanada Cambridge Capex

Fellas...can we discuss this tomorrow?

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: February 15, 2011 4:23 PM
To: Deborah Langelaan
Cc: Terry Bennett; Geoff Murray; Brandon Anderson
Subject: RE: TransCanada Cambridge Capex

Dear Deborah,

As you are aware we have been prevented from initiating many of the development activities that we would normally have kicked off to be able to determine the project feasibility and provide solid information to support our Capex estimates. The information that you are proposing to review now is the same as what was presented on January 25th. At that time we presented a methodology under an open book process leading to a final Capex in May and precisely how the figures would be derived. There has been little change since that time.

In an effort to make the meeting(s) more productive we believe that the deal teams should perform a "gap analysis" to help the OPA gain comfort with the capital cost estimate. This process starts with our respective capital cost estimates (you have ours and we believe yours totals \$450 million based on discussions with JoAnne) and we will then compare the line items of the cost estimates to determine the largest "gaps" between our respective estimates. This will guide the discussion to focus on areas of greatest concern first. In order to chase this down we need the OPA's current cost estimate, ideally in a format that has the same line items as the TCE Cost Estimate presented at our January 25th meeting.

What are your thoughts on such an analysis? If you are in agreement that such a process is an expeditious approach, the first step is sharing the OPA's Cost Estimate with TCE such that we can identify the gaps and prepare information in response.

If the OPA has a different approach in mind it is critical that the OPA communicate that prior to our meeting(s). As the OPA is looking for TCE to provide complete and detailed information to satisfy the OPA it is important that the OPA advise TCE of exactly what information is required to satisfy the OPA's needs.

We remain willing, interested and available to meet prior to Thursday and believe that assembling a smaller group (the core business teams from each side: Geoff, John, Deb, and Michael) for an initial discussion is required to meet the direction of senior management. Please let us know if the OPA can find a slot for this discussion.

Best regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

Royal Bank Plaza
200 Bay Street

24th Floor, South Tower
Toronto, Ontario M5J 2J1

Tel: 416.869.2102

Fax: 416.869.2056

Cell: 416.559.1664

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Tuesday, February 15, 2011 2:00 PM
To: John Mikkelsen
Subject: RE: TransCanada Cambridge Capex

John;

JoAnne indicated to us that it is the negotiating team's objective this week to review and understand TCE's capital cost build-up for Cambridge and understand how the figures presented to us on January 25th were derived. TCE has to provide complete and detailed information to satisfy the OPA project review and due diligence process, so that we can understand how the CAPEX was built up. The OPA recognizes the urgency on TCE's behalf in scheduling the next meeting; however, our schedules are such that Thursday afternoon is the earliest we can meet. We are available to meet on Thursday from 2:30 p.m. to 6:00 p.m., if necessary.

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: February 15, 2011 11:01 AM
To: Deborah Langelaan
Subject: RE: TransCanada Cambridge Capex

Deborah,

Thanks for getting back. Based on the discussions between Terry, Brandon and JoAnne on Monday we are to have the capital cost issues resolved by Friday for a follow-up meeting with JoAnne next Tuesday. While I appreciate that you need to schedule your team's availability, I don't see how we can meet the Friday deliverable if we start on Thursday afternoon. We believe this discussion needs to start today.

Geoff and I are available now through Friday and we can bring in our team members as required (by phone, by telepresence or in person). Can you please review at your earliest convenience and let us know if a meeting this afternoon is possible?

Also can you please update us on the status of the blackline to the Implementation Agreement, Schedule A (the Technical Requirements), and your capital cost estimate?

Many thanks,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

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

Tel: 416.869.2102

Fax: 416.869.2056

Cell: 416.559.1664

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Tuesday, February 15, 2011 10:39 AM
To: John Mikkelsen
Subject: RE: TransCanada Cambridge Capex

John;

I think it's a good idea that your engineers be at the meeting. OPA attendees will be Michael Killeavy, Safouh Soufi, Anshul Mathur, Rocco Sebastiano and me. Based on everyone's schedules the soonest we can meet is Thursday afternoon at our prearranged time of 2:30 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 |

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: February 14, 2011 5:46 PM
To: Deborah Langelaan
Subject: RE: TransCanada Cambridge Capex

Thank you.

I would like to bring our engineering team out to assist with the discussion of the assumptions. Geoff and I are able to meet tomorrow but we would need a days notice to get Andy Mather and Larry here. We have a telepresence room here which is also an alternative.

Talk to you tomorrow,

Regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

Royal Bank Plaza
200 Bay Street
24th Floor, South Tower
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Tel: 416.869.2102

Fax: 416.869.2056

Cell: 416.559.1664

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

Sent: Monday, February 14, 2011 5:41 PM

To: John Mikkelsen

Subject: Re: TransCanada Cambridge Capex

John;

We have the same understanding and I will provide you with potential meeting times tomorrow morning.

Deb

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

Sent: Monday, February 14, 2011 05:28 PM

To: Deborah Langelaan; Michael Killeavy

Subject: TransCanada Cambridge Capex

Dear Deborah,

I just left you a voice mail. I understand that Brandon Anderson and Terry Bennett met with JoAnne Butler this afternoon. My understanding coming out of that meeting is that we are to get together with your team as soon as possible to review the capital cost build-up for Cambridge. Can you please confirm this is your understanding?

Also assuming this is the plan, can you let me know when and who should be available for such a meeting so I can plan to get the right people here.

Many thanks,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

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Aleksandar Kojic

From: Michael Killeavy
Sent: February 15, 2011 8:29 PM
To: Deborah Langelaan
Subject: Fw: TransCanada Cambridge Capex
Importance: High

This rapidly becoming a thermonuclear charlie foxtrot. Let's discuss tomorrow morning before I go to the ETM.

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

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]
Sent: Tuesday, February 15, 2011 08:26 PM
To: Deborah Langelaan; Michael Killeavy
Cc: JoAnne Butler
Subject: RE: TransCanada Cambridge Capex

Hello Deborah:

I am available from 10:15 to noon and after 3:15 pm.

I have quickly reviewed the thread of messages below and am deeply concerned about what is being proposed (i.e. gap analysis) for the upcoming Thursday meeting. I have few comments and questions which I am listing below and hope to discuss further with the group tomorrow.

Facts:

1. TCE CAPEX of January 25th is preliminary, doesn't include sufficient breakdown and was qualified as having +/- 30%.
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From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: February 15, 2011 4:26 PM
To: Michael Killeavy; Safouh Soufi
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Subject: FW: TransCanada Cambridge Capex

Fellas... can we discuss this tomorrow?

Deb

Deborah Langelaan | Manager, Natural Gas Projects| OPA |
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From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: February 15, 2011 4:23 PM
To: Deborah Langelaan
Cc: Terry Bennett; Geoff Murray; Brandon Anderson
Subject: RE: TransCanada Cambridge Capex

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Best regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

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Toronto, Ontario M5J 2J1

Tel: 416.869.2102

Fax: 416.869.2056

Cell: 416.559.1664

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

Sent: Tuesday, February 15, 2011 2:00 PM

To: John Mikkelsen

Subject: RE: TransCanada Cambridge Capex

John;

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Sent: February 15, 2011 11:01 AM

To: Deborah Langelaan

Subject: RE: TransCanada Cambridge Capex

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

Sent: February 14, 2011 5:46 PM

To: Deborah Langelaan
Subject: RE: TransCanada Cambridge Capex

Thank you.

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Talk to you tomorrow,

Regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

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

Sent: Monday, February 14, 2011 5:41 PM

To: John Mikkelsen

Subject: Re: TransCanada Cambridge Capex

John;

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Deb

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

Sent: Monday, February 14, 2011 05:28 PM

To: Deborah Langelaan; Michael Killeavy

Subject: TransCanada Cambridge Capex

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Many thanks,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

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Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: February 15, 2011 8:40 PM
To: Michael Killeavy
Subject: RE: Latest Attempt at Directive

Any word from TCE?

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]
Sent: Tuesday, February 15, 2011 8:20 PM
To: Sebastiano, Rocco; Deborah Langelaan
Cc: Susan Kennedy; Smith, Elliot
Subject: RE: Latest Attempt at Directive

Thank you for this.

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

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

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Sent: Tue 15-Feb-11 7:33 PM
To: Deborah Langelaan
Cc: Michael Killeavy; Susan Kennedy; Smith, Elliot
Subject: RE: Latest Attempt at Directive

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"To best protect electricity rate payers, the OPA should, if it deems appropriate, combine such negotiations with negotiations in respect of the mutual termination of the contract for the Oakville Generating Station..."

Thanks, Rocco

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Sent: Tuesday, February 15, 2011 9:50 AM
To: Sebastiano, Rocco
Cc: Michael Killeavy
Subject: FW: Latest Attempt at Directive

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Do you have any comments on the latest version of the Directive? I recall you mentioning a concern with the "settlement discussions" language.

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

From: Susan Kennedy
Sent: February 8, 2011 9:31 AM
To: JoAnne Butler; Michael Killeavy; Michael Lyle; Deborah Langelaan;
"; "
Subject: RE: Latest Attempt at Directive

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Subject: RE: Latest Attempt at Directive

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Legal, Aboriginal & Regulatory Affairs
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Subject: RE: Latest Attempt at Directive

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de le divulguer sans autorisation.

Aleksandar Kojic

From: Michael Killeavy
Sent: February 15, 2011 8:44 PM
To: 'RSebastiano@osler.com'
Subject: Re: Latest Attempt at Directive

Yes. JoAnne had a meeting with Terry Bennett this week. I wasn't there but can debrief you.

It's been complete radio silence from them in terms of them producing an NRR in the target range. They can't get it lower than OGS they claim. I think I know why and can fill you in tomorrow.

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Sent: Tuesday, February 15, 2011 08:40 PM
To: Michael Killeavy
Subject: RE: Latest Attempt at Directive

Any word from TCE?

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Cc: Susan Kennedy; Smith, Elliot
Subject: RE: Latest Attempt at Directive

Thank you for this.

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Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: February 15, 2011 8:51 PM
To: Michael Killeavy
Subject: Re: Latest Attempt at Directive

Ok, let's catch up tomorrow. Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]
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To: Sebastiano, Rocco
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Aleksandar Kojic

From: Susan Kennedy
Sent: February 16, 2011 5:20 AM
To: 'rsebastiano@osler.com'; Deborah Langelaan
Cc: Michael Killeavy; 'esmith@osler.com'.
Subject: Re: Latest Attempt at Directive

That might even be more palatable "up the street". I'll make the suggested change and punt it over. Thanks

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Sent: Tuesday, February 15, 2011 07:33 PM
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Fax: 416.969.6383
Email: michael.lyle@powerauthority.on.ca

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

From: Deborah Langelaan
Sent: February 4, 2011 1:28 PM
To: Michael Killeavy; Susan Kennedy; Michael Lyle; JoAnne Butler; ;
Subject: RE: Latest Attempt at Directive

I specifically asked Susan to include Contract Capacity of 450 MW but based on yesterday's discussions it looks like we need a little wiggle room. Perhaps the language could be "approximately 450 MW".

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: February 4, 2011 1:20 PM
To: Susan Kennedy; Michael Lyle; Deborah Langelaan; JoAnne Butler; 'rsebastiano@osler.com'; 'ESmith@osler.com'
Subject: RE: Latest Attempt at Directive

Could we mention the nameplate capacity of instead of referring to the Contract Capacity, or not mention capacity at all? We may need some flexibility in this regard as we go forward with TCE.

Is it possible to mention the 7 October 2010 letter from the OPA to TCE in the last sentence on the second page, e.g., "... to reprofile investments already made by TransCanada and minimize overall costs in the context of the 7 October 2010 letter from the OPA to TransCanada"? I am thinking that we need something that links that letter's commitment to the negotiations, otherwise why are we doing it.

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: Susan Kennedy
Sent: Fri 04-Feb-11 9:18 AM
To: Michael Lyle; Michael Killeavy; Deborah Langelaan; JoAnne Butler;
'rsebastiano@osler.com'; 'ESmith@osler.com'
Subject: Latest Attempt at Directive

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.

Attached is my latest attempt at a KWC Directive that might meet MEI and OPA needs (if not wants).

All input welcome and appreciated.

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
<mailto:susan.kennedy@powerauthority.on.ca>

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Aleksandar Kojic

From: Michael Killeavy
Sent: February 16, 2011 9:31 AM
To: Susan Kennedy
Subject: FW: SMS Contract
Attachments: SMS_Contract_20101001.pdf

Susan,

Sorry to burden you with another question, but I need your advice. SMS Energy has prepared a preliminary cost estimate for the K-W Peaking Plant. It is a bit rough, with lots of caveats, however, it's the best we have to date. It is considerably less than the cost estimate referred to by TCE. JoAnne wants to share it with TCE to try to see if we can bridge the gap. SMS Energy doesn't want us to share it with TCE. My position is that the estimate that was prepared for us is Newly Created Intellectual Property as set out in s. 7(b) and we can share it with TCE if we so desire since we own the intellectual property. Am I interpreting the OPA's rights correctly?

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)

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

From: Deborah Langelaan
Sent: February 16, 2011 9:21 AM
To: Michael Killeavy
Subject: SMS Contract

The message is ready to be sent with the following file or link attachments:

SMS_Contract_20101001

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

STANDARD CONTRACT

OFFICIAL
RECORD

Agreement made as of this 1st day of October 2010

BETWEEN:

Ontario Power Authority

(hereinafter referred to as the "OPA")

AND

SMS Energy-Engineering Inc.

(hereinafter referred to as the "Service Provider")

In consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Interpretation**

- (a) **Contract.** The Contract includes this Agreement and Schedule A to this Agreement.
- (b) **Inconsistency.** In the event of any inconsistency between the provisions of this Agreement or any Schedule to this Agreement, this Agreement will prevail.

2. **Retainer and Services/Deliverables**

- (a) **Retainer.** The Service Provider will be responsible for delivery of the work, services and/or deliverables as set forth in Schedule A (the "Work").
- (b) **Reporting.** The Service Provider will comply with the reporting requirements set forth in Schedule A.
- (c) **Service Provider's Manager/Staff.** All staff of the Service Provider employed in connection with the Work will have the knowledge, abilities, experience and qualifications required for the Work and will perform their tasks in a professional manner. The Service Provider will provide such additional support as may be required from time to time for the completion of the Work and its proper performance.
- (d) **Inspection and Warranty.** The OPA will have the right to inspect the Work at all times and, acting reasonably, may reject any part thereof which is found to be inappropriate or otherwise not in accordance with specifications and statements set out in the Contract or otherwise required by law. The Service Provider, at no additional cost to the OPA, will promptly redo any of the Work so rejected. This will include, but is not limited to, all reports, policy manuals, implementation plans and written work (howsoever recorded, that is, whether written or on digital media) and data prepared by the Service Provider under the Contract which are found, within a period of one year from date of transmittal to the OPA, to be incomplete or inaccurate due to a failure to comply with the Contract or with said specifications and standards.
- (e) **Laws, Regulations and Codes.** The Service Provider will comply with all federal, provincial and municipal statutes, regulations, bylaws, standards and codes which are applicable to the work and to the OPA and its operations.

Jmf

- (f) **Assignment or Subcontracting.** The Service Provider will not assign, subcontract or otherwise delegate the Contract, or any portion thereof, without the prior written consent of the OPA.
- (g) **Conflict of Interest.** The Service Provider is not engaged, and will not engage, in other commercial activities or retainers which conflict with the Work and/or its obligations hereunder.

3. Payment

- (a) **Terms of Payment.** The OPA will pay the Service Provider for Work rendered (i) at the prices and/or rates specified in Schedule A and (ii) at the times specified in Schedule A and, if no such times are specified, monthly in arrears.
- (b) **Invoicing.** Charges for Work and reimbursable expenses incurred will be submitted monthly unless otherwise specified. Invoices will be in such detail and format as specified by the OPA. Invoices will be delivered to the address specified in Schedule A and will include the information specified in Schedule A. Payment of accepted invoices will be made 30 days after receipt thereof. If at any time during the performance of the Work there are deficiencies in the Work, the OPA will have the right to withhold from payment in respect of any of the Service Provider's invoices, an amount that, in the OPA's reasonable opinion, takes into account the above-noted deficiencies. Any amount withheld shall be paid 30 days after receipt of the Service Provider's invoice submitted after the OPA's approval of the correction of deficiencies, or as soon thereafter as is practicable given the circumstances.
- (c) **Taxes.** Harmonized Sales Tax ("HST") and all other taxes will be shown separately on all invoices. The Service Provider will deduct all recoverable HST paid from reimbursable expenses before adding HST to amounts to be invoiced to the OPA. The OPA has the right to request further details (including copies of previously submitted invoices or any documentation required in support thereof) in order to establish its claim for any input tax credit or rebate in respect of any HST incurred by the OPA in connection with the Contract. The Service Provider shall co-operate to the reasonable extent necessary in providing such documentation to the OPA on a timely basis.
- (d) **Contractual Currency.** Unless otherwise specified in Schedule A, all payments hereunder will be made in Canadian dollars.

4. Term and Termination

- (a) **Term.** The term of the Contract will be as specified in Schedule A.
- (b) **Termination by OPA.** The OPA shall be entitled at any time to deliver to the Service Provider a written notice that the Service Provider is in default of its obligations (a "Notice of Default"). The Notice of Default shall set out the nature of the default and, if curable within a reasonable time in the sole discretion of the OPA, a date by which the default is to be cured, which in any event shall not be longer than 30 days. If the default is not curable, at any time following the cure period specified in the Notice of Default, and if the default is curable, at any time following the cure period specified in the Notice of Default if the default was not cured by such time, the OPA may deliver a notice to the Service Provider terminating the Contract.
- (c) **Termination by Service Provider.** The Service Provider shall be entitled at any time to deliver to the OPA a written notice that the OPA is in default of its payment obligations hereunder (a "Notice of Payment Default"), which notice shall specify all relevant particulars of the payment obligation in respect of which the OPA is in default. Provided that the invoice has been accepted by the OPA and there is no dispute between the parties relating to such payment, the Service Provider shall be entitled to terminate the Contract on 30 days written notice to the OPA if such payment is

not paid to the Service Provider on or before the 15th day following the date of the Notice of Payment Default.

- (d) **Payments on Termination.** Unless otherwise agreed between the Service Provider and the OPA, upon termination the OPA will be obligated to pay the Service Provider only for Work provided and expenses incurred prior to the expiry of the notice period. The Service Provider will not undertake any further commitment after receipt of notice of termination.

5. Relationship of the Parties

- (a) **No Ability to Bind.** Neither party will have the authority to bind the other or to assume or create any obligation or responsibility expressed or implied on the other's part, or in its name, nor will it represent to anyone that it has such power or authority, except as expressly provided in the Contract.
- (b) **Independent Business Relationship.**
- (i) The Service Provider agrees that the relationship with the OPA is an independent business relationship and in no way does the Contract contemplate or create an employment relationship and/or entitle the Service Provider to any benefits of employment including, without limitation, membership in health benefits and pension programs provided to employees at the OPA. Nor does this agreement create any partnership or joint venture with the OPA.
 - (ii) As an independent contractor, the Service Provider is responsible for any and all payments with respect to his, her or its income and other taxes, insured health benefits coverage, Workplace Safety and Insurance, Canada Pension Plan, Employment Insurance premiums and costs, and any other costs that may apply.
 - (iii) The Service Provider agrees to indemnify the OPA, its officers, directors, employees and agents and save them harmless from and against any and all liabilities and claims, including payments, fines, penalties, interest and any other financial costs in any way arising out of any actual or alleged failure of the OPA to deduct, withhold or contribute any amount in respect of its payments to the Service Provider. Without limiting the generality hereof, such liabilities and claims shall include federal and/or provincial income taxes, pension plan contributions, employment insurance premiums, Workplace Safety and Insurance premiums and contributions under any federal or provincial income security program.

6. Insurance

- (a) **Comprehensive General Liability Insurance.** The Service Provider maintains comprehensive general liability insurance with bodily injury, death and property damage up to a limit of two million dollars (\$2,000,000), inclusive of the following coverage: cross liability; blanket contractual; products and completed operations; personal injury; occurrence property damage; and owned automobile liability.
- (b) **Professional Liability Insurance.** The Service Provider shall hold a Certificate of Authorization, pursuant to the Professional Engineers Act. For certainty, the Professional Engineers Act and the regulations thereunder require each holder of a Certificate of Authorization to be insured against professional liability in accordance with specified minimum requirements or, in the alternative, to give Disclosure Notice, as that term is defined therein, to each person to whom the holder provides services within the practice of professional engineering, which states that the holder is not insured in accordance with such minimum requirements. In accordance with the foregoing, the OPA acknowledges receipt of said Disclosure Notice from the Service Provider.

7. Proprietary Rights

- (a) **Existing Intellectual Property.** Both parties will retain all rights to methodology, knowledge, and data brought to the Work and used therein. No rights to proprietary interests existing prior to the start of the Work are passed hereunder other than rights to use same as provided for herein. The Service Provider will not knowingly incorporate into the Work any data, software or hardware the use of which by the OPA violates the proprietary rights of third parties.
- (b) **Newly Created Intellectual Property.** All title and beneficial ownership interests to all intellectual property, including copyright, of any form, including, without limitation, discoveries (patented or otherwise), software, data (hard copied and machine readable) or processes, conceived, designed, written, produced, developed or reduced to practice in the course of the Work will vest in and remain with the OPA. Furthermore, the Service Provider agrees to waive any moral rights that it has, and/or cause its employees to waive any moral rights they may have, in the Work. The Service Provider will not do any act which may compromise or diminish the OPA's interests as aforesaid.
- (c) **License to Use.** The Service Provider grants to the OPA a non-exclusive paid up license to use any data and other proprietary items incorporated into the Work by the Service Provider hereunder. The Service Provider may, by prior written notice to and written acknowledgment by the OPA, reserve the right to incorporate into the Work data or other proprietary property for the use of which the Service Provider wishes to charge a fee. If said notice and acknowledgment are not executed prior to the incorporation, the Service Provider will be deemed to have waived any such fee. The OPA will have the right to exploit such data and property and to license same to third parties provided that such licenses contain reasonable reservations of proprietary rights in favour of the Service Provider (which may be included in a general reservation, but will contain the same order of legal protection as the Service Provider uses when distributing such data or property to third parties) or provided the use of same does not reveal information proprietary to the Service Provider.

8. Compliance with Privacy Laws and Confidentiality

- (a) **Personal Information and Privacy Laws.** In this section, "Personal Information" means any information about an identifiable individual, which before or after the date of the Contract, is exchanged, disclosed, transferred, stored, warehoused, accessed, processed, handled or in any way made available to the Service Provider. "Privacy Laws" includes the *Personal Information Protection and Electronic Documents Act* (Canada), *Freedom of Information and Protection of Privacy* (Ontario) ("FIPPA"), and the provisions of any other applicable municipal, provincial or federal or other laws, regulations, decisions, orders, judgments and rulings or regulatory requirements applicable to either party to the Contract from time to time that address the collection, use, transfer or disclosure of Personal Information.
- (b) **Compliance with Privacy Laws.** The Service Provider agrees to comply with all Privacy Laws applicable to either it or the OPA in relation to Personal Information and shall refrain from taking any action that could cause the OPA to be in non-compliance with any such Privacy Laws. The Service Provider agrees to name a person (or persons) to be responsible for ensuring compliance with the obligations of this section and shall advise the OPA of the name of such individual and any replacement(s). The Service Provider agrees to cooperate with the OPA in connection with any access requests for Personal Information as provided for in the Privacy Laws. The Service Provider agrees to amend Personal Information as required by the Privacy Laws, only upon receiving instructions to do so from the OPA, its personnel or any other individual to whom the Personal Information relates. The Service Provider agrees, within 10 business days, to return to the OPA or destroy all Personal Information that is no longer necessary to fulfill the purpose(s) for which it was made available, unless otherwise instructed by the OPA or required by law.

(c) **Confidentiality.**

- (i) The Service Provider agrees not to divulge or communicate to any person or use for a purpose other than delivering the Work required under this contract without the OPA's prior written consent, any of the trade secrets or other secret or confidential, technical or commercially sensitive information belonging to the OPA or its officers, stakeholders and/or third parties (the "Confidential Information"), whenever received by the Service Provider and in whatever capacity. For the purposes of this clause, and by way of illustration and not limitation, information is *prima facie* secret and confidential if it relates to either the OPA's or its stakeholders and/or third party contractors: power system planning information, business methods and strategies; production and delivery capabilities; clients and details of their particular requirements; costings, profit margins, and other financial information of any nature; marketing strategies and tactics; current activities and current and future plans relating to any or all of: development; production or sales/supply, including the timing of all or any such matters; development of new products, services or methods; production, operation or design secrets; raw materials; research and development; inventions; formulae and formulations; methods of treatment, processing, manufacture, construction, production, process and any confidential controls including quality controls.
- (ii) The Service Provider shall limit the disclosure of the Confidential Information to only those of its employees who have a need to know it and who have been specifically authorized to have such disclosure. The Service Provider shall return all of the Confidential Information once the Service Provider has completed its Work under this contract and shall not retain any copies of the Confidential Information.
- (iii) Except as required in the performance of the Work or as authorized in writing by the owner, or as required by applicable law (including the *Freedom of Information and Protection of Privacy Act* (Ontario) and the *Personal Information Protection and Electronic Documents Act* (Canada)), each party will keep confidential all proprietary information of the other, including, without limitation, all unpublished business and technical information, papers, or records, however produced.
- (iv) These restrictions will continue to apply after the termination of this Contract, without limit in time but will cease to apply to information which enters the public domain otherwise than through unauthorized disclosure by the Service Provider.

9. OPA-Owned Equipment

- (a) **Use of Equipment; Title.** Equipment authorized by the OPA for purchase by the Service Provider (at the expense of the OPA) or supplied to the Service Provider by the OPA, shall be used solely by the Service Provider in the performance of the Work unless prior written approval is obtained from the OPA. Title to such equipment will remain with the OPA. When in the Service Provider's possession, the Service Provider will ensure the equipment will be clearly identified as the property of the OPA. The Service Provider will be responsible for safeguarding such equipment while in its custody and control or in that of any of its personnel or consultants, agents or contractors, maintaining a system of inventory control acceptable to the OPA, acting reasonably. The OPA will have reasonable access to the premises of the Service Provider for the purpose of verifying the Service Provider's records relating to the equipment and for auditing inventories of such equipment.
- (b) **Return of Equipment.** Following completion of the work or termination of the Contract, the Service Provider will, unless otherwise directed, deliver to, or make all such equipment immediately available for pick up by, the OPA. The Service Provider shall be liable for the repair, refurbishment or replacement of any and all such OPA-owned equipment that becomes damaged or lost while in the custody or control of the Service Provider. At the OPA's request and expense,

the Service Provider will maintain insurance, in which the Service Provider and OPA will be named jointly as insured, covering the full replacement value of all such equipment against the risk of loss or damage.

10. Offshore Service Providers; Non-residents

- (a) **Permits, etc.** If applicable, the Service Provider is responsible for applying, at its own expense, to Immigration Canada for admission of personnel into Canada and for obtaining work permits where required.
- (b) **Withholding Tax.** All payments made by the OPA to non-residents of Canada will be made net of any required taxes or withholdings.

11. Force Majeure.

If the performance of the Contract, or any obligations thereunder, is materially prevented, restricted, or interfered with by reason of: fire, flood, earthquake, explosion, or other casualty or accident or act of God; strikes or labour disputes; inability to procure or obtain delivery of parts, supplies, power or software from suppliers; failure, delay, interruption or other adverse impact caused by telecommunications carriers, internet service providers, and other intermediaries; war or other violence; any law, order proclamation, regulation, ordinance, demand or requirement of any governmental authority; or any other act or condition whatsoever beyond the reasonable control of the affected party (a "Force Majeure"), the party so materially affected, upon giving prompt notice to the other party, will be excused from such performance to the extent of the material delay caused by such prevention, restriction or interference; provided, however, that the party so affected will take all reasonable steps to avoid or remove such Force Majeure and will resume performance hereunder with dispatch whenever such causes are removed.

12. Accounts and Right to Audit

The Service Provider will keep proper accounts and records of the work in form and detail satisfactory to the OPA. Such accounts and records, including invoices, receipts, time cards and vouchers will at all reasonable times be open to audit, inspection and copying by OPA. Accounts and records will be preserved and kept available for audit until the expiration of two years from the date of completion or termination of the work.

13. Miscellaneous

- (a) **Entire Agreement.** The Contract constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto. There are no warranties, conditions, or representations, express or implied, and there are no agreements in connection with such subject matter except as specifically set forth or referred to in the Contract. No reliance may be placed on any warranty, representation, opinion, advice or assertion of fact made either prior to, contemporaneous with, or after entering into this Contract, or any amendment or supplement thereto, by any party hereto or its directors, officers, employees or agents, to any other party hereto or its directors, officers, employees or agents, except to the extent that the same has been reduced to writing and included as a term of the Contract, and none of the parties hereto has been induced to enter into the Contract or any amendment or supplement by reason of any such warranty, representation, opinion, advice or assertion of fact.
- (b) **Amendments.** No amendment, modification or waiver in respect of the Contract will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the parties.

- (c) **No Waiver of Rights.** A failure or delay in exercising any right, power or privilege in respect of the Contract will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.
- (d) **Further Assurances.** Each of the parties shall, from time to time, on written request of the other party, do all such further acts and execute and deliver or cause to be done, executed and delivered all such further things as may be reasonably required in order to fully perform and to more effectively implement the terms of the Contract.
- (e) **Headings.** The headings used in the Contract are for convenience of reference only and are not to affect the construction of or be taken into consideration in interpreting the Contract.
- (f) **Severability.** If any provisions of the Contract will for any reason be held illegal or unenforceable, such provision will be deemed separable from the remaining provisions of the Contract and will in no way affect or impair the validity or the enforceability of the remaining provisions of the Contract.
- (g) **Exclusion of Consequential Damages.** Neither Party will be liable under this Contract or under any cause of action relating to the subject matter of this Contract for any special, indirect, incidental, punitive, exemplary or consequential damages, including loss of profits, loss of use of any property or claims of customers or contractors of the parties for any such damages.

14. Governing Law

The Contract shall be governed by, and interpreted in accordance with, the laws of the Province of Ontario including the laws of Canada as applicable therein and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such province and all courts competent to here appeals therefrom.

15. Notices

- (a) **Effectiveness.** Any notice or other communication in respect of the Contract may be given in any manner described below to the address or number or in accordance with the email details set forth in Schedule A and will be deemed effective as indicated:
 - (i) if in writing and delivered by person or by courier, on the date it is delivered;
 - (ii) if sent by facsimile transmission, on the date it is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);
 - (iii) if sent by certified or registered mail or the equivalent (return receipt requested), on the date it is delivered or delivery is attempted; or
 - (iv) if sent by e-mail, on the date it is delivered.
- (b) **Invoices.** Notwithstanding the foregoing invoices may be delivered by mail, fax, or in-person and will be effective upon actual receipt by the OPA.
- (c) **Change of Details.** Either party, may by notice to the other, change the address, facsimile number or email details at which notices or other communications are to be given to it.

16. Execution of Contract

- (a) **Counterparts.** The Contract may be executed in one or more counterparts, each of which will be deemed to be an original copy of the Contract and all of which, when taken together, will be deemed to constitute one and the same agreement.
- (b) **Facsimile.** The exchange of copies of the Contract and of signature pages by facsimile or e-mail (in web browser compatible format) transmission shall constitute effective execution and delivery of the Contract as to the parties and may be used in lieu of the original Contract for all purposes.
- (c) **Signatures.** Signatures of the parties transmitted by facsimile or e-mail (in web browser compatible format) shall be deemed to be their original signatures for any purposes whatsoever.

IN WITNESS WHEREOF the parties hereto execute the Contract under the hands of their respective proper officers duly authorized on their behalf, with effect from the date specified on the first page of this document.

ONTARIO POWER AUTHORITY

By: 

Name: ~~Colin Andersen~~ Michael Lyle
Title: ~~Chief Executive Officer~~

SMS ENERGY-ENGINEERING INC.

By: 

Name: Safouh Soufi
Title: President

SCHEDULE A

to the

STANDARD CONTRACT

Made as of October 1, 2010

between

ONTARIO POWER AUTHORITY ("OPA")

And

SMS ENERGY-ENGINEERING INC. ("Service Provider")

1. Work, Services and/or Deliverables

The Service Provider shall perform the below listed services, as and when requested by the OPA, without limitation:

- (i) review and approval of Metering Plans;
- (ii) review of performance test procedures;
- (iii) observe performance tests for Commercial Operation declaration;
- (iv) review and verify Independent Engineer's Performance Test Reports;
- (v) review of Test Protocols for Capacity Check Tests;
- (vi) observe, evaluate and opine on the results of Capacity Check Tests;
- (vii) provide analysis and verification of Facilities Actual Useful Heat Output Percentage;
- (viii) provide analysis and verification of Facilities permitted usage of secondary fuel percentage; PPA Annual Profile Adjustment Amount and PPA Annual Fuel Adjustment Amount;
- (ix) provide analysis, technical parameters, plant performance and operational data for gas-fired facilities, as determined by OPA;
- (x) act as OPA Representative during meetings and conference calls; and
- (xi) any other projects and tasks, as assigned by the OPA.

The OPA will issue Service Provider with Letter of Instructions (individually and collectively "LOI") to provide more details on the work/service required and the expected deliverables. LOI shall be incorporated into and form part of this Schedule A. LOI may be delivered by mail, email or in-person and shall be effective upon actual receipt by the Service Provider.



2. Pricing and Rates

The OPA shall pay the Service Provider monthly in arrears for Services performed that month at the rates specified below:

Individual	Hourly Rate (\$CDN)
Safouh Soufi	\$272.00/hour
Orlando Lameda	\$152.00/hour
Robin Board	\$196.00/hour
Tricia Knebel	\$157.00/hour
Clerical	\$58.00/hour

Service Provider shall provide Hourly Rate for other individuals, if and when their expertise is required for the performance and delivery of Work. Hourly Rates are subject to escalation once per annum, effective the first day of a calendar year.

Travel and hotel expenses, including standard mileage as mentioned in the table below, are eligible provided that, in each case, the OPA has approved such expense in writing before it was incurred. The Service Provider may include as part of the Invoice reasonable Eligible Reimbursable Expenses actually incurred in the course of performing the Services, at cost and without fee or mark-up or additional charge of any kind.

In no event will the following constitute Eligible Reimbursable Expenses: hospitality, incident, or food expenses, including but not limited to expenses in respect of: (i) meals, snacks and beverages; (ii) gratuities; (iii) laundry, dry cleaning and valet services; (iv) dependent care; or (v) personal phone calls. The Service Provider shall submit to the OPA reasonable back-up documentation supporting the characterization of costs and expenses as Eligible Reimbursable Expenses. The Service Provider will deduct all taxes incurred in the original purchase of those items which qualify as Eligible Reimbursable Expenses before adding such taxes to amounts to be invoiced to the OPA.

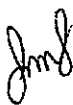
Unless otherwise specified by the OPA, the Service Provider shall Invoice the OPA for Eligible Reimbursable Expenses in accordance with the following rates:

Travel and Related Expenses	At Cost
Standard Mileage	45 cents/km
Telephone Charges	At Cost
Mail/Courier	At Cost
Photocopying (B&W)	25 cents/sheet
Photocopying (Color)	75 cents/sheet

3. Reporting Requirements

The Service Provider shall comply, as and when requested by the OPA, with the following reporting requirements as applicable to Services and deliverables:

- Submit written opinion
- Submit draft form of summary report, when applicable
- Meeting with OPA to discuss opinion/report
- Submit final form of report, when applicable



4. Term

The Contract will commence on October 1, 2010 and end on September 30, 2012.

5. Address for Notices

If to the OPA:

Ontario Power Authority
20 Adelaide Street West, Ste. 1600
Toronto, Ontario M5H 1T1

Attention : Deborah Langelaan
Telephone : 416-969-6052
Facsimile : 416-967-6071
Email : Deborah.Langelaan@powerauthority.on.ca

If to the Service Provider:

SMS Energy-Engineering Inc.
201-447 Speers Road
Oakville, ON L6K 3S7

Attention: Safouh Soufi, P. Eng
Telephone : 905-845-5148 ext. 225
Facsimile : 905-845-8007
Email : safouh@smsenergy-engineering.com

6. Invoices

For the purpose of section 3, the following address for notices is specified:

120 Adelaide Street West
Suite 1600
Toronto ON M5H 1T1

Attention: Accounts Payable

Facsimile: 416-969-6383

For the purposes of section 3, the following information must be included in all invoices:

Purchase Order Number: 4500000830

OPA Contact: Deborah Langelaan



7. Other Provisions

Changes to the Service Provider's personnel and support staff will require the OPA's approval, except in the case where such replacement is as a result of illness or termination of the employment of such personnel, in which case the Service Provider may remove the employee, provided, however, the OPA may request that it approve, acting reasonably, any replacement. The OPA may request, at its reasonable discretion, that the dedicated project individual(s) be changed. The Service Provider will endeavour to accommodate such requests.



Aleksandar Kojic

From: Smith, Elliot [ESmith@osler.com]
Sent: February 16, 2011 11:34 AM
To: Sebastiano, Rocco; Deborah Langelaan
Cc: Michael Killeavy
Subject: Re: Declined: TCE Negotiations - Capex

I'm available to attend this afternoon.

Elliot

From: Sebastiano, Rocco
Sent: Wednesday, February 16, 2011 11:30 AM
To: Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>
Cc: Smith, Elliot; Michael Killeavy (Michael.killeavy@powerauthority.on.ca) <Michael.killeavy@powerauthority.on.ca>
Subject: Declined: TCE Negotiations - Capex

Deb, I may not be able to make it to this meeting because of another commitment this afternoon. I have asked Elliot whether he can attend instead.

Btw, in the voice mail that you and Michael left for me this morning, you mentioned a meeting tomorrow with TCE at 2:30 pm. Has this been confirmed and if so, what is the proposed agenda for discussion.

Thanks, Rocco

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Aleksandar Kojic

From: Deborah Langelaan
Sent: February 16, 2011 11:45 AM
To: 'Sebastiano, Rocco'
Cc: Michael Killeavy; 'safouh@smsenergy-engineering.com'; 'Smith, Elliot'
Subject: RE: Declined: TCE Negotiations - Capex

Yes, the meeting with TCE has been confirmed – it is our weekly standing meeting. Tomorrow's agenda was going to be part of today's discussion. TCE is pushing for the OPA to provide it with its Capex build-up for Cambridge so they can commence a gap analysis between the two models. The OPA has worked up a very preliminary cost estimate for Cambridge but it's not something that could be used to perform a useful gap analysis. Part of today's discussion is intended to refocus our negotiations and OPA strategy since it seems to me that we have been side tracked with NPV and Capex discussions. A recent development, to further complicate things, is side meetings occurring between VP's at OPA & TCE that have the potential to jeopardize the effectiveness of the OPA's negotiating team.

Deb

-----Original Appointment-----

From: Sebastiano, Rocco [<mailto:RSebastiano@osler.com>]
Sent: February 16, 2011 11:30 AM
To: Deborah Langelaan
Cc: Smith, Elliot; Michael Killeavy
Subject: Declined: TCE Negotiations - Capex
When: February 16, 2011 3:30 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 16 Meeting Room South

Deb, I may not be able to make it to this meeting because of another commitment this afternoon. I have asked Elliot whether he can attend instead.

Btw, in the voice mail that you and Michael left for me this morning, you mentioned a meeting tomorrow with TCE at 2:30 pm. Has this been confirmed and if so, what is the proposed agenda for discussion.

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Aleksandar Kojic

From: Michael Killeavy
Sent: February 16, 2011 11:45 AM
To: 'ESmith@osler.com'
Subject: Re: Declined: TCE Negotiations - Capex

Great.

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: Wednesday, February 16, 2011 11:33 AM
To: Sebastiano, Rocco <RSebastiano@osler.com>; Deborah Langelaan
Cc: Michael Killeavy
Subject: Re: Declined: TCE Negotiations - Capex

I'm available to attend this afternoon.

Elliot

From: Sebastiano, Rocco
Sent: Wednesday, February 16, 2011 11:30 AM
To: Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>
Cc: Smith, Elliot; Michael Killeavy (Michael.killeavy@powerauthority.on.ca) <Michael.killeavy@powerauthority.on.ca>
Subject: Declined: TCE Negotiations - Capex

Deb, I may not be able to make it to this meeting because of another commitment this afternoon. I have asked Elliot whether he can attend instead.

Btw, in the voice mail that you and Michael left for me this morning, you mentioned a meeting tomorrow with TCE at 2:30 pm. Has this been confirmed and if so, what is the proposed agenda for discussion.

Thanks, Rocco

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Aleksandar Kojic

From: Michael Killeavy
Sent: February 16, 2011 11:49 AM
To: Deborah Langelaan
Subject: Re: Declined: TCE Negotiations - Capex

Can you prepare a .pdf of the relevant parts of Safouh's CAPEX estimate to send to TCE? Please don't send anything just yet, though.

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

From: Deborah Langelaan
Sent: Wednesday, February 16, 2011 11:44 AM
To: 'Sebastiano, Rocco' <RSebastiano@osler.com>
Cc: Michael Killeavy; 'safouh@smsenergy-engineering.com' <safouh@smsenergy-engineering.com>; 'Smith, Elliot' <ESmith@osler.com>
Subject: RE: Declined: TCE Negotiations - Capex

Yes, the meeting with TCE has been confirmed – it is our weekly standing meeting. Tomorrow's agenda was going to be part of today's discussion. TCE is pushing for the OPA to provide it with its Capex build-up for Cambridge so they can commence a gap analysis between the two models. The OPA has worked up a very preliminary cost estimate for Cambridge but it's not something that could be used to perform a useful gap analysis. Part of today's discussion is intended to refocus our negotiations and OPA strategy since it seems to me that we have been side tracked with NPV and Capex discussions. A recent development, to further complicate things, is side meetings occurring between VP's at OPA & TCE that have the potential to jeopardize the effectiveness of the OPA's negotiating team.

Deb

-----Original Appointment-----

From: Sebastiano, Rocco [<mailto:RSebastiano@osler.com>]
Sent: February 16, 2011 11:30 AM
To: Deborah Langelaan
Cc: Smith, Elliot; Michael Killeavy
Subject: Declined: TCE Negotiations - Capex
When: February 16, 2011 3:30 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 16 Meeting Room South

Deb, I may not be able to make it to this meeting because of another commitment this afternoon. I have asked Elliot whether he can attend instead.

Btw, in the voice mail that you and Michael left for me this morning, you mentioned a meeting tomorrow with TCE at 2:30 pm. Has this been confirmed and if so, what is the proposed agenda for discussion.

Thanks, Rocco

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Aleksandar Kojic

From: Michael Killeavy
Sent: February 16, 2011 4:44 PM
To: Deborah Langelaan
Cc: 'ESmith@osler.com'; 'safouh@smsenergy-engineering.com'; Anshul Mathur
Subject: Re: TCE Email ...

Round #2

John,

The OPA has been using a value of \$1,000,000/MW for the CAPEX for a simple cycle plant. We can discuss tomorrow how we've arrived at this number and perhaps we can discuss why you're CAPEX estimate is higher.

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

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

From: Michael Killeavy
Sent: Wednesday, February 16, 2011 04:37 PM
To: Deborah Langelaan
Cc: 'ESmith@osler.com' <ESmith@osler.com>
Subject: TCE Email ...

Deb,

Here's what we can send John:

John,

The OPA has been using a value of \$1,000,000/MW for the CAPEX for a simple cycle plant.

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

Aleksandar Kojic

From: Deborah Langelaan
Sent: February 16, 2011 4:55 PM
To: 'John Mikkelsen'
Cc: Michael Killeavy
Subject: RE: TransCanada Cambridge Capex

John;

The OPA has been using a value of \$1,000,000/MW for the CAPEX for a simple cycle plant. Tomorrow we can discuss how we arrived at this number and perhaps we can discuss why TCE's CAPEX estimate is higher.

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: February 15, 2011 4:23 PM
To: Deborah Langelaan
Cc: Terry Bennett; Geoff Murray; Brandon Anderson
Subject: RE: TransCanada Cambridge Capex

Dear Deborah,

As you are aware we have been prevented from initiating many of the development activities that we would normally have kicked off to be able to determine the project feasibility and provide solid information to support our Capex estimates. The information that you are proposing to review now is the same as what was presented on January 25th. At that time we presented a methodology under an open book process leading to a final Capex in May and precisely how the figures would be derived. There has been little change since that time.

In an effort to make the meeting(s) more productive we believe that the deal teams should perform a "gap analysis" to help the OPA gain comfort with the capital cost estimate. This process starts with our respective capital cost estimates (you have ours and we believe yours totals \$450 million based on discussions with JoAnne) and we will then compare the line items of the cost estimates to determine the largest "gaps" between our respective estimates. This will guide the discussion to focus on areas of greatest concern first. In order to chase this down we need the OPA's current cost estimate, ideally in a format that has the same line items as the TCE Cost Estimate presented at our January 25th meeting.

What are your thoughts on such an analysis? If you are in agreement that such a process is an expeditious approach, the first step is sharing the OPA's Cost Estimate with TCE such that we can identify the gaps and prepare information in response.

If the OPA has a different approach in mind it is critical that the OPA communicate that prior to our meeting(s). As the OPA is looking for TCE to provide complete and detailed information to satisfy the OPA it is important that the OPA advise TCE of exactly what information is required to satisfy the OPA's needs.

We remain willing, interested and available to meet prior to Thursday and believe that assembling a smaller group (the core business teams from each side: Geoff, John, Deb, and Michael) for an initial discussion is required to meet the direction of senior management. Please let us know if the OPA can find a slot for this discussion.

Best regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

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

Tel: 416.869.2102

Fax: 416.869.2056

Cell: 416.559.1664

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

Sent: Tuesday, February 15, 2011 2:00 PM

To: John Mikkelsen

Subject: RE: TransCanada Cambridge Capex

John;

JoAnne indicated to us that it is the negotiating team's objective this week to review and understand TCE's capital cost build-up for Cambridge and understand how the figures presented to us on January 25th were derived. TCE has to provide complete and detailed information to satisfy the OPA project review and due diligence process, so that we can understand how the CAPEX was built up. The OPA recognizes the urgency on TCE's behalf in scheduling the next meeting; however, our schedules are such that Thursday afternoon is the earliest we can meet. We are available to meet on Thursday from 2:30 p.m. to 6:00 p.m., if necessary.

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: February 15, 2011 11:01 AM

To: Deborah Langelaan

Subject: RE: TransCanada Cambridge Capex

Deborah,

Thanks for getting back. Based on the discussions between Terry, Brandon and JoAnne on Monday we are to have the capital cost issues resolved by Friday for a follow-up meeting with JoAnne next Tuesday. While I appreciate that you need to schedule your team's availability, I don't see how we can meet the Friday deliverable if we start on Thursday afternoon. We believe this discussion needs to start today.

Geoff and I are available now through Friday and we can bring in our team members as required (by phone, by telepresence or in person). Can you please review at your earliest convenience and let us know if a meeting this afternoon is possible?

Also can you please update us on the status of the blackline to the Implementation Agreement, Schedule A (the Technical Requirements), and your capital cost estimate?

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

Sent: Tuesday, February 15, 2011 10:39 AM

To: John Mikkelsen

Subject: RE: TransCanada Cambridge Capex

John;

I think it's a good idea that your engineers be at the meeting. OPA attendees will be Michael Killeavy, Safouh Soufi, Anshul Mathur, Rocco Sebastiano and me. Based on everyone's schedules the soonest we can meet is Thursday afternoon at our prearranged time of 2:30 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 |

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

Sent: February 14, 2011 5:46 PM

To: Deborah Langelaan

Subject: RE: TransCanada Cambridge Capex

Thank you.

I would like to bring our engineering team out to assist with the discussion of the assumptions. Geoff and I are able to meet tomorrow but we would need a days notice to get Andy Mather and Larry here. We have a telepresence room here which is also an alternative.

Talk to you tomorrow,

Regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

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

Tel: 416.869.2102

Fax: 416.869.2056

Cell: 416.559.1664

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Monday, February 14, 2011 5:41 PM
To: John Mikkelsen
Subject: Re: TransCanada Cambridge Capex

John;

We have the same understanding and I will provide you with potential meeting times tomorrow morning.

Deb

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Monday, February 14, 2011 05:28 PM
To: Deborah Langelaan; Michael Killeavy
Subject: TransCanada Cambridge Capex

Dear Deborah,

I just left you a voice mail. I understand that Brandon Anderson and Terry Bennett met with JoAnne Butler this afternoon. My understanding coming out of that meeting is that we are to get together with your team as soon as possible to review the capital cost build-up for Cambridge. Can you please confirm this is your understanding?

Also assuming this is the plan, can you let me know when and who should be available for such a meeting so I can plan to get the right people here.

Many 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

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Aleksandar Kojic

From: Michael Killeavy
Sent: February 16, 2011 5:05 PM
To: JoAnne Butler
Cc: Deborah Langelaan
Subject: Re: TCE CAPEX ...

Thanks. Will do.

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

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

From: JoAnne Butler
Sent: Wednesday, February 16, 2011 05:03 PM
To: Michael Killeavy
Cc: Deborah Langelaan
Subject: Re: TCE CAPEX ...

Yes, as discussed, we need to have our collective starting points in front of us. Probably, we will never "agree" on a number at this point so then let's focus on the process to get there.

Next hurdle will be discount rates, so as we have also discussed at various times, let's kick off third party to do some homework.

JCB

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

From: Michael Killeavy
Sent: Wednesday, February 16, 2011 03:52 PM
To: JoAnne Butler
Cc: Deborah Langelaan
Subject: TCE CAPEX ...

*** Privileged and Confidential - Prepared in Contemplation of Litigation ***

JoAnne,

We're meeting with Safouh to talk about the CAPEX estimate. We really do not have a build up of the CAPEX yet. What we have is a rule-of-thumb estimate of \$1,000,000/MW. This was based on NYR project cost of \$960,000/MW. The numbers we have in the spreadsheet were "plugged" figures to make the \$960,000/MW work. Safouh's estimate was done at the end of

November last year before we had any information at all. In short, the line items were inserted into his spreadsheet to make the rule-of-thumb estimate work.

I am proposing to send this rule-of-thumb estimate of CAPEX to TCE today. Tomorrow we will go through their estimate to see why their estimate is different from this conservative rule-of-thumb.

I will then propose that we handle CAPEX with a target NRR based on the Initial Asset Value, which will then be adjusted after construction on the Final Asset Value. I propose that we share overrun 50/50 and underruns 50/50.

Are you in agreement?

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

Aleksandar Kojic

From: Kim Marshall
Sent: February 16, 2011 5:31 PM
To: Michael Killeavy
Subject: Re: TCE Matter

Good. Thx
Kimberly Marshall

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

From: Michael Killeavy
Sent: Wednesday, February 16, 2011 05:27 PM
To: Kim Marshall
Subject: Re: TCE Matter

How about 8:30am, if that's convenient?

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: Kim Marshall
Sent: Wednesday, February 16, 2011 05:24 PM
To: Michael Killeavy
Subject: Re: TCE Matter

What time?
Kimberly Marshall

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

From: Michael Killeavy
Sent: Wednesday, February 16, 2011 05:17 PM
To: Kim Marshall
Cc: JoAnne Butler
Subject: TCE Matter

Kim,

Tomorrow morning could we get together to discuss retention of a consultant to do some work for us on this matter?

Thanks,
Michael

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

Aleksandar Kojic

From: Michael Killeavy
Sent: February 16, 2011 5:55 PM
To: Susan Kennedy
Subject: Re: SMS Contract

Yes. We are in violent agreement. That was my interpretation, too. Thank you again for getting at this so promptly.

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: Wednesday, February 16, 2011 05:51 PM
To: Michael Killeavy
Subject: Re: SMS Contract

No worries. I had a look at the contract, and, unless there is a nuance I'm missing, we own any IP we paid for (so unless he did the report for free), he sold us the copyright.

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

From: Michael Killeavy
Sent: Wednesday, February 16, 2011 05:46 PM
To: Susan Kennedy
Subject: Re: SMS Contract

You may now stand down. We've reached a compromise solution.

I will ask everyone to be more diligent in reviewing consultant materials for such disclaimers in future so we (and you) aren't jammed like this again. I conveyed my displeasure at seeing something like this disclaimer and that in my opinion it was contrary to the letter, intent, and spirit of the agreement. I think he got the point I was making.

Again, I apologize for the last minute rush on this, but we had to send something to TCE today.

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: Susan Kennedy
Sent: Wednesday, February 16, 2011 11:52 AM
To: Michael Killeavy
Subject: RE: SMS Contract

Having a day - can this wait until tomorrow -- I can look on train tonight if necessary but I'm back to back until end of day.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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

From: Michael Killeavy
Sent: February 16, 2011 9:31 AM
To: Susan Kennedy
Subject: FW: SMS Contract

Susan,

Sorry to burden you with another question, but I need your advice. SMS Energy has prepared a preliminary cost estimate for the K-W Peaking Plant. It is a bit rough, with lots of caveats, however, it's the best we have to date. It is considerably less than the cost estimate referred to by TCE. JoAnne wants to share it with TCE to try to see if we can bridge the gap. SMS Energy doesn't want us to share it with TCE. My position is that the estimate that was prepared for us is Newly Created Intellectual Property as set out in s. 7(b) and we can share it with TCE if we so desire since we own the intellectual property. Am I interpreting the OPA's rights correctly?

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)

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

From: Deborah Langelaan
Sent: February 16, 2011 9:21 AM

To: Michael Killeavy
Subject: SMS Contract

The message is ready to be sent with the following file or link attachments:

SMS_Contract_20101001

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Aleksandar Kojic

From: Michael Killeavy
Sent: February 18, 2011 9:53 AM
To: Anshul Mathur
Subject: Re:

No posting. It's sent out as an invitation. Each firm's company name is on a watermark so we know which bastard's leaked it if it gets leaked - old lawyer trick I learned a while ago.

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: Anshul Mathur
Sent: Friday, February 18, 2011 09:49 AM
To: Michael Killeavy
Subject: RE:

Yeah that's what I figure. Looks fine to me... TCE will know as soon as we post this that we are getting financial help.

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

From: Michael Killeavy
Sent: February 18, 2011 9:48 AM
To: Anshul Mathur
Subject: Re:

I didn't want to get too specific. I said that their duties included blah blah blah, but weren't limited to the list of blah, blah, blah.

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: Anshul Mathur

Sent: Friday, February 18, 2011 09:45 AM
To: Michael Killeavy
Subject: RE:

Hi Michael,
Looks fine to me. Do we want to mention something about Forecasting as calculating the Salvage Value will involve long-term forecasting? Or is that more technical analysis?

Thanks,
Anshul

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

From: Michael Killeavy
Sent: February 18, 2011 9:25 AM
To: Deborah Langelaan; Anshul Mathur; Susan Kennedy
Cc: Derek Leung
Subject:
Importance: High

Deb, Anshul and Susan,

We need to competitively procure a firm to assist us with the work JoAnne wants done on discount rates and residual values. I have put together the attached RFS, which will be sent to only invited firms.

Deb and Anshul, can you please comment on the RFS in general? Does it adequately capture what we'll need as we move forward?

Susan, I have tried to be circumspect in terms of describing the matter, and who the other party is, because we need the Respondents to identify any actual or potential conflicts of interest. Have I gone to too far (or not enough?) in your opinion?

I suggest we use the same ones because they have power sector experience. Do you know of any other firms that might have gas-fired generation expertise?

Once this is done, we can send it down to Sally for her comments on process and to get all reference numbers we need to get this issued.

I'd like to get this sent to Sally this afternoon, say by 2pm. Sorry for the tight time line.

Thank you everyone,
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

Aleksandar Kojic

From: Smith, Elliot [ESmith@osler.com]
Sent: February 18, 2011 3:09 PM
To: Deborah Langelaan; safouh@smsenergy-engineering.com
Cc: Michael Killeavy; Anshul Mathur; Sebastiano, Rocco
Subject: RE: Priviledged and Confidential

For your reference, this is excerpted from TCE's 2010 Annual Report:

Oakville In September 2009, the OPA awarded TransCanada a 20-year Clean Energy Supply contract to build, own and operate a 900 MW power generating station in Oakville, Ontario. TransCanada expected to invest approximately \$1.2 billion in the natural gas-fired, combined-cycle plant. In October 2010, the Government of Ontario announced that it would not proceed with the Oakville generating station. TransCanada is negotiating a settlement with the OPA that would terminate the Clean Energy Supply contract and compensate TransCanada for the economic consequences associated with the contract's termination.

http://www.transcanada.com/docs/Investor_Centre/2010_TCC_AR_Eng.pdf

Elliot

From: Smith, Elliot
Sent: Friday, February 18, 2011 2:56 PM
To: 'Deborah Langelaan'; safouh@smsenergy-engineering.com
Cc: Michael Killeavy; Anshul Mathur; Sebastiano, Rocco
Subject: RE: Priviledged and Confidential

Thanks Deb. I've provided a few comments from my own notes, in track changes.

Elliot

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Friday, February 18, 2011 11:06 AM
To: safouh@smsenergy-engineering.com
Cc: Michael Killeavy; Anshul Mathur; Smith, Elliot; Sebastiano, Rocco
Subject: Priviledged and Confidential

Safouh;

Please find attached the minutes from yesterday's meeting.

Deb

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

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

Aleksandar Kojic

From: Michael Killeavy
Sent: February 22, 2011 9:30 AM
To: Anshul Mathur; Deborah Langelaan
Cc: Susan Kennedy
Subject: RFS - Financial Consulting Services - TCE Matter ...
Attachments: RFS_SWGTA_Financial_Consultant v2 22 Feb 2011.doc

Here's the final RFS.

When we get back the executed NDA from a Respondent, please put the company name in the watermark of the RFS, convert it to .pdf and send it to the Respondent.

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)

CONFIDENTIAL

ONTARIO POWER AUTHORITY

REQUEST FOR SUBMISSIONS

Financial Consulting Services

February 22, 2011

Services Required

The Ontario Power Authority ("OPA") requires the services of a financial consultant to support its discussions with TransCanada Energy Ltd. ("TCE"), which are related to the cancellation of the Oakville Generating Station ("OGS").

Background

The OPA was established under the *Electricity Act*, 1998, S.O. 1998, c. 15, Sched. A and began operations in January 2005. A non-profit corporation without share capital, the OPA reports to the Ontario Legislative Assembly through the Minister of Energy and Infrastructure and is licensed and regulated by the Ontario Energy Board. The OPA's mandate is to ensure an adequate, long-term supply of electricity for Ontario. Further information regarding OPA, may be found at the following site: <http://www.powerauthority.on.ca/>

On 9 October 2009 the Ontario Power Authority ("OPA") and TransCanada Energy Ltd. ("TCE") entered into the Southwest GTA Clean Energy Supply Contract (the "Contract"). On 7 October 2010, the province announced that the facility was no longer needed. The OPA is discussing the termination of the Contract with TCE.

Scope of Services

Services to be provided by the financial consultant will include, but are not limited to:

1. Providing advice on financial aspects of power project development;
2. Creating and/or assisting the OPA staff in preparing comprehensive financial models to support its discussions;
3. Reviewing and providing advice on discussion documents from the financial perspective; and
4. Reviewing information provided by TCE and issues that arise during the course of the discussions.

Discussions with TCE are ongoing at this time and are anticipated to conclude on or before 30 June 2011.

CONFIDENTIAL

Qualifications

Review and Analysis: Experience in reviewing/auditing detailed financial information, project financing and financial analysis relating to the power industry and have a comprehensive knowledge of the technology involved in typical gas-fired power projects.

Contract Knowledge: Knowledge and familiarity with OPA contracts including the SWGTA Contract, the Northern York Region Contract, the GTAW Trafalgar Contract, other OPA negotiations along with the various other clean energy supply contracts and power purchase agreements. Familiarity with contract structures in other jurisdictions, in particular electricity from combined-cycle, combined heat and power, biomass and landfill gas electricity generation.

Ontario's Electricity Industry: Familiarity with the Ontario electricity industry, in particular with the gas-fired generation energy sector. Familiarity with issues affecting the development of gas-fired generation, such as financing arrangements and capital structure, ownership structures, permitting and approvals, and other projects and other project development issues.

Submissions

If you wish to be considered to provide the above-noted services, please submit the following, no later than the submission deadline specified below under "Timetable":

A. Description of background and qualifications:

1. Describe the names of the principal consultant and associate(s) you would expect to assign to the project; describe the expected services to be provided by each individual and provide their resumes. If your firm has multiple offices and you anticipate drawing on the expertise of consultants not located in Toronto, please identify the jurisdiction in which such consultants are located. Please identify the consultant who will be in charge of the retainer for your firm.
2. Describe the relevant experience and expertise of the consultant and associate(s) who would act on the matter, including a brief summary of any notable transactions, issues and/or matters or cases handled by the members of the proposed team which you feel demonstrate the nature and extent of your team's expertise.
3. Confirm whether or not you have identified any actual or potential conflicts of interest your firm might have in providing services to the OPA. If you have identified any actual or potential conflicts of interest, discuss them fully and please describe how such conflict would be managed or resolved.

B. Cost:

1. State the rates at which the services would be provided to the OPA. Include:
 - a. Estimated person-hours OR relative percentage of person-hours for each member of the team as well as their corresponding charge-out rate. The primary and secondary resources for the team should be highlighted.

CONFIDENTIAL

- b. A schedule of all out-of-pocket disbursements which you anticipate will result in a charge to the OPA and the rate for each.

The OPA expects that disbursements will be charged at the firm's actual out-of-pocket cost, without mark-up. The OPA is no longer able to reimburse for hospitality, incident, or food expenses, including but not limited to expenses in respect of: (i) meals, snacks and beverages; (ii) gratuities; (iii) laundry, dry cleaning and valet services; (iv) dependent care; or (v) personal phone calls.

In setting forth its qualifications, each firm should provide, in concise but adequate detail, the information sought above. Responses should not exceed 20 single-sided pages (including resumes) and should be prepared on 8 ½ x 11-inch paper using at least 12 point type with standard margins.

The OPA may follow-up with requests for additional information (for example, references) and may wish to interview candidates.

Timetable

Please submit questions by the deadline specified below, see "Questions".

Please submit your response not later than 4:30PM (Toronto time) on 25 February 2011. Please note that late submissions may not be reviewed.

The OPA expects to complete its selection process no later than 1 March 2011.

Questions

Please submit any questions not later than 4:00 pm on February 23, 2011 to allow the OPA sufficient time to respond. Questions submitted prior to the deadline will be responded to before end of day on February 24, 2011. Questions submitted after the deadline may not be responded to. Questions which are submitted earlier may be responded to prior to February 24th.

Where questions may be of general use, the OPA may respond to the question as a clarification which will be communicated by email to all firms invited to respond to this Request for Services ("Respondents").

The OPA may also respond directly to questions without making the question and its response generally available.

Please note that the OPA is under no obligation to respond to questions or provide additional information but may do so at its sole discretion.

NON-BINDING INVITATION

THIS REQUEST FOR SUBMISSIONS IS A NON- BINDING INVITATION TO SUBMIT A RESPONSE FOR CONSIDERATION AND POSSIBLE DISCUSSION AND NEGOTIATION. THIS REQUEST DOES NOT CREATE, AND SHOULD NOT BE CONSTRUED AS CREATING,

CONFIDENTIAL

ANY CONTRACTUAL RELATIONS OR OBLIGATIONS BETWEEN THE OPA AND ANY PERSON.

Contact Information

Questions and submissions should be submitted via email to:

Name: Anshul Mathur

E-mail: anshul.mathur@powerauthority.on.ca

Please reference **RFS - Financial Consulting Services** in the subject line of any email.

CONFIDENTIAL

ONTARIO POWER AUTHORITY

REQUEST FOR SUBMISSIONS

Financial Consulting Services

February 22, 2011

Services Required

The Ontario Power Authority ("OPA") requires the services of a financial consultant to support its discussions with TransCanada Energy Ltd. ("TCE"), which are related to the cancellation of the Oakville Generating Station ("OGS").

Background

The OPA was established under the *Electricity Act, 1998*, S.O. 1998, c. 15, Sched. A and began operations in January 2005. A non-profit corporation without share capital, the OPA reports to the Ontario Legislative Assembly through the Minister of Energy and Infrastructure and is licensed and regulated by the Ontario Energy Board. The OPA's mandate is to ensure an adequate, long-term supply of electricity for Ontario. Further information regarding OPA, may be found at the following site: <http://www.powerauthority.on.ca/>

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Services to be provided by the financial consultant will include, but are not limited to:

1. Providing advice on financial aspects of power project development;
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Discussions with TCE are ongoing at this time and are anticipated to conclude on or before 30 June 2011.

CONFIDENTIAL

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Submissions

If you wish to be considered to provide the above-noted services, please submit the following, no later than the submission deadline specified below under "Timetable":

A. Description of background and qualifications:

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3. Confirm whether or not you have identified any actual or potential conflicts of interest your firm might have in providing services to the OPA. If you have identified any actual or potential conflicts of interest, discuss them fully and please describe how such conflict would be managed or resolved.

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- b. A schedule of all out-of-pocket disbursements which you anticipate will result in a charge to the OPA and the rate for each.

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CONFIDENTIAL

ANY CONTRACTUAL RELATIONS OR OBLIGATIONS BETWEEN THE OPA AND ANY PERSON.

Contact Information

Questions and submissions should be submitted via email to:

Name: Anshul Mathur

E-mail: anshul.mathur@powerauthority.on.ca

Please reference **RFS - Financial Consulting Services** in the subject line of any email.

Aleksandar Kojic

From: Deborah Langelaan
Sent: February 22, 2011 2:08 PM
To: Michael Killeavy
Subject: OGS Meeting Minutes
Attachments: Weekly_Mtg_Notes_20110217_SMS_Revised (2).doc

Michael;

Attached is the final version of the minutes from last Thursday's meeting with TCE.

Deb

The message is ready to be sent with the following file or link attachments:

Weekly_Mtg_Notes_20110217_SMS_Revised (2)

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

OPA/TransCanada OGS Negotiating Team
Weekly Meeting Minutes
February 17, 2011
TCE Offices

Attendees: OPA
Michael Killeavy
Deborah Langelaan
Anshul Mathur
Safouh Soufi (SMS)
Elliot Smith (Osler)

TransCanada
Geoff Murray
John Mikkelsen
Andy Mather
John Cashin – by phone

TCE NRR

1. TCE still developing NRR's and not in a position to provide to the OPA at this point in time. TCE was not able to provide a firm date when they expect to provide this information to the OPA. In addition to providing NRR's TCE will also be providing contract changes they will be seeking to meet their NRR targets.

TCE Cambridge Peaking Plant CAPEX Estimate

1. CAPEX discussion was prefaced by the fact that this is an exercise to understand how TCE developed their costs and not a negotiation of the costs;
2. Parties agreed to focus CAPEX discussion on plant proper and exclude OGS sunk cost and OBL costs including cost of interconnections (electrical & gas);
3. TCE used an ISO rating of the GT's of 540 MW; however, SMS finds no support for such output from material provided by TCE/Turbine Vendor. SMS has information to suggest that the ISO rating is more likely 510MW;
4. TCE used a proprietary process and an internal cost database to arrive at the cost estimates presented for the K-W peaking plant; costs are Class 5 Contingencies - 25%+30%;
5. TCE defines any cost incurred prior to COD as CAPEX and any cost incurred after COD as OPEX;
6. TCE will follow an EPCM approach for the construction of the potential project. Detail engineering will be carried out by an Engineer chosen by TCE. Construction using single contract with constructor selected using a competitive bidding process managed by TCE. Gas turbines will be "Free Issue" to the successful project constructor.

7. IBL Costs

- Equipment

- a. CGT cost estimate made up of the following:

2 X Gas Turbines	US\$144,698,480	TCE used 1.08 Exch Rate	CN\$156,000,000
Transportation cost based on Oakville transportaion study			CN\$7,400,000
Extra Technical Assistance (TA)	US\$3,600,000	TCE Exch Rate – N/A	CN\$3,888,000 @ 1.08 Exch/R
Fast Start, additional scope and schedule delays	US\$33,000,000	TCE Exch Rate – N/A	CN\$35,640,000 @ 1.08 Exch/R
Total used by TCE			CN\$210,168,881
Total calc. by OPA			CN\$202,292,800

TCE is confident of the turbine costs and have not built much contingency into the figure; however, they have included contingencies for FS, TA costs & transportation costs;

- b. Others – compressors, transformers;

- c. BOP Equipment – other engineered equipment such as fire protection system and instrumentation & control. Costs are only for equipment;

- IBL – Execution

- d. TCE's CAPEX buildup assumes engineering is performed by a TCE-retained engineer and the work product is given to a Contractor;

- e. Engineering includes \$4,000,000 of external development engineering;

- f. Construction includes full scope construction, commissioning and startup.

Project Management, Construction management, O&M mobilization costs are estimated at \$18,605,081 and not included in Construction.

- IBL – Other IBL

- g. CGT Change Order – have included \$4.1MM (1% of project total) for GT change order allowance. Main driver for this is unknown noise mitigation costs due to the fact that TCE hasn't yet performed noise studies;

- h. Usually TCE will use ½% of GT costs for potential change orders (this works out to be around \$1M) but used a higher figure (around \$4M) because turbines have new technology.
- i. TCE's EPC Change Order allowances are based on other projects they've completed. OPA noted that such allowance is commensurate with projects where the detail engineering is released before it is complete or projects not well managed. This is essentially a large allowance for artificial risk;
- j. Landscaping - \$2MM. Landscaping is expensive as TCE experienced at PEC & Halton Hills.

8. Owner's Cost

- a. Development Cost - this is TCE's personnel cost to develop the project;
- b. PM & CM - TCE intends on performing the commissioning work (NTD: SMS doesn't recall TCE saying they will perform commissioning)
- c. O&M Mobilization - TCE staff will be on site ~12 months prior to commissioning; back office activities; cost is less than what was budgeted for OGS
- d. Net Start-up Energy - electricity and natural gas costs during commissioning; cost includes margins due to new technology
- e. Capital Maintenance - LTSA (upfront payment of \$17MM); life-cycle cost of LTSA included in OGS NRR; compressor spurs, blades;
- f. Site Purchase - cost of Boxwood site is estimated at \$31.7MM (90 acres @ \$325,000/acre). TCE needs to purchase a plot of land this large in order to acquire sufficient water rights and intake for the plant, but could use a smaller plot of land if they can negotiate a deal with the city that will provide them the necessary water rights;
- g. Community Benefits - TCE assumed \$20,000,000 for this activity and no further information is available at this time.

9. Project Uncertainties

- a. Development Allowance - cost of \$25MM may go away as TCE further develops the project and acquires more certainty;
- b. Risk & Contingency - Contingency costs associated with things TCE hasn't yet identified but may be required;
- c. Risk & Contingency - Risk is now a calculated figure. CAPEX will be adjusted on the basis of the Monte Carlo analysis. Risk & Contingency are on average about 4% of the total CAPEX budget as advised by TCE;

10. Specific Cost - CAPEX in (\$/kW)

TCE Specific Cost for Equipment, Execution, Other IBL, Owner's Cost, Taxes and project uncertainties ("Total IBL") is \$1,023/kW based on 540 MW ISO rating.

Using ISO rating of 510 MW, TCE Specific Cost for Total IBL is \$1,084/kW.

TCE Specific Cost for Total IBL and OBL ("All-In-Cost") is estimated at \$1,215/kW and \$1,287/kW for ISO rating of 540 MW and 510 MW respectively. OGS sunk cost is not included in All-In-Cost.

OPA advised TCE that based on publicly available information the All-In-Cost for NYR based on that project ISO rating is \$928/kW compared to TCE at \$1,287/kW. TCE is over \$350/kW higher than NYR. NYR specific cost should be higher than TCE's for a number of reasons including economy of scale, EPC approach and others. A more careful analysis between the two projects is required to establish TCE's Specific Cost on an adjusted NYR basis.

Other Business

1. Senior Executives of OPA and TCE will be meeting on February 22nd
2. TCE expects to provide OPA with Sunk Cost evidence by February 25th
3. Next Negotiating Team meeting Thursday, February 24th @ 2:30 p.m. needs to be rescheduled due to conflict with OPA Board of Directors meeting.

Privileged and Confidential - Prepared in Contemplation of Litigation

Aleksandar Kojic

From: Deborah Langelaan
Sent: February 23, 2011 10:48 AM
To: 'Sebastiano, Rocco'
Cc: John Zych; Michael Killeavy
Subject: FW: TCE Board Resolution - Osler Review and Comment
Attachments: Minutes of Board of Directors Meeting - October 7, 2010 - Draft.doc

Rocco;

Would you please review the attached Board meeting minutes and provide your comments?

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 Zych
Sent: February 23, 2011 10:17 AM
To: Deborah Langelaan
Cc: Susan Kennedy
Subject: RE: TCE Board Resolution - Osler Review and Comment

Deborah,

The minutes of the October 7, 2010 mtg (attached).

John Zych
Corporate Secretary
Ontario Power Authority
Suite 1600
120 Adelaide Street West
Toronto, ON M5H 1T1
416-969-6055
416-967-7474 Main telephone
416-967-1947 OPA Fax
416-416-324-5488 Personal Fax
John.Zych@powerauthority.on.ca

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From: Susan Kennedy
Sent: February 23, 2011 9:26 AM
To: John Zych
Cc: Deborah Langelaan
Subject: FW: TCE Board Resolution - Osler Review and Comment

John,

Would you deal directly with Deb on this. I believe I can attest that it will be faster if I am not in the middle.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Deborah Langelaan
Sent: February 23, 2011 9:08 AM
To: Susan Kennedy
Subject: RE: TCE Board Resolution - Osler Review and Comment

Susan;

What minutes are you referring to?

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: February 23, 2011 8:58 AM
To: Michael Killeavy; Deborah Langelaan
Cc: John Zych
Subject: TCE Board Resolution - Osler Review and Comment

I thought I'd seen Osler comments on the draft minutes; however, John says he hasn't seen anything and I can't seem to find a record of same. Am I imagining things?

If Osler hasn't completed its review, could we get them to do so as it ideally should be finalized at next board meeting.

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



MEETING OF THE BOARD OF DIRECTORS

MINUTES of a meeting of the Board of Directors of the Ontario Power Authority held on Thursday, October 7, 2010, at 10:18 a.m., by teleconference

PRESENT

Colin Andersen
John Beck
Michael Costello
Rick Fitzgerald
Adèle Hurley
Ron Jamieson
Bruce Lourie

MEMBERS OF STAFF IN ATTENDANCE

Amir Shalaby, Vice President, Power System Planning
Michael Lyle, General Counsel and Vice President, Legal, Aboriginal and Regulatory Affairs
JoAnne Butler, Vice President, Electricity Resources
Kimberly Marshall, Vice President, Business Strategies and Solutions
Ben Chin, Vice President, Communications
Michael Killeavy, Director, Contract Management, Electricity Resources
John Zych, Corporate Secretary

1. Constitution of the Meeting

Mr. John Beck acted as Chair of the meeting and Mr. John Zych acted as Secretary.

Mr. Zych advised that, with notice having been given and a quorum of members being present, the meeting was properly called and duly constituted for the transaction of business. He also indicated that the absent members – Charles Bayless, Lyn McLeod and Patrick Monahan – had advised him in writing that they waived lack of sufficient notice of the meeting.

2. Southwest Greater Toronto Area project

Mr. Andersen advised the Board members that the government of Ontario had made the decision that a gas plant in Oakville was no longer needed and, as a result, the plant would not proceed. The announcement was planned to be made by Minister of Energy Brad Duguid in Oakville at 1:00 p.m. that day.

Mr. Andersen further advised that the Ontario Power Authority had concluded that the latest information gathered on the current status of the electricity system supported the decision. When the need for this plant was first identified four years ago, there were higher demand projections for electricity in the province. Since then, changes in demand and supply, including successful conservation efforts and more than 8,000 megawatts of new, cleaner power, had made it clear that the plant was no longer required. Local reliability remained a need and a transmission solution was required to address the need.

The Board members reviewed the terms of a draft letter to TransCanada Energy Ltd. that instructed TransCanada Energy Ltd. to cease all further work in connection with the Oakville gas plant and acknowledged that TransCanada Energy Ltd. was entitled to reasonable compensation. The letter also indicated the OPA's intention to enter into good faith negotiations with TransCanada Energy Ltd. to reach an agreement to terminate the contract.

On motion duly made, seconded and unanimously carried, it was RESOLVED THAT the Board of Directors approve the sending of a letter to TransCanada Energy Ltd. pertaining to the termination of plans to proceed with the Oakville gas plant and granting authority to the Chief Executive Officer to sign and send such a letter.

3. Termination

There being no further business to be brought before the meeting, the meeting terminated at 10:45 a.m.

Approved by the Board of Directors on
the 21st day of October, 2010

John Beck
Chair of the meeting

John Zych
Secretary of the meeting

Aleksandar Kojic

From: Michael Killeavy
Sent: February 23, 2011 10:52 AM
To: JoAnne Butler
Subject: TCE CAPEX Meeting Minutes
Attachments: Weekly_Mtg_Notes_20110217_SMS_Revised (2).doc

JoAnne,

Attached are our minutes of the meeting held last Thursday to review the preliminary estimate of the CAPEX for the K-W peaking plant.

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)

**OPA/TransCanada OGS Negotiating Team
Weekly Meeting Minutes
February 17, 2011
TCE Offices**

Attendees:	<u>OPA</u>	<u>TransCanada</u>
	Michael Killeavy	Geoff Murray
	Deborah Langelaan	John Mikkelsen
	Anshul Mathur	Andy Mather
	Safouh Soufi (SMS)	John Cashin – by phone
	Elliot Smith (Osler)	

TCE NRR

1. TCE still developing NRR's and not in a position to provide to the OPA at this point in time. TCE was not able to provide a firm date when they expect to provide this information to the OPA. In addition to providing NRR's TCE will also be providing contract changes they will be seeking to meet their NRR targets.

TCE Cambridge Peaking Plant CAPEX Estimate

1. CAPEX discussion was prefaced by the fact that this is an exercise to understand how TCE developed their costs and not a negotiation of the costs;
2. Parties agreed to focus CAPEX discussion on plant proper and exclude OGS sunk cost and OBL costs including cost of interconnections (electrical & gas);
3. TCE used an ISO rating of the GT's of 540 MW; however, SMS finds no support for such output from material provided by TCE/Turbine Vendor. SMS has information to suggest that the ISO rating is more likely 510MW;
4. TCE used a proprietary process and an internal cost database to arrive at the cost estimates presented for the K-W peaking plant; costs are Class 5 Contingencies - 25%+30%;
5. TCE defines any cost incurred prior to COD as CAPEX and any cost incurred after COD as OPEX;
6. TCE will follow an EPCM approach for the construction of the potential project. Detail engineering will be carried out by an Engineer chosen by TCE. Construction using single contract with constructor selected using a competitive bidding process managed by TCE. Gas turbines will be "Free Issue" to the successful project constructor.

7. IBL Costs

- Equipment

- a. CGT cost estimate made up of the following:

2 X Gas Turbines	US\$144,698,480	TCE used 1.08 Exch Rate	CN\$156,000,000
Transportation cost based on Oakville transportaion study			CN\$7,400,000
Extra Technical Assistance (TA)	US\$3,600,000	TCE Exch Rate – N/A	CN\$3,888,000 @ 1.08 Exch/R
Fast Start, additional scope and schedule delays	US\$33,000,000	TCE Exch Rate – N/A	CN\$35,640,000 @ 1.08 Exch/R
Total used by TCE			CN\$210,168,881
Total calc. by OPA			CN\$202,292,800

TCE is confident of the turbine costs and have not built much contingency into the figure; however, they have included contingencies for FS, TA costs & transportation costs;

- b. Others – compressors, transformers;
- c. BOP Equipment – other engineered equipment such as fire protection system and instrumentation & control. Costs are only for equipment;

- IBL – Execution

- d. TCE's CAPEX buildup assumes engineering is performed by a TCE-retained engineer and the work product is given to a Contractor;
 - e. Engineering includes \$4,000,000 of external development engineering;
 - f. Construction includes full scope construction, commissioning and startup. Project Management, Construction management, O&M mobilization costs are estimated at \$18,605,081 and not included in Construction.

- IBL – Other IBL

- g. CGT Change Order – have included \$4.1MM (1% of project total) for GT change order allowance. Main driver for this is unknown noise mitigation costs due to the fact that TCE hasn't yet performed noise studies;

- h. Usually TCE will use 1/2% of GT costs for potential change orders (this works out to be around \$1M) but used a higher figure (around \$4M) because turbines have new technology.
- i. TCE's EPC Change Order allowances are based on other projects they've completed. OPA noted that such allowance is commensurate with projects where the detail engineering is released before it is complete or projects not well managed. This is essentially a large allowance for artificial risk;
- j. Landscaping - \$2MM. Landscaping is expensive as TCE experienced at PEG & Halton Hills.

8. Owner's Cost

- a. Development Cost - this is TCE's personnel cost to develop the project;
- b. PM & CM - TCE intends on performing the commissioning work (NTD: SMS doesn't recall TCE saying they will perform commissioning);
- c. O&M Mobilization - TCE staff will be on site ~12 months prior to commissioning; back office activities; cost is less than what was budgeted for OGS
- d. Net Start-up Energy - electricity and natural gas costs during commissioning; cost includes margins due to new technology
- e. Capital Maintenance - LTSA (upfront payment of \$17MM); life-cycle cost of LTSA included in OGS NRR; compressor, spurs, blades;
- f. Site Purchase - cost of Boxwood site is estimated at \$31.7MM (90 acres @ \$325,000/acre). TCE needs to purchase a plot of land this large in order to acquire sufficient water rights and intake for the plant, but could use a smaller plot of land if they can negotiate a deal with the city that will provide them the necessary water rights;
- g. Community Benefits - TCE assumed \$20,000,000 for this activity and no further information is available at this time.

9. Project Uncertainties

- a. Development Allowance - cost of \$25MM may go away as TCE further develops the project and acquires more certainty;
- b. Risk & Contingency - Contingency costs associated with things TCE hasn't yet identified but may be required;
- c. Risk & Contingency - Risk is now a calculated figure. CAPEX will be adjusted on the basis of the Monte Carlo analysis. Risk & Contingency are on average about 4% of the total CAPEX budget as advised by TCE;

10. Specific Cost - CAPEX in (\$/kW)

TCE Specific Cost for Equipment, Execution, Other IBL, Owner's Cost, Taxes and project uncertainties ("Total IBL") is \$1,023/kW based on 540 MW ISO rating.

Using ISO rating of 510 MW, TCE Specific Cost for Total IBL is \$1,084/kW.

TCE Specific Cost for Total IBL and OBL ("All-In-Cost") is estimated at \$1,215/kW and \$1,287/kW for ISO rating of 540 MW and 510 MW respectively. OGS sunk cost is not included in All-In-Cost.

OPA advised TCE that based on publicly available information the All-In-Cost for NYR based on that project ISO rating is \$928/kW compared to TCE at \$1,287/kW. TCE is over \$350/kW higher than NYR. NYR specific cost should be higher than TCE's for a number of reasons including economy of scale, EPC approach and others. A more careful analysis between the two projects is required to establish TCE's Specific Cost on an adjusted NYR basis.

Other Business

1. Senior Executives of OPA and TCE will be meeting on February 22nd
2. TCE expects to provide OPA with Sunk Cost evidence by February 25th
3. Next Negotiating Team meeting Thursday, February 24th @ 2:30 p.m. needs to be rescheduled due to conflict with OPA Board of Directors meeting.

Privileged and Confidential - Prepared in Contemplation of Litigation

Aleksandar Kojic

From: Michael Killeavy
Sent: February 23, 2011 10:52 AM
To: Deborah Langelaan
Subject: RE: OGS Meeting Minutes
Attachments: Cost Estimation Classification.pdf

You might be interested in this.

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

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

From: Deborah Langelaan
Sent: February 22, 2011 2:08 PM
To: Michael Killeavy
Subject: OGS Meeting Minutes

Michael;

Attached is the final version of the minutes from last Thursday's meeting with TCE.

Deb

The message is ready to be sent with the following file or link attachments:

Weekly_Mtg_Notes_20110217_SMS_Revise (2)

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

AACE International Recommended Practice No. 17R-97

COST ESTIMATE CLASSIFICATION SYSTEM
TCM Framework: 7.3 – Cost Estimating and Budgeting

Acknowledgments:

Peter Christensen, CCE (Author)
Larry R. Dysert, CCC (Author)
Jennifer Bates, CCE
Dorothy J. Burton
Robert C. Creese, PE CCE
John K. Hollmann, PE CCE

Kenneth K. Humphreys, PE CCE
Donald F. McDonald, Jr. PE CCE
C. Arthur Miller
Bernard A. Pietlock, CCC
Wesley R. Querns, CCE
Don L. Short, II



August 12, 1997

PURPOSE

As a recommended practice of AACE International, the Cost Estimate Classification System provides guidelines for applying the general principles of estimate classification to asset project cost estimates. Asset project cost estimates typically involve estimates for capital investment, and exclude operating and life-cycle evaluations. The Cost Estimate Classification System maps the phases and stages of asset cost estimating together with a generic maturity and quality matrix that can be applied across a wide variety of industries.

This guideline and its addenda have been developed in a way that:

- provides common understanding of the concepts involved with classifying project cost estimates, regardless of the type of enterprise or industry the estimates relate to;
- fully defines and correlates the major characteristics used in classifying cost estimates so that enterprises may unambiguously determine how their practices compare to the guidelines;
- uses degree of project definition as the primary characteristic to categorize estimate classes; and
- reflects generally-accepted practices in the cost engineering profession.

An intent of the guidelines is to improve communication among all of the stakeholders involved with preparing, evaluating, and using project cost estimates. The various parties that use project cost estimates often misinterpret the quality and value of the information available to prepare cost estimates, the various methods employed during the estimating process, the accuracy level expected from estimates, and the level of risk associated with estimates.

This classification guideline is intended to help those involved with project estimates to avoid misinterpretation of the various classes of cost estimates and to avoid their misapplication and misrepresentation. Improving communications about estimate classifications reduces business costs and project cycle times by avoiding inappropriate business and financial decisions, actions, delays, or disputes caused by misunderstandings of cost estimates and what they are expected to represent.

This document is intended to provide a guideline, not a standard. It is understood that each enterprise may have its own project and estimating processes and terminology, and may classify estimates in particular ways. This guideline provides a generic and generally-acceptable classification system that can be used as a basis to compare against. If an enterprise or organization has not yet formally documented its own estimate classification scheme, then this guideline may provide an acceptable starting point.

INTRODUCTION

An AACE International guideline for cost estimate classification for the process industries was developed in the late 1960s or early 1970s, and a simplified version was adopted as an ANSI Standard Z94.0 in 1972. Those guidelines and standards enjoy reasonably broad acceptance within the engineering and construction communities and within the process industries. This recommended practice guide and its addenda improves upon these standards by:

1. providing a classification method applicable across all industries; and
2. unambiguously identifying, cross-referencing, benchmarking, and empirically evaluating the multiple characteristics related to the class of cost estimate.

This guideline is intended to provide a generic methodology for the classification of project cost estimates in any industry, and will be supplemented with addenda that will provide extensions and additional detail for specific industries.

CLASSIFICATION METHODOLOGY

There are numerous characteristics that can be used to categorize cost estimate types. The most significant of these are degree of project definition, end usage of the estimate, estimating methodology, and the effort and time needed to prepare the estimate. The "primary" characteristic used in this guideline to define the classification category is the degree of project definition. The other characteristics are "secondary."

Categorizing cost estimates by degree of project definition is in keeping with the AACE International philosophy of Total Cost Management, which is a quality-driven process applied during the entire project life cycle. The discrete levels of project definition used for classifying estimates correspond to the typical phases and gates of evaluation, authorization, and execution often used by project stakeholders during a project life cycle.

Five cost estimate classes have been established. While the level of project definition is a continuous spectrum, it was determined from benchmarking industry practices that three to five discrete categories are commonly used. Five categories are established in this guideline as it is easier to simplify by combining categories than it is to arbitrarily split a standard.

The estimate class designations are labeled Class 1, 2, 3, 4, and 5. A Class 5 estimate is based upon the lowest level of project definition, and a Class 1 estimate is closest to full project definition and maturity. This arbitrary "countdown" approach considers that estimating is a process whereby successive estimates are prepared until a final estimate closes the process.

ESTIMATE CLASS	Primary Characteristic	Secondary Characteristic			
	LEVEL OF PROJECT DEFINITION Expressed as % of complete definition	END USAGE Typical purpose of estimate	METHODOLOGY Typical estimating method	EXPECTED ACCURACY RANGE Typical +/- range relative to best index of 1 [a]	PREPARATION EFFORT Typical degree of effort relative to least cost index of 1 [b]
Class 5	0% to 2%	Screening or Feasibility	Stochastic or Judgment	4 to 20	1
Class 4	1% to 15%	Concept Study or Feasibility	Primarily Stochastic	3 to 12	2 to 4
Class 3	10% to 40%	Budget, Authorization, or Control	Mixed, but Primarily Stochastic	2 to 6	3 to 10
Class 2	30% to 70%	Control or Bid/Tender	Primarily Deterministic	1 to 3	5 to 20
Class 1	50% to 100%	Check Estimate or Bid/Tender	Deterministic	1	10 to 100

Notes: [a] If the range index value of "1" represents +10/-5%, then an index value of 10 represents +100/-50%.

[b] If the cost index value of "1" represents 0.005% of project costs, then an index value of 100 represents 0.5%.

Figure 1 – Generic Cost Estimate Classification Matrix

DEFINITIONS OF COST ESTIMATE CHARACTERISTICS

The following are brief discussions of the various estimate characteristics used in the estimate classification matrix. For the secondary characteristics, the overall trend of how each characteristic varies with the degree of project definition (the primary characteristic) is provided.

Level of Project Definition (Primary Characteristic)

This characteristic is based upon percent complete of project definition (roughly corresponding to percent complete of engineering). The level of project definition defines maturity or the extent and types of input information available to the estimating process. Such inputs include project scope definition, requirements documents, specifications, project plans, drawings, calculations, learnings from past projects, reconnaissance data, and other information that must be developed to define the project. Each industry will have a typical set of deliverables that are used to support the type of estimates used in that industry. The set of deliverables becomes more definitive and complete as the level of project definition (i.e., project engineering) progresses.

End Usage (Secondary Characteristic)

The various classes (or phases) of cost estimates prepared for a project typically have different end uses or purposes. As the level of project definition increases, the end usage of an estimate typically progresses from strategic evaluation and feasibility studies to funding authorization and budgets to project control purposes.

Estimating Methodology (Secondary Characteristic)

Estimating methodologies fall into two broad categories: stochastic and deterministic. In stochastic methods, the independent variable(s) used in the cost estimating algorithms are generally something other than a direct measure of the units of the item being estimated. The cost estimating relationships used in stochastic methods often are somewhat subject to conjecture. With deterministic methods, the independent variable(s) are more or less a definitive measure of the item being estimated. A deterministic methodology is not subject to significant conjecture. As the level of project definition increases, the estimating methodology tends to progress from stochastic to deterministic methods.

Expected Accuracy Range (Secondary Characteristic)

Estimate accuracy range is an indication of the degree to which the final cost outcome for a given project will vary from the estimated cost. Accuracy is traditionally expressed as a +/- percentage range around the point estimate after application of contingency, with a stated level of confidence that the actual cost outcome would fall within this range (+/- measures are a useful simplification, given that actual cost outcomes have different frequency distributions for different types of projects). As the level of project definition increases, the expected accuracy of the estimate tends to improve, as indicated by a tighter +/- range.

Note that in figure 1, the values in the accuracy range column do not represent + or - percentages, but instead represent an index value relative to a best range index value of 1. If, for a particular industry, a Class 1 estimate has an accuracy range of +10/-5 percent, then a Class 5 estimate in that same industry may have an accuracy range of +100/-50 percent.

Effort to Prepare Estimate (Secondary Characteristic)

The level of effort needed to prepare a given estimate is an indication of the cost, time, and resources required. The cost measure of that effort is typically expressed as a percentage of the total project costs for a given project size. As the level of project definition increases, the amount of effort to prepare an estimate increases, as does its cost relative to the total project cost. The effort to develop the project deliverables is not included in the effort metrics; they only cover the cost to prepare the cost estimate itself.

RELATIONSHIPS AND VARIATIONS OF CHARACTERISTICS

There are a myriad of complex relationships that may be exhibited among the estimate characteristics within the estimate classifications. The overall trend of how the secondary characteristics vary with the level of project definition was provided above. This section explores those trends in more detail. Typically, there are commonalities in the secondary characteristics between one estimate and the next, but in any given situation there may be wide variations in usage, methodology, accuracy, and effort.

The level of project definition is the "driver" of the other characteristics. Typically, all of the secondary characteristics have the level of project definition as a primary determinant. While the other characteristics are important to categorization, they lack complete consensus. For example, one estimator's "bid" might be another's "budget." Characteristics such as "accuracy" and "methodology" can vary markedly from one industry to another, and even from estimator to estimator within a given industry.

Level of Project Definition

Each project (or industry grouping) will have a typical set of deliverables that are used to support a given class of estimate. The availability of these deliverables is directly related to the level of project definition achieved. The variations in the deliverables required for an estimate are too broad to cover in detail here; however, it is important to understand what drives the variations. Each industry group tends to focus on a defining project element that "drives" the estimate maturity level. For instance, chemical industry projects are "process equipment-centric"—i.e., the level of project definition and subsequent estimate maturity level is significantly determined by how well the equipment is defined. Architectural projects tend to be "structure-centric," software projects tend to be "function-centric," and so on. Understanding these drivers puts the differences that may appear in the more detailed industry addenda into perspective.

End Usage

While there are common end usages of an estimate among different stakeholders, usage is often relative to the stakeholder's identity. For instance, an owner company may use a given class of estimate to support project funding, while a contractor may use the same class of estimate to support a contract bid or tender. It is not at all uncommon to find stakeholders categorizing their estimates by usage-related headings such as "budget," "study," or "bid." Depending on the stakeholder's perspective and needs, it is important to understand that these may actually be all the same class of estimate (based on the primary characteristic of level of project definition achieved).

Estimating Methodology

As stated previously, estimating methodologies fall into two broad categories: stochastic and deterministic. These broad categories encompass scores of individual methodologies. Stochastic methods often involve simple or complex modeling based on inferred or statistical relationships between costs and programmatic and/or technical parameters. Deterministic methods tend to be straightforward counts or measures of units of items multiplied by known unit costs or factors. It is important to realize that any combination of methods may be found in any given class of estimate. For example, if a stochastic method is known to be suitably accurate, it may be used in place of a deterministic method even when there is sufficient input information based on the level of project definition to support a deterministic method. This may be due to the lower level of effort required to prepare an estimate using stochastic methods.

Expected Accuracy Range

The accuracy range of an estimate is dependent upon a number of characteristics of the estimate input information and the estimating process. The extent and the maturity of the input information as measured by percentage completion (and related to level of project definition) is a highly-important determinant of accuracy. However, there are factors besides the available input information that also greatly affect estimate accuracy measures. Primary among these are the state of technology in the project and the quality of reference cost estimating data.

State of technology—technology varies considerably between industries, and thus affects estimate accuracy. The state of technology used here refers primarily to the programmatic or technical uniqueness and complexity of the project. Procedurally, having “full extent and maturity” in the estimate basis deliverables is deceptive if the deliverables are based upon assumptions regarding uncertain technology. For a “first-of-a-kind” project there is a lower level of confidence that the execution of the project will be successful (all else being equal). There is generally a higher confidence for projects that repeat past practices. Projects for which research and development are still under way at the time that the estimate is prepared are particularly subject to low accuracy expectations. The state of technology may have an order of magnitude (10 to 1) effect on the accuracy range.

Quality of reference cost estimating data—accuracy is also dependent on the quality of reference cost data and history. It is possible to have a project with “common practice” in technology, but with little cost history available concerning projects using that technology. In addition, the estimating process typically employs a number of factors to adjust for market conditions, project location, environmental considerations, and other estimate-specific conditions that are often uncertain and difficult to assess. The accuracy of the estimate will be better when verified empirical data and statistics are employed as a basis for the estimating process, rather than assumptions.

In summary, estimate accuracy will generally be correlated with estimate classification (and therefore the level of project definition), all else being equal. However, specific accuracy ranges will typically vary by industry. Also, the accuracy of any given estimate is not fixed or determined by its classification category. Significant variations in accuracy from estimate to estimate are possible if any of the determinants of accuracy, such as technology, quality of reference cost data, quality of the estimating process, and skill and knowledge of the estimator vary. Accuracy is also not necessarily determined by the methodology used or the effort expended. Estimate accuracy must be evaluated on an estimate-by-estimate basis, usually in conjunction with some form of risk analysis process.

Effort to Prepare Estimate

The effort to prepare an estimate is usually determined by the extent of the input information available. The effort will normally increase as the number and complexity of the project definition deliverables that are produced and assessed increase. However, with an efficient estimating methodology on repetitive projects, this relationship may be less defined. For instance, there are combination design/estimating tools in the process industries that can often automate much of the design and estimating process. These tools can often generate Class 3 deliverables and estimates from the most basic input parameters for repetitive-type projects. There may be similar tools in other industry groupings.

It also should be noted that the estimate preparation costs as a percentage of total project costs will vary inversely with project size in a nonlinear fashion. For a given class of estimate, the preparation cost percentage will decrease as the total project costs increase. Also, at each class of estimate, the preparation costs in different industries will vary markedly. Metrics of estimate preparation costs normally exclude the effort to prepare the defining project deliverables.

ESTIMATE CLASSIFICATION MATRIX

The five estimate classes are presented in figure 1 in relationship to the identified characteristics. Only the level of project definition determines the estimate class. The other four characteristics are secondary characteristics that are generally correlated with the level of project definition, as discussed above.

This generic matrix and guideline provide a high-level estimate classification system that is nonindustry specific. Refer to subsequent addenda for further guidelines that will provide more detailed information for application in specific industries. These will provide additional information, such as input deliverable checklists, to allow meaningful categorization in that industry.

REFERENCES

ANSI Standard Z94.2-1989. **Industrial Engineering Terminology: Cost Engineering.**

CONTRIBUTORS

Peter Christensen, CCE (Author)
Larry R. Dysert, CCC (Author)
Jennifer Bates, CCE
Dorothy J. Burton
Robert C. Creese, PE CCE
John K. Hollmann, PE CCE
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Donald F. McDonald, Jr. PE CCE
C. Arthur Miller
Bernard A. Pietlock, CCC
Wesley R. Querns, CCE
Don L. Short, II

Aleksandar Kojic

From: JoAnne Butler
Sent: February 23, 2011 3:33 PM
To: Michael Killeavy; Deborah Langelaan
Subject: RE: TCE CAPEX Meeting Minutes

Good...thanks...not sure what I have to say tomorrow but will let you know asap if they have any NRR info...I will not commit to anything...

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

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

From: Michael Killeavy
Sent: Miércoles, 23 de Febrero de 2011 10:52 a.m.
To: JoAnne Butler
Subject: TCE CAPEX Meeting Minutes

JoAnne,

Attached are our minutes of the meeting held last Thursday to review the preliminary estimate of the CAPEX for the K-W peaking plant.

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: Michael Killeavy
Sent: February 23, 2011 3:36 PM
To: JoAnne Butler; Deborah Langelaan
Subject: Re: TCE CAPEX Meeting Minutes

You might request timing on when we'll get the NRR information we requested. We've seen nothing so far.

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: JoAnne Butler
Sent: Wednesday, February 23, 2011 03:33 PM
To: Michael Killeavy; Deborah Langelaan
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M5H 1T1
416-969-6288
416-520-9788 (CELL)
416-967-1947 (FAX)

Aleksandar Kojic

From: JoAnne Butler
Sent: February 23, 2011 3:47 PM
To: Michael Killeavy; Deborah Langelaan
Subject: RE: TCE CAPEX Meeting Minutes

OK...

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

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

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joanne.butler@powerauthority.on.ca

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Sent: Miércoles, 23 de Febrero de 2011 03:36 p.m.
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Toronto, Ontario

M5H 1T1

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416-520-9788 (CELL)

416-967-1947 (FAX)

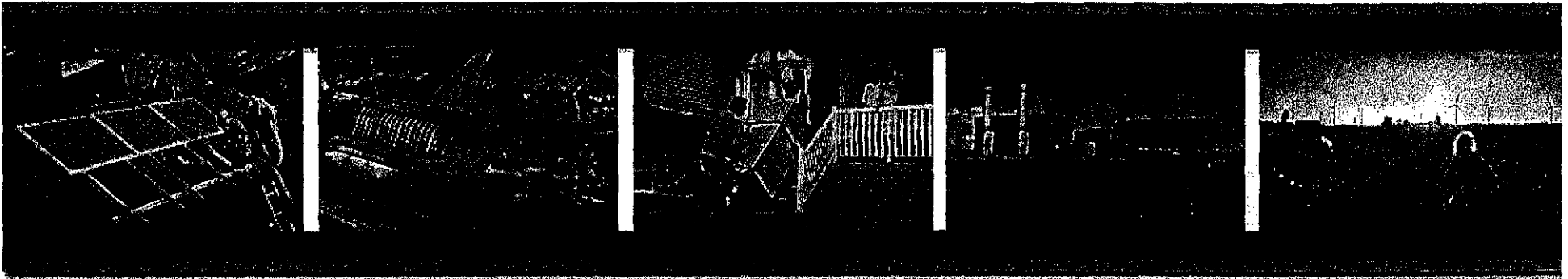
Aleksandar Kojic

From: Deborah Langelaan
Sent: February 23, 2011 3:54 PM
To: Michael Killeavy
Subject: OGS Board Presentation - Priviledged and Confidential
Attachments: OGS_BOD_CM_20110224.ppt

Michael;

Would you have time today to reivew the presentation before I send it to JoAnne? I didn't inlcude anything on the IA as we haven't made any progress on it since the last Board meeting. Also, I wasn't sure how much detail to include about TCE's CAPEX for Cambridge.

Deb



Winding Up of the Oakville Generating Station (OGS) Contract

Board of Directors

February 24, 2011

Privileged and Confidential – Prepared in Contemplation of Litigation

OGS Update

- OPA/TCE negotiating team has met 5 times since January's Board update.
- Discussions continue to be productive with respect to the "winding-up" of the Contract.

OGS Update

- Excerpt from TCE's 2010 Annual Report:
 - In September 2009, the OPA awarded TransCanada a 20-year Clean Energy Supply contract to build, own and operate a 900 MW power generating station in Oakville, Ontario. TransCanada expected to invest approximately \$1.2 billion in the natural gas-fired, combined-cycle plant. In October 2010, the Government of Ontario announced that it would not proceed with the Oakville generating station. TransCanada is negotiating a settlement with the OPA that would terminate the Clean Energy Supply contract and compensate TransCanada for the economic consequences associated with the contract's termination.

Replacement Generation Project

- TCE still leaning toward development of the Boxwood Industrial Park site.
- TCE and OPA continue to wait for Ministry of Energy authorization to contact the City of Cambridge about the proposed project.
- The continued delay in contacting the City of Cambridge is becoming extremely problematic as word is starting to leak out about the replacement project.
- **“Focus is on Cambridge site for power plant”**
headline of Toronto Star article dated February 18th

Boxwood Site



Ministry of Energy Directive

- OPA continues to work with the Ministry of Energy on the drafting of the Directive to authorize negotiations with TCE for the replacement project.
- Ministry warming up to the idea of including language that references the inclusion of the financial value of the OGS Contract into the net revenue requirement of the replacement project.

Mitsubishi (MPS) Gas Turbines (GT's)

- GT's originally purchased for OGS were designed for a Combined Cycle plant.
- Fall 2010 TCE suspended MPS contract to January 31, 2011.
- January 28, 2011 TCE released MPS from suspension and directed them to commence work on converting the GT's to Fast Start.
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- Fixed the suspension costs that TCE had been incurring under terms of MPS ESA.

Price of Peaking Plant Conversion

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- MPS revised the price to convert from combined cycle to simple cycle from \$15 MM to \$12 MM.
- Delayed delivery and suspension costs remain \$15 MM.

Price of Peaking Plant Conversion

- TCE expects to receive MPS final price for peaking plant conversion on February 28, 2011 and is not to exceed 125% of the estimated price.
- If the final price is higher the OPA will pass the risk onto TCE in the commercial negotiations since they believe they have a cap on the price.

Cambridge Capital Costs

- TCE has provided the OPA with its estimated capital cost for Cambridge.
- OPA review has concluded that TCE has included large premiums for risk.
- Site uncertainty has prevented TCE from firming up many of its capital costs.

Next Steps

- Continue discussions with TCE to achieve the following:
 - Finalize technical design requirements;
 - Siting of replacement facility;
 - Negotiation and execution of the Implementation Agreement;
 - TCE plan for handling First Nations issues.

Aleksandar Kojic

From: Michael Killeavy
Sent: February 23, 2011 4:18 PM
To: Deborah Langelaan
Subject: Re: OGS Board Presentation - Priviledged and Confidential

Sure. I'll see if I can download it onto my notebook.

Hilary Thatcher mentioned she could include some slides on First Nations aspects. Perhaps touch base with her, if you can.

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

From: Deborah Langelaan
Sent: Wednesday, February 23, 2011 03:54 PM
To: Michael Killeavy
Subject: OGS Board Presentation - Priviledged and Confidential

Michael;

Would you have time today to reivew the presentation before I send it to JoAnne? I didn't inlcude anything on the IA as we haven't made any progress on it since the last Board meeting. Also, I wasn't sure how much detail to include about TCE's CAPEX for Cambridge.

Deb

Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: February 23, 2011 5:13 PM
To: Deborah Langelaan
Cc: John Zych; Michael Killeavy; Ivanoff, Paul; Smith, Elliot
Subject: RE: TCE Board Resolution - Osler Review and Comment

We have reviewed the minutes, but am not sure what comments we would provide. One observation I would make is that the minutes state that the Board members reviewed the terms of a draft letter to TCE that instructed TCE to "cease all further work in connection with the Oakville gas plant and acknowledged that [TCE] was entitled to reasonable compensation". Did the Board members see the final draft of the letter which was sent to TCE which includes the reference to the "financial value" of the contract? I wouldn't want anyone to draw the inference that the language contained in the letter sent to TCE is the Board's view of what is reasonable compensation. Perhaps we can discuss further this in person when we next get together.

Thanks, Rocco

From: Deborah Langelaan [<mailto:Deborah.Langelaan@powerauthority.on.ca>]
Sent: Wednesday, February 23, 2011 10:48 AM
To: Sebastiano, Rocco
Cc: John Zych; Michael Killeavy
Subject: FW: TCE Board Resolution - Osler Review and Comment

Rocco;

Would you please review the attached Board meeting minutes and provide your comments?

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 Zych
Sent: February 23, 2011 10:17 AM
To: Deborah Langelaan
Cc: Susan Kennedy
Subject: RE: TCE Board Resolution - Osler Review and Comment

Deborah,

The minutes of the October 7, 2010 mtg (attached).

John Zych
Corporate Secretary
Ontario Power Authority
Suite 1600
120 Adelaide Street West
Toronto, ON M5H 1T1
416-969-6055
416-967-7474 Main telephone

416-967-1947 OPA Fax
416-416-324-5488 Personal Fax
John.Zych@powerauthority.on.ca

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From: Susan Kennedy
Sent: February 23, 2011 9:26 AM
To: John Zych
Cc: Deborah Langelaan
Subject: FW: TCE Board Resolution - Osler Review and Comment

John,

Would you deal directly with Deb on this. I believe I can attest that it will be faster if I am not in the middle.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Deborah Langelaan
Sent: February 23, 2011 9:08 AM
To: Susan Kennedy
Subject: RE: TCE Board Resolution - Osler Review and Comment

Susan;

What minutes are you referring to?

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: February 23, 2011 8:58 AM
To: Michael Killeavy; Deborah Langelaan
Cc: John Zych
Subject: TCE Board Resolution - Osler Review and Comment

I thought I'd seen Osler comments on the draft minutes; however, John says he hasn't seen anything and I can't seem to find a record of same. Am I imagining things?

If Osler hasn't completed its review, could we get them to do so as it ideally should be finalized at next board meeting.

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: February 23, 2011 5:55 PM
To: Deborah Langelaan
Subject: RE: OGS Board Presentation - Priviledged and Confidential

This looks fine to me. Thanks for preparing it. See if you can integrate Hillery Thatcher's FN slides easily. If not, we'll use them for the March update.

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

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

From: Deborah Langelaan
Sent: Wed 23-Feb-11 3:54 PM
To: Michael Killeavy
Subject: OGS Board Presentation - Priviledged and Confidential

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Deb

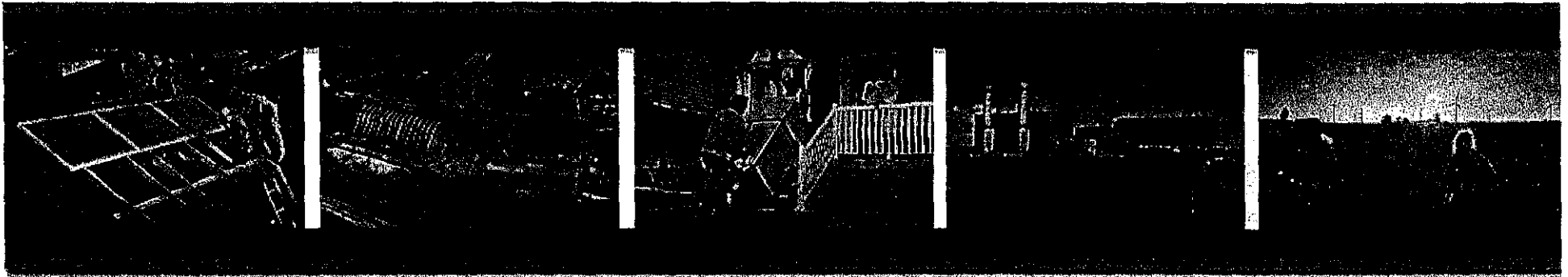
Aleksandar Kojic

From: Deborah Langelaan
Sent: February 24, 2011 9:02 AM
To: JoAnne Butler
Cc: Michael Killeavy
Subject: OGS Board Presentation
Attachments: OGS_BOD_CM_20110224.ppt

JoAnne;

Attached is the OGS presentation for today's Board meeting. Michael has reviewed it and I would appreciate if you would too and provide me with your comments. Hillary Thatcher has offered to provide us with a slide on TCE's First Nations work in the Kitchener/Waterloo area and I will add that once I receive it.

Deb



Winding Up of the Oakville Generating Station (OGS) Contract

Board of Directors

February 24, 2011

Privileged and Confidential – Prepared in Contemplation of Litigation

OGS Update

- OPA/TransCanada Energy (TCE) negotiating team has met 5 times since January's Board update.
- Discussions continue to be productive with respect to the "winding-up" of the Contract.

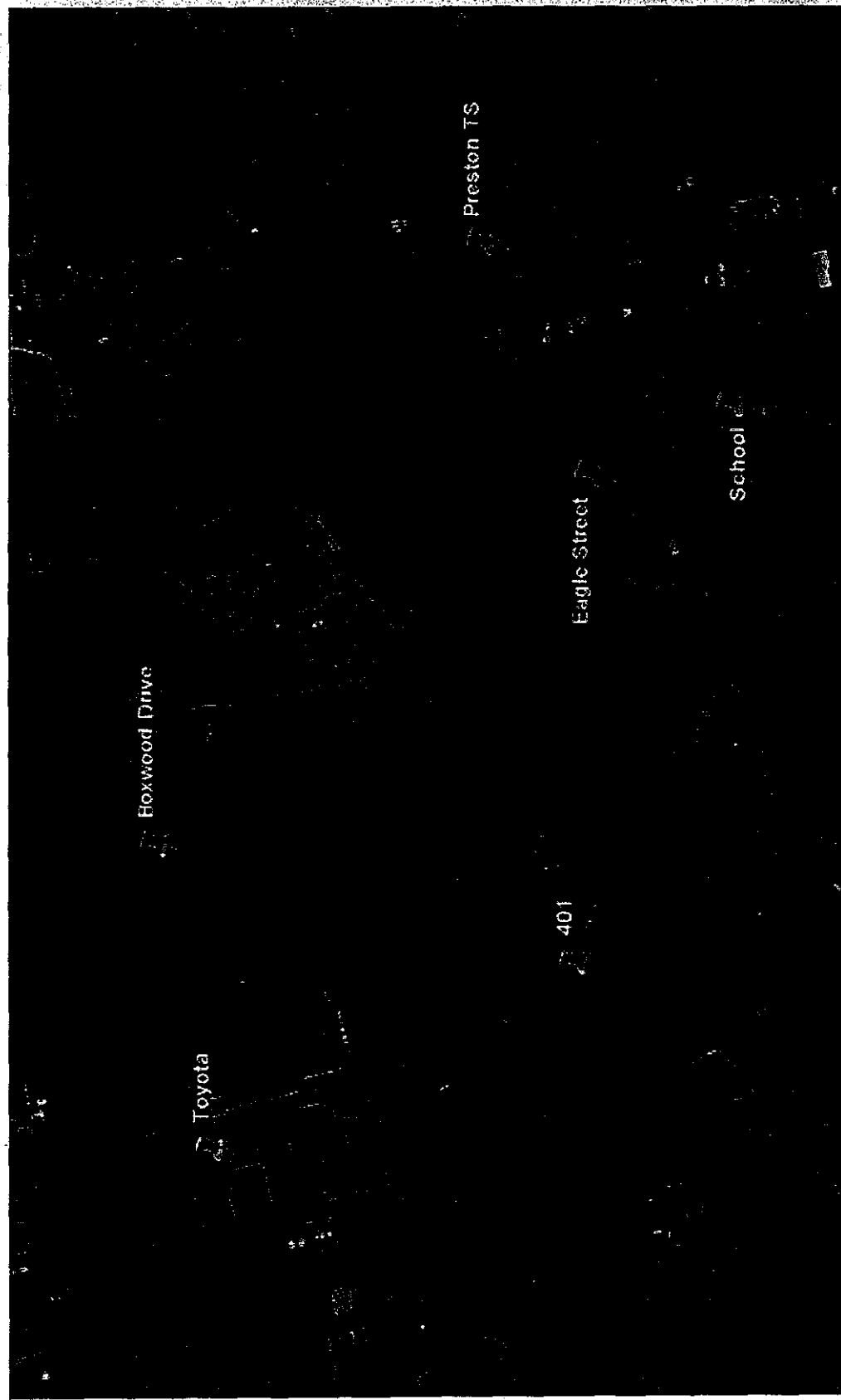
OGS Update

- Excerpt from TCE's 2010 Annual Report:
 - In September 2009, the OPA awarded TransCanada a 20-year Clean Energy Supply contract to build, own and operate a 900 MW power generating station in Oakville, Ontario. TransCanada expected to invest approximately \$1.2 billion in the natural gas-fired, combined-cycle plant. In October 2010, the Government of Ontario announced that it would not proceed with the Oakville generating station. TransCanada is negotiating a settlement with the OPA that would terminate the Clean Energy Supply contract and compensate TransCanada for the economic consequences associated with the contract's termination.

Replacement Generation Project

- TCE still leaning toward development of the Boxwood Industrial Park site.
- TCE and OPA continue to wait for Ministry of Energy authorization to contact the City of Cambridge about the proposed project.
- The continued delay in contacting the City of Cambridge is becoming extremely problematic as word is starting to leak out about the replacement project.
- **“Focus is on Cambridge site for power plant”**
headline of Toronto Star article dated February 18th

Boxwood Site



Ministry of Energy Directive

- OPA continues to work with the Ministry of Energy on the drafting of the Directive to authorize negotiations with TCE for the replacement project.
- Ministry warming up to the idea of including language that references the inclusion of the financial value of the OGS Contract into the net revenue requirement of the replacement project.

Mitsubishi (MPS) Gas Turbines (GT's)

- GT's originally purchased for OGS were designed for a Combined Cycle generation plant.
- Fall 2010 TCE suspended MPS contract until January 31, 2011.
- January 28, 2011 TCE released MPS from suspension and directed them to commence work on converting the GT's to Fast Start.
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- TCE expects to receive MPS final price for Peaking plant conversion on February 28, 2011 and price is not to exceed 125% of the estimated price (US \$41.25 MM).
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Cambridge Capital Costs

- TCE has provided the OPA with its estimated capital cost for Cambridge.
- OPA review has concluded that TCE has included large premiums for risk.
- Site uncertainty has prevented TCE from firming up many of its capital costs.

Next Steps

- Continue discussions with TCE to achieve the following:
 - Finalize technical design requirements;
 - Siting of replacement facility;
 - Negotiation and execution of the Implementation Agreement;
 - TCE plan for handling First Nations issues.

Aleksandar Kojic

From: JoAnne Butler
Sent: February 24, 2011 11:20 AM
To: Deborah Langelaan
Cc: Manuela Moellenkamp; Michael Killeavy; Deborah Langelaan
Subject: RE: OGS Board Presentation
Attachments: OGS_BOD_CM_20110224.ppt

Deb,

I added Hilary's slide and made some changes to the slides, again thinking that we are only going to get past the first two anyway. I had a brief chat with Michael as well. We can discuss when you get back.....

Manuela, when Deb has checked over slides, can you please put on USB and make 15 copies....thanks....

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: Jueves, 24 de Febrero de 2011 10:05 a.m.
To: JoAnne Butler
Cc: Michael Killeavy
Subject: RE: OGS Board Presentation

JoAnne;

I just finished a meeting and am heading to an off site meeting. I will be back around noon and will touch base with you then.

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: February 24, 2011 9:42 AM
To: Deborah Langelaan
Cc: Michael Killeavy
Subject: RE: OGS Board Presentation
Importance: High

Deb, are you free to come by and see me asap or in a meeting? I just met with TCE and we can add a few updates to the slides.

Yes, I like the idea about the FN slide...

JCB

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

120 Adelaide Street West, Suite 1600
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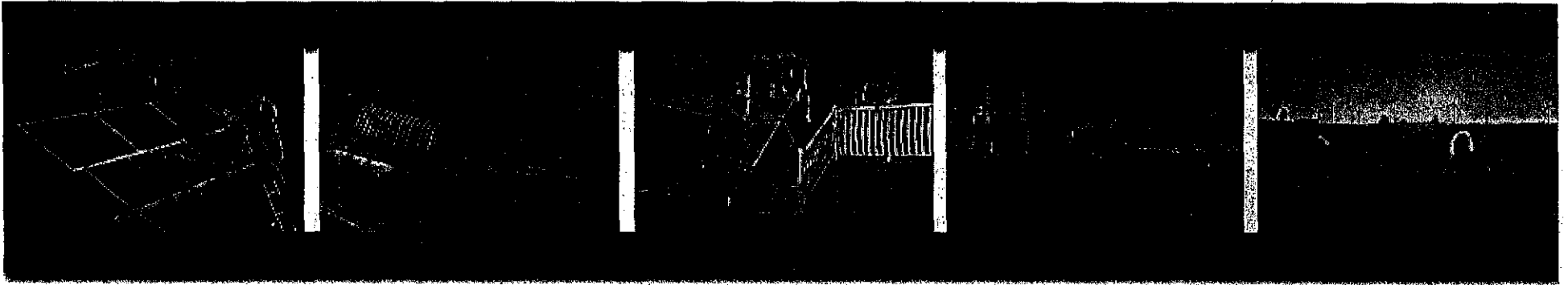
416-969-6005 Tel.
416-969-6071 Fax.
joanne.butler@powerauthority.on.ca

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Deb



Winding Up of the Oakville Generating Station (OGS) Contract

Board of Directors

February 24, 2011

Privileged and Confidential – Prepared in Contemplation of Litigation

OGS Update

- OPA/TransCanada Energy (TCE) negotiating team has met 5 times since January's Board update.
- Discussions continue to be productive with respect to the "winding-up" of the Contract.
- TCE planning to deliver proposal, implementation agreement and letter to Colin over next few weeks.
- We have completed our due diligence, as much as we can at this point until site is chosen, on capital costs. Still contain large risk premiums.
- We are doing our own due diligence on commercial factors and hiring third party expert.
- OPA continues to work with the Ministry of Energy on the drafting of the Directive to authorize negotiations with TCE for the replacement project.
- Ministry warming up to the idea of including language that references the inclusion of the financial value of the OGS Contract into the net revenue requirement of the replacement project.

Next Steps

- Continue discussions with TCE to achieve the following:
 - Counter offer based on commercial review;
 - Finalize technical design requirements;
 - Siting of replacement facility;
 - Negotiation and execution of the Implementation Agreement;
 - TCE plan for handling First Nations issues.

Inform MO/PO and get buy in to disclose and move forward.

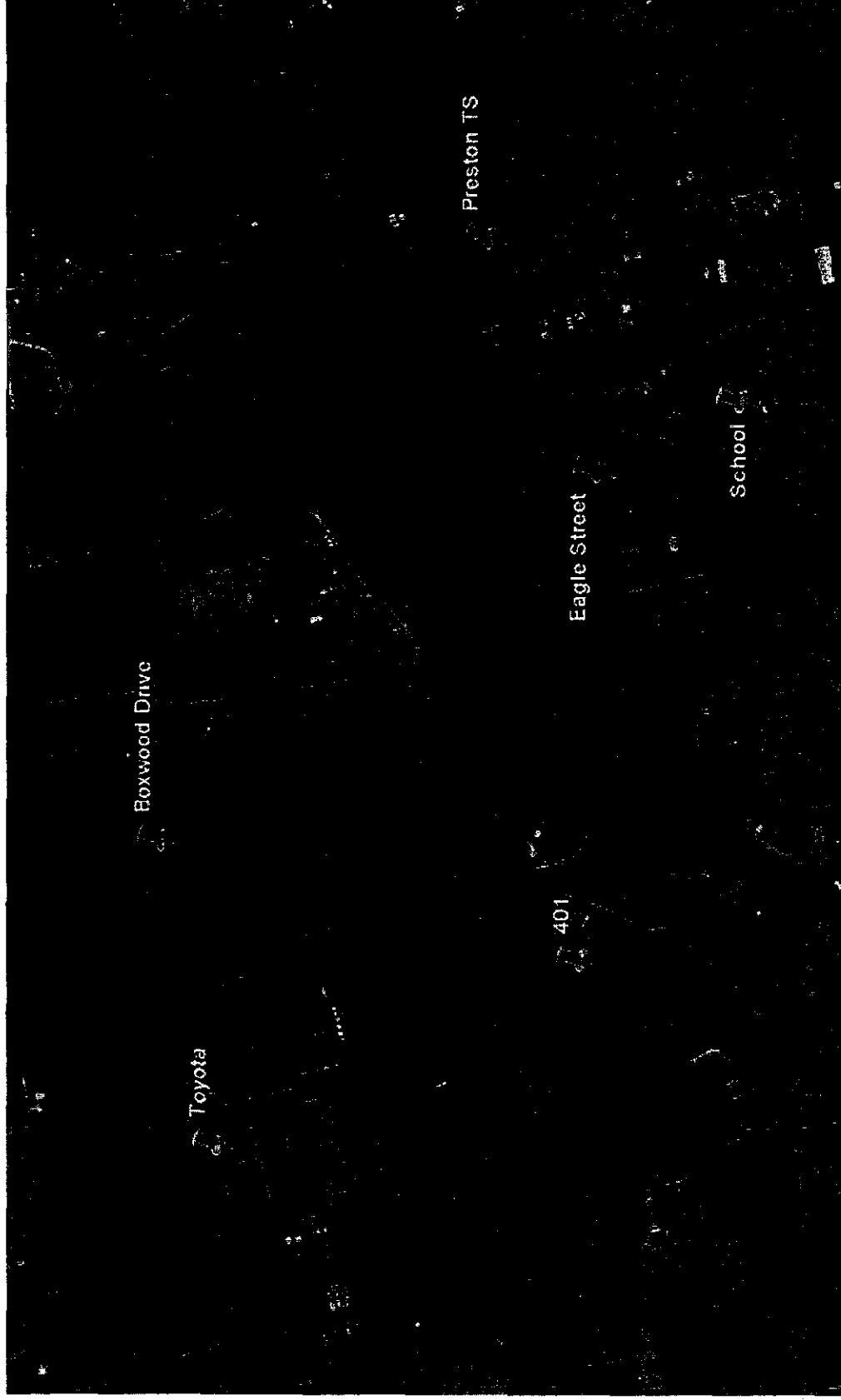
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- **“Focus is on Cambridge site for power plant”**
headline of Toronto Star article dated February 18th

Boxwood Site



Aboriginal Relations and TransCanada

- TransCanada has begun high level consultation with Aboriginal communities in the Kitchener Waterloo Cambridge area, as they await an announcement from the OPA with respect to the project.
- TransCanada has engaged the elected officials and community at the Mississauga of New Credit, as well as the Elected Council and Confederacy Chiefs at Six Nations of the Grand River on the KWC project.
- In 2008, TransCanada entered into a community agreement with the Mississauga of New Credit First Nation to deal with projects in their territory. There continues to be a positive working relationship between the community and TransCanada.
- TransCanada recently offered to enter into community agreements with each of the Elected Council and Confederacy Chiefs as it relates to TransCanada's operations and projects throughout their traditional territory. Both groups have expressed openness to developing such an agreement.

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Aleksandar Kojic

From: Deborah Langelaan
Sent: February 24, 2011 12:26 PM
To: Susan Kennedy
Cc: Michael Killeavy
Subject: FW: TransCanada- Oakville Costs - Request for designation as confidential

Susan;

Below is another TCE request to have documents designated as confidential. Do you require more information than has been provided?

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: February 24, 2011 11:58 AM
To: Deborah Langelaan
Cc: John Cashin
Subject: TransCanada- Oakville Costs - Request for designation as confidential

Dear Deborah,

I spoke with John Cashin and we would like to have the Ontario Power Authority designate the materials to be provided to the OPA as substantiation of our costs in the development of the Oakville project as confidential pursuant to Section 25.13(3) of the Electricity Act. There are two volumes of materials.

TransCanada Oakville Generating Station Development Cost Summary - Development Phase	Volume 1
Project 2067945	February 24, 2011
TransCanada Oakville Generating Station Development Cost Summary - Implementation Phase	Volume 2
Project 2116164	February 24, 2011

It is our intention to provide you with one hard copy of each binder.
Please let me know if this description is sufficient for the purpose of designation.

Thank you,

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: Susan Kennedy
Sent: February 24, 2011 12:35 PM
To: Deborah Langelaan
Cc: Michael Killeavy
Subject: RE: TransCanada- Oakville Costs - Request for designation as confidential

Ahh, finally the list I've been asking John Cashin for all morning.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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Aleksandar Kojic

From: Deborah Langelaan
Sent: February 24, 2011 12:36 PM
To: Susan Kennedy
Cc: Michael Killeavy
Subject: RE: TransCanada- Oakville Costs - Request for designation as confidential

The list below should not be confused with the request from earlier today – the documents described below are a separate matter.

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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Aleksandar Kojic

From: Susan Kennedy
Sent: February 24, 2011 12:56 PM
To: Deborah Langelaan
Cc: Michael Killeavy
Subject: RE: TransCanada- Oakville Costs - Request for designation as confidential
Attachments: MISC_110224_FIPPA Designation_DevelopmentCostSummary.pdf

There you go.

Remember to put the appropriate "legend" on any paper copies and if you get soft copies (that don't have a legend on the soft copy) – ensure file gets marked as FIPPA designated for future reference.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

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

Article I. Authority for Designation

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

Article II. Effect of Designation

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


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

Article III. Designation

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

1. TransCanada Oakville Generating Station Development Cost Summary – Development Phase/Volume 1/Project 2067945/February 24, 2011
2. TransCanada Oakville Generating Station Development Cost Summary – Implementation Phase/Volume 2/Project 2116164 /February 24, 2011

DATED this 24th day of February, 2011.



Colin Andersen
Chief Executive Officer

Aleksandar Kojic

From: Michael Killeavy
Sent: February 24, 2011 1:14 PM
To: Susan Kennedy
Cc: Deborah Langelaan
Subject: Re: TransCanada- Oakville Costs - Request for designation as confidential

Thank you. I know you're busy and appreciate the quick turnaround.

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, February 24, 2011 12:55 PM
To: Deborah Langelaan
Cc: Michael Killeavy
Subject: RE: TransCanada- Oakville Costs - Request for designation as confidential

There you go.

Remember to put the appropriate "legend" on any paper copies and if you get soft copies (that don't have a legend on the soft copy) – ensure file gets marked as FIPPA designated for future reference.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Deborah Langelaan
Sent: February 24, 2011 12:26 PM
To: Susan Kennedy
Cc: Michael Killeavy
Subject: FW: TransCanada- Oakville Costs - Request for designation as confidential

Susan;

Below is another TCE request to have documents designated as confidential. Do you require more information than has been provided?

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: February 24, 2011 11:58 AM
To: Deborah Langelaan
Cc: John Cashin
Subject: TransCanada- Oakville Costs - Request for designation as confidential

Dear Deborah,

I spoke with John Cashin and we would like to have the Ontario Power Authority designate the materials to be provided to the OPA as substantiation of our costs in the development of the Oakville project as confidential pursuant to Section 25.13(3) of the Electricity Act. There are two volumes of materials.

TransCanada Oakville Generating Station Development Cost Summary - Development Phase	Volume 1
Project 2067945 February 24, 2011	
TransCanada Oakville Generating Station Development Cost Summary - Implementation Phase	Volume 2
Project 2116164 February 24, 2011	

It is our intention to provide you with one hard copy of each binder.
Please let me know if this description is sufficient for the purpose of designation.

Thank you,

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: Deborah Langelaan
Sent: February 24, 2011 3:00 PM
To: Michael Killeavy
Subject: RE: TransCanada- Oakville Costs - Request for designation as confidential

This is an additional request from TCE. This designation covers TCE's backup material for their sunk costs.

Deb

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

From: Michael Killeavy
Sent: February 24, 2011 2:58 PM
To: Deborah Langelaan
Subject: Fw: TransCanada- Oakville Costs - Request for designation as confidential

Isn't this material the "proposal" communicated to JoAnne this morning?

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

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Thursday, February 24, 2011 02:49 PM
To: Deborah Langelaan
Cc: John Cashin <john_cashin@transcanada.com>; Michael Killeavy
Subject: RE: TransCanada- Oakville Costs - Request for designation as confidential

Dear Deborah,

Thank you for the designation letter. I should have the Oakville project material over to you shortly.

I understand that our Terry Bennett and Brandon Anderson met with JoAnne Butler this morning to discuss the TransCanada NRR Proposal.

In order for us to provide the NRR proposal material that was discussed in written form we would like to have the Ontario Power Authority also designate the materials as confidential pursuant to Section 25.13(3) of the Electricity Act. The description of the proposal document is as follows:

"TransCanada Potential Project Pricing and Terms Proposal designated as Schedule B1, B2, and B3 and Schedule C all dated February 24, 2011 and as amended from time to time"

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

Many 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: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Thursday, February 24, 2011 1:15 PM
To: John Mikkelsen
Cc: John Cashin; Michael Killeavy
Subject: RE: TransCanada- Oakville Costs - Request for designation as confidential

John;

Please find attached OPA's letter designating the documents identified below as confidential pursuant to Section 25.3(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: February 24, 2011 11:58 AM
To: Deborah Langelaan
Cc: John Cashin
Subject: TransCanada- Oakville Costs - Request for designation as confidential

Dear Deborah,

I spoke with John Cashin and we would like to have the Ontario Power Authority designate the materials to be provided to the OPA as substantiation of our costs in the development of the Oakville project as confidential pursuant to Section 25.13(3) of the Electricity Act. There are two volumes of materials.

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Thank you,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

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Aleksandar Kojic

From: Michael Killeavy
Sent: February 24, 2011 3:00 PM
To: Deborah Langelaan
Subject: Re: TransCanada- Oakville Costs - Request for designation as confidential

Ok. Sorry. I misunderstood.

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, February 24, 2011 02:59 PM
To: Michael Killeavy
Subject: RE: TransCanada- Oakville Costs - Request for designation as confidential

This is an additional request from TCE. This designation covers TCE's backup material for their sunk costs.

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: February 24, 2011 2:58 PM
To: Deborah Langelaan
Subject: Fw: TransCanada- Oakville Costs - Request for designation as confidential

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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
416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)

Michael.killeavy@powerauthority.on.ca

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Thursday, February 24, 2011 02:49 PM
To: Deborah Langelaan
Cc: John Cashin <john_cashin@transcanada.com>; Michael Killeavy
Subject: RE: TransCanada- Oakville Costs - Request for designation as confidential

Dear Deborah,

Thank you for the designation letter. I should have the Oakville project material over to you shortly.

I understand that our Terry Bennett and Brandon Anderson met with JoAnne Butler this morning to discuss the TransCanada NRR Proposal.

In order for us to provide the NRR proposal material that was discussed in written form we would like to have the Ontario Power Authority also designate the materials as confidential pursuant to Section 25.13(3) of the Electricity Act. The description of the proposal document is as follows:

"TransCanada Potential Project Pricing and Terms Proposal designated as Schedule B1, B2, and B3 and Schedule C all dated February 24, 2011 and as amended from time to time"

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

Many 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: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Thursday, February 24, 2011 1:15 PM
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Cc: John Cashin; Michael Killeavy
Subject: RE: TransCanada- Oakville Costs - Request for designation as confidential

John;

Please find attached OPA's letter designating the documents identified below as confidential pursuant to Section 25.3(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 |

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Sent: February 24, 2011 11:58 AM
To: Deborah Langelaan
Cc: John Cashin
Subject: TransCanada- Oakville Costs - Request for designation as confidential

Dear Deborah,

I spoke with John Cashin and we would like to have the Ontario Power Authority designate the materials to be provided to the OPA as substantiation of our costs in the development of the Oakville project as confidential pursuant to Section 25.13(3) of the Electricity Act. There are two volumes of materials.

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Thank you,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

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Aleksandar Kojic

From: Deborah Langelaan
Sent: February 28, 2011 11:39 AM
To: 'Safouh Soufi'
Cc: Michael Killeavy; 'Rocco Sebastiano'; 'Elliot A. Smith'; Anshul Mathur
Subject: RE: TCE Meeting

Safouh;

I will make the request and advise everyone accordingly.

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: February 28, 2011 11:31 AM
To: Deborah Langelaan
Cc: 'Rocco Sebastiano'; 'Elliot A. Smith'; Anshul Mathur
Subject: RE: TCE Meeting

Hello Deborah:

I noted from John Mikkelsen's Outlook invite that the information from MPS will not be available until later today. Is it possible to request TCE to send this information to OPA, or at least Osler & SMS, as soon as it is available so that we can review it before the meeting tomorrow? The meeting tomorrow is more productive that way.

Thanks,
Safouh

From: Safouh Soufi [<mailto:safouh@smsenergy-engineering.com>]
Sent: February 28, 2011 10:02 AM
To: Deborah Langelaan; Rocco Sebastiano; Elliot A. Smith
Subject: Re: TCE Meeting

Hello Deborah:

This may work. I have a tentative in my calendar but should get this confirmed one way or another this morning.

Thanks,
Safouh

From: "Deborah Langelaan" <Deborah.Langelaan@powerauthority.on.ca>
Date: Mon, 28 Feb 2011 09:56:34 -0500
To: Sebastiano, Rocco<RSebastiano@osler.com>; <safouh@smsenergy-engineering.com>; Smith, Elliot<ESmith@osler.com>
Subject: TCE Meeting

Gentlemen;

TCE doesn't expect to receive MPS's firm pricing proposal in time for this afternoon's meeting and would like to reschedule to tomorrow afternoon. Are you available tomorrow at 2:00 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 |

Aleksandar Kojic

From: Deborah Langelaan
Sent: February 28, 2011 11:41 AM
To: 'John Mikkelsen'
Cc: Michael Killeavy
Subject: RE: TransCanada - Update on MPS Firm Pricing

Hi John;

As soon as TCE receives MPS's firm pricing would you please send it to the OPA, or at least Osler & SMS, so that we can review it before the meeting tomorrow? I think the meeting will be much more productive this way.

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: February 28, 2011 9:40 AM
To: Deborah Langelaan; Michael Killeavy
Subject: TransCanada - Update on MPS Firm Pricing

Deborah,

I understand that MPS is not likely to provide the firm pricing until later today – likely after our meeting tentatively scheduled for the afternoon. I recommend we postpone the meeting until tomorrow or Wednesday when we have this information in hand.

Can you let me know if you agree and when you are available?

Many 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

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The note below from our Aboriginal Relations team describes our relationship with the Six Nations.

Long story short - we have a relationship that dates back to 2006. We have been attempting to formalize that relationship through a community agreement since 2008 and we received some positive signs last December. Our team is meeting with the Elected Council's Consultation Committee this Monday to discuss a community agreement. We then hope to meet with the Secretary of the Confederacy Chiefs Council to discuss such an agreement.

(The "Elected Council" is the group elected under our federal Indian Act. The Confederacy Chiefs Council is not elected under the Indian Act but is also a very important group to consult. I believe you have experts that can explain this better than me.)

After securing a community agreement we would hope to eventually secure a specific project agreement. Our inability to publicize the proposed project we have been negotiating made it impossible to discuss a project agreement with Six Nations to date. I suspect this may also explain the lack of urgency attached to the community agreement discussion from the Council's perspective.

As an aside, we secured a community agreement with the Mississaugas of New Credit in the lead up to building our Halton Hills Generating Station. It is an over-arching community agreement for all our activities within their traditional territory. In addition to annual funds to support the implementation of the agreement and summer student positions, it provides for the development of project-specific work plans in the event that a project goes forward. I offer this as a recent and local example of our ability to work successfully with aboriginal groups.

Please know that we would be happy to have Art Cunningham (Senior Aboriginal/Tribal Policy Advisor), Coco Calderhead (Aboriginal & Community Relations) and our Vice President Terry Bennett meet with OPA board member(s) and executive at any time to discuss our plans and receive their input.

Please let me know if you need any more information from me? We understand that your board takes aboriginal relations as seriously as we do so we want to be as vigilant as possible.

Thanks,
Chris Breen
www.transcanada.com
416.605.3524

Please note our new address:
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2400
Post Office Box 43

Aleksandar Kojic

From: Deborah Langelaan
Sent: February 28, 2011 2:19 PM
To: John Zych
Cc: JoAnne Butler; Michael Killeavy
Subject: FW: TCE relationship with Six Nations of the Grand River

John;

During last Thursday's Board meeting Mr. Jamieson inquired into TransCanada's relationship with the Six Nations of the Grand River. Outlined below is a description of TransCanada's relationship with the Six Nations as well as their efforts with other Aboriginal communities in Ontario and Canada.

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: Chris Breen [mailto:chris_breen@transcanada.com]
Sent: February 25, 2011 5:49 PM
To: Deborah Langelaan
Cc: Coco Calderhead; John Mikkelsen; Terry Bennett
Subject: Re: TCE relationship with Six Nations of the Grand River

Hi Deb,

In addition to my earlier note you may find these facts and figures helpful...

- TC has over 50 years of experience working with Aboriginal communities in Canada;
- There are 150 Aboriginal communities within 50 km of TC's present and projected facilities;
- TC has facilities on 13 reserves/settlements;
- TC has 27 current agreements and 13 proposed across Canada;
- In 2010, TC spent over \$31 million on salaries for Aboriginal individuals and contracts to Aboriginal businesses involved in project construction and facility maintenance.

Thx

From: Chris Breen
Sent: Friday, February 25, 2011 02:49 PM
To: deborah.langelaan@powerauthority.on.ca <deborah.langelaan@powerauthority.on.ca>
Cc: Coco Calderhead; John Mikkelsen; Terry Bennett
Subject: RE: TCE relationship with Six Nations of the Grand River

Hi Deb,

Toronto, Ontario M5J 2J1

From: Coco Calderhead
Sent: Friday, February 25, 2011 1:29 PM
To: Chris Breen
Cc: John Mikkelsen; Terry Bennett
Subject: RE: TCE relationship with Six Nations of the Grand River

We should clarify that TransCanada does in fact have a positive relationship with Six Nations, though not yet formally framed in a community agreement. Here's a summary of our engagement efforts and relationship status with Six Nations:

- Since 2006, TransCanada reps have been meeting on a regular basis with representatives of Six Nations Lands & Resources Department to inform them of our existing assets and projects on their traditional territory;
- In 2009, TransCanada proactively sponsored an Environmental Monitor training program for 20 students from Six Nations and New Credit, which was well-received by both communities;
- Since 2008, a community agreement was offered on numerous occasions to Six Nations via its Lands & Resources Department, however there was little uptake until a meeting in December with the Elected Council's Consultation Committee where members expressed an interest in developing a general agreement not specific to any one project, but overall TC activity on Six Nations traditional territory;
- In January 2011, a rep from the Haudenosaunee Confederacy Chiefs Council also expressed an interest in entering into a community agreement between that group and TransCanada. He would raise the matter at the next meeting of the Confederacy Chiefs.
- A meeting is scheduled for next Monday (Feb. 28) with members of the Elected Council's Consultation Committee to discuss the details of what a community agreement might look like. An offer to meet with Council on or around March 9th on a project-specific matter will be made at that time;
- In the process of trying to set up a meeting next week with the Secretary of the Confederacy Chiefs Council to further discussion on the possibility of developing an agreement;

I hope this is helpful. If you need other info, please let me know.

Thanks,
Coco

Aleksandar Kojic

From: Deborah Langelaan
Sent: February 28, 2011 2:56 PM
To: 'Rocco Sebastiano'
Cc: Michael Killeavy
Subject: FW: TCE Board Resolution - Osler Review and Comment
Attachments: Draft Letter to TransCanada Energy Ltd. - October 7, 2010.pdf; Letter to TransCanada Energy Ltd. - October 7, 2010.pdf

Rocco;

Please see John Zych's comments below.

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 Zych
Sent: February 28, 2011 2:54 PM
To: Deborah Langelaan
Subject: FW: TCE Board Resolution - Osler Review and Comment

Here are (i) the draft letter to TCE that was considered at the Board meeting, and (ii) the final version of the letter to TCE, i.e., as sent. The Board members had the draft letter read and explained to them in the Board meeting (it was a teleconference meeting) and received the final version after the Board meeting.

When our then Board Chair, John Beck, asked for outside counsel to review these Board minutes, his concern was only that we would not want to say in the Board minutes anything that would trip us up in the negotiations.

John Zych
Corporate Secretary
Ontario Power Authority
Suite 1600
120 Adelaide Street West
Toronto, ON M5H 1T1
416-969-6055
416-967-7474 Main telephone
416-967-1947 OPA Fax
416-416-324-5488 Personal Fax
John.Zych@powerauthority.on.ca

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From: Sebastiano, Rocco [<mailto:RSebastiano@osler.com>]
Sent: February 23, 2011 5:13 PM
To: Deborah Langelaan
Cc: John Zych; Michael Killeavy; Ivanoff, Paul; Smith, Elliot
Subject: RE: TCE Board Resolution - Osler Review and Comment

We have reviewed the minutes, but am not sure what comments we would provide. One observation I would make is that the minutes state that the Board members reviewed the terms of a draft letter to TCE that instructed TCE to "cease all further work in connection with the Oakville gas plant and acknowledged that [TCE] was entitled to reasonable compensation". Did the Board members see the final draft of the letter which was sent to TCE which includes the reference to the "financial value" of the contract? I wouldn't want anyone to draw the inference that the language contained in the letter sent to TCE is the Board's view of what is reasonable compensation. Perhaps we can discuss further this in person when we next get together.

Thanks, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Wednesday, February 23, 2011 10:48 AM
To: Sebastiano, Rocco
Cc: John Zych; Michael Killeavy
Subject: FW: TCE Board Resolution - Osler Review and Comment

Rocco;

Would you please review the attached Board meeting minutes and provide your comments?

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 Zych
Sent: February 23, 2011 10:17 AM
To: Deborah Langelaan
Cc: Susan Kennedy
Subject: RE: TCE Board Resolution - Osler Review and Comment

Deborah,

The minutes of the October 7, 2010 mtg (attached).

John Zych
Corporate Secretary
Ontario Power Authority
Suite 1600
120 Adelaide Street West
Toronto, ON M5H 1T1
416-969-6055
416-967-7474 Main telephone
416-967-1947 OPA Fax
416-416-324-5488 Personal Fax
John.Zych@powerauthority.on.ca

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From: Susan Kennedy
Sent: February 23, 2011 9:26 AM
To: John Zych
Cc: Deborah Langelaan
Subject: FW: TCE Board Resolution - Osler Review and Comment

John,

Would you deal directly with Deb on this. I believe I can attest that it will be faster if I am not in the middle.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Deborah Langelaan
Sent: February 23, 2011 9:08 AM
To: Susan Kennedy
Subject: RE: TCE Board Resolution - Osler Review and Comment

Susan;

What minutes are you referring to?

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: February 23, 2011 8:58 AM
To: Michael Killeavy; Deborah Langelaan
Cc: John Zych
Subject: TCE Board Resolution - Osler Review and Comment

I thought I'd seen Osler comments on the draft minutes; however, John says he hasn't seen anything and I can't seem to find a record of same. Am I imagining things?

If Osler hasn't completed its review, could we get them to do so as it ideally should be finalized at next board meeting.

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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TransCanada Energy Ltd.
450-1st Street
Calgary, AB T2P 5H1

October [7], 2010

Re: Southwest GTA Clean Energy Supply Contract (the "Contract") between TransCanada Energy Ltd. (the "Supplier", and collectively with the OPA, the "Parties") and Ontario Power Authority (the "OPA") dated October 9, 2009

Dear Sirs/Mesdames:

As you are no doubt aware, the Minister of Energy today announced that your Oakville gas plant will not proceed. This announcement is supported by the OPA's planning analysis of the current circumstances in southwest GTA.

In light of the OPA will not proceed with the Contract. As a result of the Minister's announcement, this, the OPA wishes to acknowledge that you are entitled to reach an agreement with the Supplier under compensation.

Given Ontario's ongoing need for power generation projects and your desire to generate power in Ontario, we wish to work with you to identify other projects and the extent to which such projects may compensate you for termination of the Parties mutually agree to terminate Contract while appropriately protecting the Contract-interests of ratepayers.

You are hereby directed to cease all further work and activities in connection with the Facility (as defined in the Contract), other than anything that may be reasonably necessary in the circumstances to bring such work or activities to a conclusion.

In recognition of Ontario's ongoing need for power generation projects and your desire to generate power in Ontario, we wish to work with you to identify other projects which offer you a commercial value that is reasonably equivalent to that which is provided for under the Contract while appropriately protecting the interests of ratepayers.

To indicate the Supplier's agreement to enter into good faith negotiations with the OPA to reach a mutual agreement to terminate the Contract, please sign and date the duplicate copy of this letter and return it to the OPA to the attention of Michael Lyle, General Counsel and Vice President.

Sincerely,

ONTARIO POWER AUTHORITY

Per: _____

Name: _____

Title: _____

I have the authority to bind the corporation.

By delivering a signed version of this letter back to the OPA, the undersigned confirms its agreement with the foregoing as of the _____ day of _____, 2010.

TRANSCANADA ENERGY LTD.

Per: _____

Name: _____

Title: _____

I have the authority to bind the corporation.



120 Adelaide Street West
Suite 1600
Toronto, Ontario M5H 1T1
T 416-967-7474
F 416-967-1947
www.powerauthority.on.ca

October 7, 2010

TransCanada Energy Ltd.
450-1st Street
Calgary, AB T2P 5H1

Attn: Alex Pourbaix,
President,
Energy and Oil Pipelines

Dear Mr. Pourbaix :

Re: Southwest GTA Clean Energy Supply Contract (the "Contract") between TransCanada Energy Ltd. and Ontario Power Authority (the "OPA") dated October 9, 2009

As you are no doubt aware, the Minister of Energy today announced that your Oakville gas plant will not proceed. This announcement is supported by the OPA's planning analysis of the current circumstances in southwest GTA.

The OPA will not proceed with the Contract. As a result of this, the OPA acknowledges that you are entitled to your reasonable damages from the OPA, including the anticipated financial value of the Contract. We would like to begin negotiations with you to reach mutual agreement to terminate the Contract.

Given Ontario's ongoing need for power generation projects and your desire to generate power in Ontario, we wish to work with you to identify other projects and the extent to which such projects may compensate you for termination of the Contract while appropriately protecting the interests of ratepayers.

You are hereby directed to cease all further work and activities in connection with the Facility (as defined in the Contract), other than anything that may be reasonably necessary in the circumstances to bring such work or activities to a conclusion.

We undertake that we will not disclose this letter without giving you prior notice and we request that you do the same.

Sincerely,

ONTARIO POWER AUTHORITY

Per: 

Name: Colin Andersen

Title: Chief Executive Officer

Aleksandar Kojic

From: Michael Killeavy
Sent: February 28, 2011 3:03 PM
To: Deborah Langelaan
Subject: Re: Permission to release redacted version of HHGS contract to MSP

I think it came hardcopy. I will check my inbox. Sorry.

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

From: Deborah Langelaan
Sent: Monday, February 28, 2011 03:01 PM
To: Michael Killeavy
Subject: Re: Permission to release redacted version of HHGS contract to MSP

We did? Was I on the distribution list?

From: Michael Killeavy
Sent: Monday, February 28, 2011 02:58 PM
To: Deborah Langelaan
Subject: Re: Permission to release redacted version of HHGS contract to MSP

I think we got it.

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

From: Deborah Langelaan
Sent: Monday, February 28, 2011 02:54 PM
To: Michael Killeavy
Subject: FW: Permission to release redacted version of HHGS contract to MSP

Michael;

My notes indicate that TCE was going to provide us something in writing, indicating what they were proposing to send to the OEB, and we would respond officially to it. What do your notes indicate?

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: Craig Martin [mailto:craig_martin@transcanada.com]
Sent: February 28, 2011 2:34 PM
To: Deborah Langelaan; Michael Killeavy
Cc: Nora Vasquez
Subject: Permission to release redacted version of HHGS contract to MSP

Michael / Deb,

Just thought I would check on the status of the above referenced request.

Thanks,
Craig

Craig Martin
Director, Eastern Canada Power
TransCanada

TransCanada Energy Ltd.
24th Floor, South Tower
200 Bay Street
Toronto, ON M5J 2J1
tel: 416-869-2107
mob: 416-459-0426
e-mail: craig_martin@transcanada.com

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Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: February 28, 2011 8:31 PM
To: Michael Killeavy; Deborah Langelaan
Cc: Smith, Elliot; Hua, Linda; safouh@smsenergy-engineering.com
Subject: RE: TransCanada - MPS Canada Firm Price Proposal for 2xM501GAC Fast

Michael and Deb,

I just received MPS' firm price proposal. I will have my assistant, Linda, print out two copies and have it available for you to come over to review tomorrow before the meeting with TCE. At a high level, here is a summary of the proposal:

1. Price has increased 10% from US\$33 million to US\$36.295 million.
2. MPS has made a couple of high level changes to the additional scope (the cooling water piping now excludes interconnecting piping) and the stack has been changed from 100 feet to 45 meter stack with standard silencer) [Note: I will let Safouh comment on any other scope changes from the indicative technical proposal.]
3. Section 3 Terms and Conditions has been expanded to include six additional conditions, including:
 - a. Firm price proposal only valid until March 31, 2011
 - b. Price proposal does not include technical information provided by TCE on December 20 (regarding Atmospheric Data and site design conditions), TCE's comments in Feb 18 email on the general arrangement drawing and gird interconnections requirements provided by TCE on Feb 18. To the extent that this additional information provided by TCE requires any change to the scope then a further price change will be required.
 - c. Replacement of current shell and tube type TCA cooler (TCA) and fuel gas heater (FGH) with fin fan type TCA/FGH heat exchanged (as per new Appendix A-3 which MPS states "had been already materially agreed between Purchaser and Supplier".)
 - d. Regarding new added performance guarantee (i) start-up time from gas turbine start to 60% load and (ii) ramp rate from 60% load to 1900% load will be subject of performance liquidated damages and will not be subject of "make good". Performance LD's to be a "reasonable rate" to be agreed upon and if too high, MPS may adjust the firm price.
 - e. To avoid congestion of manufacturing, MPS can at its option manufacture the units either at Takasago, Japan or Savannah, Georgia. What this means is that if MPS decides to manufacture the units in Japan, the price will increase by the amount of increased ocean and inland transportation as compared to shipping from Georgia
4. The payment schedule has been slightly amended to break down the milestone payments for deliver and substantial completion into separate Unit 1 and Unit 2 milestone payments.

Regards, Rocco

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Monday, February 28, 2011 7:14 PM
To: Sebastiano, Rocco
Cc: John Cashin; Terry Bennett; Geoff Murray
Subject: TransCanada - MPS Canada Firm Price Proposal for 2xM501GAC Fast

Dear Mr. Sebastiano,

Subject to and in accordance with the Acknowledgement executed by the Ontario Power Authority and Osler, Hoskin & Harcourt LLP on December 17, 2010, please find attached Technical Proposal and Firm price Proposal for Project schedule change and specification/scope change in the EQUIPMENT SUPPLY CONTRACT #6519 BETWEEN TransCanada Energy Ltd. AND MPS Canada, Inc. FOR GAS TURBINE EQUIPMENT WITH A 2 x M501GAC-Fast Gas Turbine & Generator.

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: February 28, 2011 8:48 PM
To: Sebastiano, Rocco; Deborah Langelaan
Cc: Smith, Elliot; Hua, Linda; safouh@smsenergy-engineering.com
Subject: RE: TransCanada - MPS Canada Firm Price Proposal for 2xM501GAC Fast

Rocco,

Thanks for this. I'm not sure when I can get over to your office to look at this. Thanks for the summary. Based on this I'm not sure how firm the price is now.

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

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

From: Sebastiano, Rocco [<mailto:RSebastiano@osler.com>]
Sent: Mon 28-Feb-11 8:30 PM
To: Michael Killeavy; Deborah Langelaan
Cc: Smith, Elliot; Hua, Linda; safouh@smsenergy-engineering.com
Subject: RE: TransCanada - MPS Canada Firm Price Proposal for 2xM501GAC Fast

Michael and Deb,

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1. Price has increased 10% from US\$33 million to US\$36.295 million.
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d. Regarding new added performance guarantee (i) start-up time from gas turbine start to 60% load and (ii) ramp rate from 60% load to 1900% load will be subject of performance liquidated damages and will not be subject of "make good". Performance LD's to be a "reasonable rate" to be agreed upon and if too high, MPS may adjust the firm price.

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Regards, Rocco

From: John Mikkelsen [<mailto:john.mikkelsen@transcanada.com>]
Sent: Monday, February 28, 2011 7:14 PM
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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

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Aleksandar Kojic

From: Michael Killeavy
Sent: February 28, 2011 8:50 PM
To: Sebastiano, Rocco
Cc: Deborah Langelaan
Subject: RE: TransCanada - MPS Canada Firm Price Proposal for 2xM501GAC Fast

Rocco,

You're coming to the meeting tomorrow, aren't you?

BTW we got the binders with all the cost information for the OGS sunk costs. I has assembled a team to go through it. If I need help, can you spare a few students to help with the review?

Thanks,
Michael

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

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Best regards,

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Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: February 28, 2011 9:00 PM
To: Deborah Langelaan
Cc: Michael Killeavy; Smith, Elliot; Ivanoff, Paul; Susan Kennedy
Subject: RE: TCE Board Resolution - Osler Review and Comment

John has confirmed that the Board minutes refer to a draft letter which contains different language on the issue of "compensation" to TCE. We should discuss this when we next meet. Thanks, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Monday, February 28, 2011 2:56 PM
To: Sebastiano, Rocco
Cc: Michael Killeavy
Subject: FW: TCE Board Resolution - Osler Review and Comment

Rocco;

Please see John Zych's comments below.

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 Zych
Sent: February 28, 2011 2:54 PM
To: Deborah Langelaan
Subject: FW: TCE Board Resolution - Osler Review and Comment

Here are (i) the draft letter to TCE that was considered at the Board meeting, and (ii) the final version of the letter to TCE, i.e., as sent. The Board members had the draft letter read and explained to them in the Board meeting (it was a teleconference meeting) and received the final version after the Board meeting.

When our then Board Chair, John Beck, asked for outside counsel to review these Board minutes, his concern was only that we would not want to say in the Board minutes anything that would trip us up in the negotiations.

John Zych
Corporate Secretary
Ontario Power Authority
Suite 1600
120 Adelaide Street West
Toronto, ON M5H 1T1
416-969-6055
416-967-7474 Main telephone
416-967-1947 OPA Fax
416-416-324-5488 Personal Fax
John.Zych@powerauthority.on.ca

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transmitted with it is strictly prohibited. If you have received this message in error or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: February 23, 2011 5:13 PM
To: Deborah Langelaan
Cc: John Zych; Michael Killeavy; Ivanoff, Paul; Smith, Elliot
Subject: RE: TCE Board Resolution - Osler Review and Comment

We have reviewed the minutes, but am not sure what comments we would provide. One observation I would make is that the minutes state that the Board members reviewed the terms of a draft letter to TCE that instructed TCE to "cease all further work in connection with the Oakville gas plant and acknowledged that [TCE] was entitled to reasonable compensation". Did the Board members see the final draft of the letter which was sent to TCE which includes the reference to the "financial value" of the contract? I wouldn't want anyone to draw the inference that the language contained in the letter sent to TCE is the Board's view of what is reasonable compensation. Perhaps we can discuss further this in person when we next get together.

Thanks, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Wednesday, February 23, 2011 10:48 AM
To: Sebastiano, Rocco
Cc: John Zych; Michael Killeavy
Subject: FW: TCE Board Resolution - Osler Review and Comment

Rocco;

Would you please review the attached Board meeting minutes and provide your comments?

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 Zych
Sent: February 23, 2011 10:17 AM
To: Deborah Langelaan
Cc: Susan Kennedy
Subject: RE: TCE Board Resolution - Osler Review and Comment

Deborah,

The minutes of the October 7, 2010 mtg (attached).

John Zych
Corporate Secretary
Ontario Power Authority
Suite 1600
120 Adelaide Street West
Toronto, ON M5H 1T1
416-969-6055

416-967-7474 Main telephone
416-967-1947 OPA Fax
416-416-324-5488 Personal Fax
John.Zych@powerauthority.on.ca

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From: Susan Kennedy
Sent: February 23, 2011 9:26 AM
To: John Zych
Cc: Deborah Langelaan
Subject: FW: TCE Board Resolution - Osler Review and Comment

John,

Would you deal directly with Deb on this. I believe I can attest that it will be faster if I am not in the middle.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Deborah Langelaan
Sent: February 23, 2011 9:08 AM
To: Susan Kennedy
Subject: RE: TCE Board Resolution - Osler Review and Comment

Susan;

What minutes are you referring to?

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: February 23, 2011 8:58 AM
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Cc: John Zych
Subject: TCE Board Resolution - Osler Review and Comment

I thought I'd seen Osler comments on the draft minutes; however, John says he hasn't seen anything and I can't seem to find a record of same. Am I imagining things?

If Osler hasn't completed its review, could we get them to do so as it ideally should be finalized at next board meeting.

Thanks,

Susan H. Kennedy
Director, Corporate/Commercial Law Group

Ontario Power Authority
T: 416-969-6054
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Aleksandar Kojic

From: Michael Killeavy
Sent: February 28, 2011 9:02 PM
To: Sebastiano, Rocco; Deborah Langelaan
Cc: Smith, Elliot; Ivanoff, Paul; Susan Kennedy
Subject: RE: TCE Board Resolution - Osler Review and Comment

Thanks. I wasn't aware of this. I was present at the Board meeting (teleconference).

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 28-Feb-11 9:00 PM
To: Deborah Langelaan
Cc: Michael Killeavy; Smith, Elliot; Ivanoff, Paul; Susan Kennedy
Subject: RE: TCE Board Resolution - Osler Review and Comment

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Thanks, Rocco

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Sent: Monday, February 28, 2011 2:56 PM
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Rocco;

Please see John Zych's comments below.

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
<blocked::mailto:|deborah.langelaan@powerauthority.on.ca> |

From: John Zych
Sent: February 28, 2011 2:54 PM
To: Deborah Langelaan
Subject: FW: TCE Board Resolution - Osler Review and Comment

Here are (i) the draft letter to TCE that was considered at the Board meeting, and (ii) the final version of the letter to TCE, i.e., as sent. The Board members had the draft letter read and explained to them in the Board meeting (it was a teleconference meeting) and received the final version after the Board meeting.

When our then Board Chair, John Beck, asked for outside counsel to review these Board minutes, his concern was only that we would not want to say in the Board minutes anything that would trip us up in the negotiations.

John Zych

Corporate Secretary

Ontario Power Authority

Suite 1600

120 Adelaide Street West

Toronto, ON M5H 1T1

416-969-6055

416-967-7474 Main telephone

416-967-1947 OPA Fax

416-416-324-5488 Personal Fax

John.Zych@powerauthority.on.ca <mailto:John.Zych@powerauthority.on.ca>

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From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: February 23, 2011 5:13 PM
To: Deborah Langelaan
Cc: John Zych; Michael Killeavy; Ivanoff, Paul; Smith, Elliot
Subject: RE: TCE Board Resolution - Osler Review and Comment

We have reviewed the minutes, but am not sure what comments we would provide. One observation I would make is that the minutes state that the Board members reviewed the terms of a draft letter to TCE that instructed TCE to "cease all further work in connection with the Oakville gas plant and acknowledged that [TCE] was entitled to reasonable compensation". Did the Board members see the final draft of the letter which was sent to TCE which includes the reference to the "financial value" of the contract? I wouldn't want anyone to draw the inference that the language contained in the letter sent to TCE is the Board's view of what is reasonable compensation. Perhaps we can discuss further this in person when we next get together.

Thanks, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Wednesday, February 23, 2011 10:48 AM
To: Sebastiano, Rocco
Cc: John Zych; Michael Killeavy
Subject: FW: TCE Board Resolution - Osler Review and Comment

Rocco;

Would you please review the attached Board meeting minutes and provide your comments?

Thanks,

Deb

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From: John Zych

Sent: February 23, 2011 10:17 AM
To: Deborah Langelaan
Cc: Susan Kennedy
Subject: RE: TCE Board Resolution - Osler Review and Comment

Deborah,

The minutes of the October 7, 2010 mtg (attached).

John Zych

Corporate Secretary

Ontario Power Authority

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Toronto, ON M5H 1T1

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From: Susan Kennedy
Sent: February 23, 2011 9:26 AM
To: John Zych
Cc: Deborah Langelaan
Subject: FW: TCE Board Resolution - Osler Review and Comment

John,

Would you deal directly with Deb on this. I believe I can attest that it will be faster if I am not in the middle.

Susan H. Kennedy

Director, Corporate/Commercial Law Group

From: Deborah Langelaan

Sent: February 23, 2011 9:08 AM

To: Susan Kennedy

Subject: RE: TCE Board Resolution - Osler Review and Comment

Susan;

What minutes are you referring to?

Deb

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From: Susan Kennedy

Sent: February 23, 2011 8:58 AM

To: Michael Killeavy; Deborah Langelaan

Cc: John Zych

Subject: TCE Board Resolution - Osler Review and Comment

I thought I'd seen Osler comments on the draft minutes; however, John says he hasn't seen anything and I can't seem to find a record of same. Am I imagining things?

If Osler's hasn't completed its review, could we get them to do so as it ideally should be finalized at next board meeting.

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: February 28, 2011 9:05 PM
To: Michael Killeavy
Cc: Deborah Langelaan
Subject: RE: TransCanada - MPS Canada Firm Price Proposal for 2xM501GAC Fast

Regarding the meeting with TCE, I may have to participate by phone depending on how long my earlier meeting goes.

Regarding the cost information, I am sure that we have a couple of students with engineering or business backgrounds that can assist in reviewing the binders of information.

Thanks, Rocco

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]
Sent: Monday, February 28, 2011 8:50 PM
To: Sebastiano, Rocco
Cc: Deborah Langelaan
Subject: RE: TransCanada - MPS Canada Firm Price Proposal for 2xM501GAC Fast

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Thanks,
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To: Michael Killeavy; Deborah Langelaan
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Michael and Deb,

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come over to review tomorrow before the meeting with TCE. At a high level, here is a summary of the proposal:

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4. The payment schedule has been slightly amended to break down the milestone payments for deliver and substantial completion into separate Unit 1 and Unit 2 milestone payments.

Regards, Rocco

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Monday, February 28, 2011 7:14 PM
To: Sebastiano, Rocco
Cc: John Cashin; Terry Bennett; Geoff Murray
Subject: TransCanada - MPS Canada Firm Price Proposal for 2xM501GAC Fast

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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

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Aleksandar Kojic

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Sent: February 28, 2011 9:06 PM
To: Sebastiano, Rocco
Cc: Deborah Langelaan
Subject: RE: TransCanada - MPS Canada Firm Price Proposal for 2xM501GAC Fast

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4. The payment schedule has been slightly amended to break down the milestone payments for deliver and substantial completion into separate Unit 1 and Unit 2 milestone payments.

Regards, Rocco

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Monday, February 28, 2011 7:14 PM
To: Sebastiano, Rocco
Cc: John Cashin; Terry Bennett; Geoff Murray

Subject: TransCanada - MPS Canada Firm Price Proposal for 2xM501GAC Fast

Dear Mr. Sebastiano,

Subject to and in accordance with the Acknowledgement executed by the Ontario Power Authority and Osler, Hoskin & Harcourt LLP on December 17, 2010, please find attached Technical Proposal and Firm price Proposal for Project schedule change and specification/scope change in the EQUIPMENT SUPPLY CONTRACT #6519 BETWEEN TransCanada Energy Ltd. AND MPS Canada, Inc. FOR GAS TURBINE EQUIPMENT WITH A 2 x M501GAC-Fast Gas Turbine & Generator.

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: Deborah Langelaan
Sent: March 1, 2011 8:43 AM
To: 'Sebastiano, Rocco'
Cc: 'Hua, Linda'; Michael Killeavy
Subject: RE: TransCanada - MPS Canada Firm Price Proposal for 2xM501GAC Fast

Rocco;

I would like to come over at 10:00 a.m. to review the proposal. Please let me know if that works for you.

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: Sebastiano, Rocco [<mailto:RSebastiano@osler.com>]
Sent: February 28, 2011 8:31 PM
To: Michael Killeavy; Deborah Langelaan
Cc: Smith, Elliot; Hua, Linda; safouh@smsenergy-engineering.com
Subject: RE: TransCanada - MPS Canada Firm Price Proposal for 2xM501GAC Fast

Michael and Deb,

I just received MPS' firm price proposal. I will have my assistant, Linda, print out two copies and have it available for you to come over to review tomorrow before the meeting with TCE. At a high level, here is a summary of the proposal:

1. Price has increased 10% from US\$33 million to US\$36.295 million.
2. MPS has made a couple of high level changes to the additional scope (the cooling water piping now excludes interconnecting piping) and the stack has been changed from 100 feet to 45 meter stack with standard silencer) [Note: I will let Safouh comment on any other scope changes from the indicative technical proposal.]
3. Section 3 Terms and Conditions has been expanded to include six additional conditions, including:
 - a. Firm price proposal only valid until March 31, 2011
 - b. Price proposal does not include technical information provided by TCE on December 20 (regarding Atmospheric Data and site design conditions), TCE's comments in Feb 18 email on the general arrangement drawing and gird interconnections requirements provided by TCE on Feb 18. To the extent that this additional information provided by TCE requires any change to the scope then a further price change will be required.
 - c. Replacement of current shell and tube type TCA cooler (TCA) and fuel gas heater (FGH) with fin fan type TCA/FGH heat exchanged (as per new Appendix A-3 which MPS states "had been already materially agreed between Purchaser and Supplier".)
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Best regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

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Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: March 1, 2011 8:58 AM
To: Deborah Langelaan
Cc: Hua, Linda; Michael Killeavy
Subject: Re: TransCanada - MPS Canada Firm Price Proposal for 2xM501GAC Fast

Deb, I am out of the office this morning, but I will have Linda arrange for a room at 10 am. She will have a copy of the MPS proposal available for you to review.

Regards, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Tuesday, March 01, 2011 08:43 AM
To: Sebastiano, Rocco
Cc: Hua, Linda; Michael Killeavy <Michael.Killeavy@powerauthority.on.ca>
Subject: RE: TransCanada - MPS Canada Firm Price Proposal for 2xM501GAC Fast

Rocco;

I would like to come over at 10:00 a.m. to review the proposal. Please let me know if that works for you.

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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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Best regards,

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Aleksandar Kojic

From: Deborah Langelaan
Sent: March 1, 2011 9:03 AM
To: Michael Killeavy
Cc: Susan Kennedy
Subject: FW: TCE Board Resolution - Osler Review and Comment
Attachments: Draft Letter to TransCanda Energy Ltd. - October 7, 2010.pdf; Letter to TransCanda Energy Ltd. - October 7, 2010.pdf

Michael;

These are the letters Rocco was referring to in his e-mail of last night.

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 Zych
Sent: February 28, 2011 2:54 PM
To: Deborah Langelaan
Subject: FW: TCE Board Resolution - Osler Review and Comment

Here are (i) the draft letter to TCE that was considered at the Board meeting, and (ii) the final version of the letter to TCE, i.e., as sent. The Board members had the draft letter read and explained to them in the Board meeting (it was a teleconference meeting) and received the final version after the Board meeting.

When our then Board Chair, John Beck, asked for outside counsel to review these Board minutes, his concern was only that we would not want to say in the Board minutes anything that would trip us up in the negotiations.

John Zych
Corporate Secretary
Ontario Power Authority
Suite 1600
120 Adelaide Street West
Toronto, ON M5H 1T1
416-969-6055
416-967-7474 Main telephone
416-967-1947 OPA Fax
416-416-324-5488 Personal Fax
John.Zych@powerauthority.on.ca

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From: Sebastiano, Rocco [<mailto:RSebastiano@osler.com>]
Sent: February 23, 2011 5:13 PM
To: Deborah Langelaan
Cc: John Zych; Michael Killeavy; Ivanoff, Paul; Smith, Elliot
Subject: RE: TCE Board Resolution - Osler Review and Comment

We have reviewed the minutes, but am not sure what comments we would provide. One observation I would make is that the minutes state that the Board members reviewed the terms of a draft letter to TCE that instructed TCE to "cease all further work in connection with the Oakville gas plant and acknowledged that [TCE] was entitled to reasonable compensation". Did the Board members see the final draft of the letter which was sent to TCE which includes the reference to the "financial value" of the contract? I wouldn't want anyone to draw the inference that the language contained in the letter sent to TCE is the Board's view of what is reasonable compensation. Perhaps we can discuss further this in person when we next get together.

Thanks, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Wednesday, February 23, 2011 10:48 AM
To: Sebastiano, Rocco
Cc: John Zych; Michael Killeavy
Subject: FW: TCE Board Resolution - Osler Review and Comment

Rocco;

Would you please review the attached Board meeting minutes and provide your comments?

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 Zych
Sent: February 23, 2011 10:17 AM
To: Deborah Langelaan
Cc: Susan Kennedy
Subject: RE: TCE Board Resolution - Osler Review and Comment

Deborah,

The minutes of the October 7, 2010 mtg (attached).

John Zych
Corporate Secretary
Ontario Power Authority
Suite 1600
120 Adelaide Street West
Toronto, ON M5H 1T1
416-969-6055
416-967-7474 Main telephone
416-967-1947 OPA Fax
416-416-324-5488 Personal Fax
John.Zych@powerauthority.on.ca

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From: Susan Kennedy
Sent: February 23, 2011 9:26 AM
To: John Zych
Cc: Deborah Langelaan
Subject: FW: TCE Board Resolution - Osler Review and Comment

John,

Would you deal directly with Deb on this. I believe I can attest that it will be faster if I am not in the middle.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: Deborah Langelaan
Sent: February 23, 2011 9:08 AM
To: Susan Kennedy
Subject: RE: TCE Board Resolution - Osler Review and Comment

Susan;

What minutes are you referring to?

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: February 23, 2011 8:58 AM
To: Michael Killeavy; Deborah Langelaan
Cc: John Zych
Subject: TCE Board Resolution - Osler Review and Comment

I thought I'd seen Osler comments on the draft minutes; however, John says he hasn't seen anything and I can't seem to find a record of same. Am I imagining things?

If Osler hasn't completed its review, could we get them to do so as it ideally should be finalized at next board meeting.

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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TransCanada Energy Ltd.
450-1st Street
Calgary, AB T2P 5H1

October [7], 2010

Re: Southwest GTA Clean Energy Supply Contract (the "Contract") between TransCanada Energy Ltd. (the "Supplier", and collectively with the OPA, the "Parties") and Ontario Power Authority (the "OPA") dated October 9, 2009

Dear Sirs/Mesdames:

As you are no doubt aware, the Minister of Energy today announced that your Oakville gas plant will not proceed. This announcement is supported by the OPA's planning analysis of the current circumstances in southwest GTA.

In light of the OPA will not proceed with the Contract. As a result of the Minister's announcement, this, the OPA wishes to acknowledge that you are entitled to reach an agreement with the Supplier under compensation.

Given Ontario's ongoing need for power generation projects and your desire to generate power in Ontario, we wish to work with you to identify other projects and the extent to which such projects may compensate you for termination of the Parties mutually agree to terminate Contract while appropriately protecting the Contract. interests of ratepayers.

You are hereby directed to cease all further work and activities in connection with the Facility (as defined in the Contract), other than anything that may be reasonably necessary in the circumstances to bring such work or activities to a conclusion.

In recognition of Ontario's ongoing need for power generation projects and your desire to generate power in Ontario, we wish to work with you to identify other projects which offer you a commercial value that is reasonably equivalent to that which is provided for under the Contract while appropriately protecting the interests of ratepayers.

To indicate the Supplier's agreement to enter into good faith negotiations with the OPA to reach a mutual agreement to terminate the Contract, please sign and date the duplicate copy of this letter and return it to the OPA to the attention of Michael Lyle, General Counsel and Vice President.

Sincerely,

ONTARIO POWER AUTHORITY

Per: _____
Name: _____
Title: _____

I have the authority to bind the corporation.

By delivering a signed version of this letter back to the OPA, the undersigned confirms its agreement with the foregoing as of the _____ day of _____, 2010.

TRANSCANADA ENERGY LTD.

Per: _____
Name: _____
Title: _____

I have the authority to bind the corporation.



120 Adelaide Street West
Suite 1600
Toronto, Ontario M5H 1T1
T 416-967-7474
F 416-967-1947
www.powerauthority.on.ca

October 7, 2010

TransCanada Energy Ltd.
450-1st Street
Calgary, AB T2P 5H1

Attn: Alex Pourbaix,
President,
Energy and Oil Pipelines

Dear Mr. Pourbaix :

Re: Southwest GTA Clean Energy Supply Contract (the "Contract") between TransCanada Energy Ltd. and Ontario Power Authority (the "OPA") dated October 9, 2009

As you are no doubt aware, the Minister of Energy today announced that your Oakville gas plant will not proceed. This announcement is supported by the OPA's planning analysis of the current circumstances in southwest GTA.

The OPA will not proceed with the Contract. As a result of this, the OPA acknowledges that you are entitled to your reasonable damages from the OPA, including the anticipated financial value of the Contract. We would like to begin negotiations with you to reach mutual agreement to terminate the Contract.

Given Ontario's ongoing need for power generation projects and your desire to generate power in Ontario, we wish to work with you to identify other projects and the extent to which such projects may compensate you for termination of the Contract while appropriately protecting the interests of ratepayers.

You are hereby directed to cease all further work and activities in connection with the Facility (as defined in the Contract), other than anything that may be reasonably necessary in the circumstances to bring such work or activities to a conclusion.

We undertake that we will not disclose this letter without giving you prior notice and we request that you do the same.

Sincerely,

ONTARIO POWER AUTHORITY

Per: 

Name: Colin Andersen

Title: Chief Executive Officer

Aleksandar Kojic

From: John Mikkelsen [john_mikkelsen@transcanada.com]
Sent: March 1, 2011 11:49 AM
To: Deborah Langelaan; Michael Killeavy
Cc: JoAnne Butler; Terry Bennett; Brandon Anderson; John Cashin; Geoff Murray
Subject: TransCanada Potential Project - Schedules B and C
Attachments: IA Schedule B NRR (Feb 24 11)_OPA.doc; IA Schedule C NRR (Feb 24 11)_OPA.doc

Dear Deborah,

Further to the meeting of February 24, 2011 between TransCanada and the OPA, and in accordance with your designation letter of February 24, 2011, please find attached TransCanada Potential Project Pricing and Terms Proposal designated as Schedules B1, B2, and B3 and Schedule C all dated February 24, 2011.

Best regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

Royal Bank Plaza
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CONFIDENTIALFebruary 24th, 2011**SCHEDULE B1****PRICING**

Net Revenue Requirement	\$ 16,900 / MW-month
Net Revenue Requirement Indexing Factor	50 %
Annual Average Contract Capacity (from and after the Contract Facility COD)	* MW
Nameplate Capacity	* MW
Start-Up Gas for the Contract Facility	1,500 MMBTU/start-up
Start-Up Maintenance Cost	\$ 51,000 / start-up
O&M Costs	\$ 5.75 / MWh
OR Cost	\$ 0.50 / MWh

	<u>Season 1</u>	<u>Season 2</u>	<u>Season 3</u>	<u>Season 4</u>
<u>Contract Heat Rate</u>	10,420 MMBTU/MWh (HHV)	10,550 MMBTU/MWh (HHV)	10,660 MMBTU/MWh (HHV)	10,580 MMBTU/MWh (HHV)
<u>Contract Capacity</u>	510.0 MW	481.5 MW	455.9 MW	475.0 MW
<u>10nORCC</u>	0 MW	0 MW	0 MW	0 MW

CONFIDENTIAL

February 24th, 2011

**SCHEDULE B2
VALUE PROPOSITIONS**

VP#1 - Permits and Approvals

In light of the cancellation of the Facility and the Original Contract, and the change in risk profile that this has created for developers since that decision, the Contract will provide that if TCE is unable to secure a permit or approval for the construction or operation of the Potential Project or any level of government otherwise prevents the construction or operation of the Potential Project then TCE will be able to terminate the Contract and, upon such termination, recover from the OPA its reasonable costs incurred with respect to the Facility and the Potential Project and TCE's anticipated financial value of the Original Contract **[Defined as a Number for the IA]**. In addition to TCE's relief from Force Majeure, TCE would also recover from the OPA its reasonable costs as a result of delays arising from Force Majeure relating to permitting.

VP#2 – Oakville Sunk Costs

The Contract will provide that sunk costs associated the development of the Facility totaling **[\$37 million]** will be paid immediately to TCE at time of executing the Contract. These sunk costs **[have/have not]** been reviewed by the OPA and further due diligence and review **[will/will not]** be required.

VP#3 – Interconnection Costs

As a result of the compressed time for development of the Potential Project TCE will be unable to determine the costs associated with electrical and natural gas interconnections to the same level of detail as associated with the Facility. Accordingly, the Contract will provide a mechanism whereby the OPA will directly pay for all costs associated with the electrical and natural gas interconnections in a manner that will not subject TCE to carrying costs. For the gas connection this will include all costs paid to the local gas distribution company ("LDC") that is associated with the connection to the Potential Project from the LDC including a contribution in aid to construction ("CIAC") and terminating at the demarcation between the Potential Project and the LDC on the Potential Project site. For the electrical connection this will include all costs associated with the design engineering, construction and commissioning of the electrical facilities between the high voltage side of the Potential Project switchyard and the point of connection to the Hydro One transmission system including land and easements if applicable.

VP#4 - Gas Delivery and Management Services Costs

The Contract will provide that all gas delivery and management services costs will be excluded from the NRR and that such costs will be paid for by the OPA in a manner consistent with the Portlands ACES and Halton Hills CES Contracts.

VP#5 – Net Revenue Requirement Indexing Factor ("NRRIF") set at 50%

As a result of utilizing the MPS gas turbines in this Potential Project service, operating cost is a materially larger part of the economic picture and accordingly significantly more of TCE's costs are escalating. The portion of TCE's costs subject to escalation is approximately 50% as opposed to the current maximum of 20%. Accordingly the Contract will be modified to reflect this higher proportion subject to escalation by incorporating a NRRIF of 50%. Specifically in Section 1.1 of Exhibit J of the Contract the NRRIF definition will be modified to remove the words "between 0.00 and 0.20".

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February 24th, 2011

VP#6 - Option to Extend Term

As a mechanism for recovery of Potential Project costs, the costs incurred by TCE with respect to the Facility and TCE's anticipated financial value of the Original Contract, the Contract will be premised on a 30 year term or premised on a 20 year term with a unilateral option for TCE to extend the term of the Contract, on the same terms, conditions and prices, for an additional 10 years.

VP#7 – Capacity Check Test

In an effort to more accurately reflect the actual capacity delivered to the Province of Ontario Section 15.6 (b) of the Contract will be modified to reflect average ambient temperatures during each season. Specifically in Section 15.6 (b) (i) replace "7.0" with "-5.8", in Section 15.6 (b) (ii) replace "21.0" with "5.7", in Section 15.6 (b) (iii) replace "30.0" with "18.6", and in Section 15.6 (b) (iv) replace "24.0" with "8.3".

VP#8 – Potential One Hour Run

Maintenance costs associated with the Mitsubishi Heavy Industries M501GAC Fast Start engine are significant and predominantly driven by number of starts. The logic contained Section 3 of Exhibit J to the NYR Contract can result in Imputed Production Intervals one hour in duration whereas the associated recovery of start costs is assumed to be over two hours. In an effort to recognize the unique attributes of these engines the Contract will be modified to ensure the plant is only deemed on when power prices provide for full recovery of start charges within an hour. Specifically Section 3.1.1 (ii) (a) A of Exhibit J of the Contract will be modified to remove the words "50% of".

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February 24th, 2011

**SCHEDULE B3
NYR CONTRACT CLEAN UP**

Value Proposition Incorporation

The Value Propositions outlined in Schedule B2 will be incorporated.

GD&M Partial Recovery

The NYR Contract included a provision for a portion of the Gas Distribution and Management costs to be recovered via NRR and the rest to be recovered via a side agreement. The contract for the Potential Project will be premised on all costs being recovered via the side agreement as per VP# 4. There are references throughout the NYR Contract that will require clean up to reflect this situation.

Schedule A

There may be items in Schedule A of this Implementation Agreement that need to be incorporated into the NYR Contract including, but not limited to, the Emissions Limits and Emission Measurement Methodology.

**SCHEDULE C
PROCESS**

Schedule B1 provides TCE's currently proposed contract parameters for eventual incorporation into the Contract. This Schedule C describes the mechanism by which the NRR set out in Schedule B1 will be adjusted between the effective date of this Agreement and the execution and delivery by the Parties of the Contract.

The following contract parameters outlined in Schedule B1 will not be adjusted from the values contained in Schedule B1 (the "Fixed Parameters"): the Contract Heat Rates (MMBTU/MWh HHV) for Seasons 1, 2, 3 and 4; the Contract Capacities (MW) for Seasons 1, 2, 3 and 4; the Annual Average Contract Capacity (MW); Start-Up Gas for the Contract Facility (MMBTU/start-up); Nameplate Capacity (MW) and Net Revenue Requirement Indexing Factor ("NRRIF")(%); Start-Up Maintenance Costs (\$/start-up); O&M Costs (\$/MWh), and OR Cost (\$/MWh).

The only parameter in Schedule B1 that may be adjusted prior to being incorporated into the Contract is Net Revenue Requirement ("NRR").

Upon execution of this Agreement, TCE will begin development work on the Potential Project including siting, stakeholder outreach, engineering design, contracts for equipment procurement, and contracts for construction. The development work will be undertaken in order to ascertain final estimates of capital costs, operating costs, plant performance and schedule prior to execution of the Contract.

Adjustments to NRR will be based on changes in the following capital cost elements (the "Adjustment Capital Cost Elements"):

Adjustment Capital Cost Elements	Value at Time of Implementation Agreement Execution	Category
Gas Turbine Fast Start (Additional Scope, stacks, coolers)	\$12,600,000	Soft
Gas Turbine Technical Assistance	\$3,622,500	Estimated
Gas Turbine Transportation	\$7,380,680	Estimated
Engineering	\$20,738,776	Soft
Major Equipment	\$24,349,133	Soft
Construction	\$89,927,715	Hard
Engineering and Construction Risk	\$6,552,116	Soft
IBL Allowances (EPC, CTG, Noise, Grounding)	\$18,607,205	Soft
Landscaping	\$2,000,000	Estimated
HV Switching Station / Tap Station	\$1,850,000	Estimated
Interconnects Excluding gas and electrical (Potable Water Supply, Waste Water Discharge / Sewer , Construction Power, Telco Interconnects)	\$700,000	Estimated
Storm Water Pond	\$4,394,750	Estimated
Net Start-Up Energy (Fuel Cost + Back Feed Power - Power Revenue)	\$6,234,172	Estimated
Fuel Gas Delivery & Mgmt Charges for start-up and commissioning	\$3,000,000	Estimated
Capital & Operational Spares (excluding MPS GT Spares)	\$1,824,375	Soft

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February 24th, 2011

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Land Purchase	\$29,250,000	Hard
Community Benefits and Contribution	\$20,000,000	Soft
Development Charges, Park's Fee, Permit & Development Fee (Site Plan Approval), Aboriginal Community Contribution	\$2,990,000	Estimated
Escalation	\$9,372,568	Estimated
TOTAL	\$265,393,990	

OPA Review

Once the development work is complete TCE will provide the OPA with a final estimate for the Adjustment Capital Cost Elements and associated supporting documentation.

Costs for which TCE will obtain contracts, binding quotes or other firm commitments prior to execution of the Contract (the "Hard Capital Costs") are categorized as such in the table above. TCE will provide the OPA, on a confidential basis, with copies of the contracts, binding quotes or other firm commitments as supporting documentation for the Hard Capital Costs. The OPA's review will be limited to ensuring TCE's final estimate is congruent with the supporting documentation.

Costs that will be based on non-binding estimates, discussions or agreements with third parties at the time of execution of the Contract (the "Soft Capital Costs") are categorized as such in the table above. TCE will provide the OPA with copies or summaries of the non-binding estimates, discussions or agreements. The OPA's review will be limited to ensuring TCE's final estimate is congruent with the supporting documentation.

Costs that are estimated, built-up or provided as allowances for development and risk at the time of execution of the Contract (the "Estimated Capital Costs") are categorized as such in the table above. TCE will provide the OPA a break down of such estimates and the OPA's review will be limited to ensuring such estimates are in line with good utility practice.

It is possible that some costs may not fall into the predicted categories (Hard, Soft or Estimated) by the end of the development work. TCE will indicate to the OPA any changes in category and be held to the due diligence standard of the new category.

Once the Parties have completed the above review the final estimate for the Adjustment Capital Cost Elements shall used to modify the NRR for inclusion in the Contract.

Conversion Mechanism

The final estimates for the Adjustment Capital Cost Elements will be used to adjust NRR, provided that the adjusted NRR incorporated in the Contract will not exceed \$17,277/MW-Month, as follows:

- For each Adjustment Capital Cost Element there is an estimated value at the time of executing this agreement, which is contained in the table above (the "ACCE IA Value")
- For each Adjustment Capital Cost Element there will be a final estimated value provided by TCE to the OPA and agreed to through the OPA Review described above (the "ACCE

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February 24th, 2011

- 3 -

Final Value")

- For each Adjustment Capital Cost Element there will be a difference between the ACCE IA Value and the ACCE Final Value determined as the arithmetic difference between the ACCE IA Value and the ACCE Final Value (the "ACCE Difference"). For clarity the ACCE Difference will be the ACCE Final Value minus the ACCE IA Value. By way of example, if the ACCE Final Value for a given element is higher than the ACCE IA Value then the ACCE Difference will be a positive number, demonstrating an increase in that element.
- These differences will be summed for all Adjustment Capital Cost Elements (the "Total ACCE Difference")
- The Total ACCE Difference will be multiplied by 0.0000126813 (the "NRR Conversion Rate") to give the adjustment to the NRR (the "NRR Adjustment Value").
- The NRR that will be entered into the Contract will be the NRR indicated in Schedule B1 plus the NRR Adjustment Value (the "Final NRR").

The development of this Schedule C is constructed on the basis of a set of assumptions and engineering at a very preliminary stage of the development process. For example, there were no technical design criteria available (Schedule A) at the time of this work and TCE was not able to determine the availability or suitability of the proposed site for the Potential Project. As such there is a risk that the more detailed engineering and development identifies issues or costs that may impact this Schedule C.

Aleksandar Kojic

From: Deborah Langelaan
Sent: March 1, 2011 12:34 PM
To: 'Sebastiano, Rocco'; 'safouh@smsenergy-engineering.com'
Cc: 'Smith, Elliot'; Anshul Mathur; Michael Killeavy
Subject: FW: TransCanada Potential Project - Schedules B and C
Attachments: IA Schedule B NRR (Feb 24 11)_OPA.doc; IA Schedule C NRR (Feb 24 11)_OPA.doc

Importance: High

Gentlemen;

Please find attached TCE's proposed Pricing, Value Propositions, NYR Contract Clean Up and Process schedules for your review.

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: March 1, 2011 11:49 AM
To: Deborah Langelaan; Michael Killeavy
Cc: JoAnne Butler; Terry Bennett; Brandon Anderson; John Cashin; Geoff Murray
Subject: TransCanada Potential Project - Schedules B and C

Dear Deborah,

Further to the meeting of February 24, 2011 between TransCanada and the OPA, and in accordance with your designation letter of February 24, 2011, please find attached TransCanada Potential Project Pricing and Terms Proposal designated as Schedules B1, B2, and B3 and Schedule C all dated February 24, 2011.

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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CONFIDENTIALFebruary 24th, 2011**SCHEDULE B1****PRICING**

Net Revenue Requirement	\$ 16,900 / MW-month
Net Revenue Requirement Indexing Factor	50 %
Annual Average Contract Capacity (from and after the Contract Facility COD)	* MW
Nameplate Capacity	* MW
Start-Up Gas for the Contract Facility	1,500 MMBTU/start-up
Start-Up Maintenance Cost	\$ 51,000 / start-up
O&M Costs	\$ 5.75 / MWh
OR Cost	\$ 0.50 / MWh

	<u>Season 1</u>	<u>Season 2</u>	<u>Season 3</u>	<u>Season 4</u>
<u>Contract Heat Rate</u>	10,420 MMBTU/MWh (HHV)	10,550 MMBTU/MWh (HHV)	10,660 MMBTU/MWh (HHV)	10,580 MMBTU/MWh (HHV)
<u>Contract Capacity</u>	510.0 MW	481.5 MW	455.9 MW	475.0 MW
<u>10nORCC</u>	0 MW	0 MW	0 MW	0 MW

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February 24th, 2011

**SCHEDULE B2
VALUE PROPOSITIONS**

VP#1 - Permits and Approvals

In light of the cancellation of the Facility and the Original Contract, and the change in risk profile that this has created for developers since that decision, the Contract will provide that if TCE is unable to secure a permit or approval for the construction or operation of the Potential Project or any level of government otherwise prevents the construction or operation of the Potential Project then TCE will be able to terminate the Contract and, upon such termination, recover from the OPA its reasonable costs incurred with respect to the Facility and the Potential Project and TCE's anticipated financial value of the Original Contract [**Defined as a Number for the IA**]. In addition to TCE's relief from Force Majeure, TCE would also recover from the OPA its reasonable costs as a result of delays arising from Force Majeure relating to permitting.

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February 24th, 2011

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February 24th, 2011

**SCHEDULE B3
NYR CONTRACT CLEAN UP**

Value Proposition Incorporation

The Value Propositions outlined in Schedule B2 will be incorporated.

GD&M Partial Recovery

The NYR Contract included a provision for a portion of the Gas Distribution and Management costs to be recovered via NRR and the rest to be recovered via a side agreement. The contract for the Potential Project will be premised on all costs being recovered via the side agreement as per VP# 4. There are references throughout the NYR Contract that will require clean up to reflect this situation.

Schedule A

There may be items in Schedule A of this Implementation Agreement that need to be incorporated into the NYR Contract including, but not limited to, the Emissions Limits and Emission Measurement Methodology.

CONFIDENTIALFebruary 24th, 2011**SCHEDULE C
PROCESS**

Schedule B1 provides TCE's currently proposed contract parameters for eventual incorporation into the Contract. This Schedule C describes the mechanism by which the NRR set out in Schedule B1 will be adjusted between the effective date of this Agreement and the execution and delivery by the Parties of the Contract.

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February 24th, 2011

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Land Purchase	\$29,250,000	Hard
Community Benefits and Contribution	\$20,000,000	Soft
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TOTAL	\$265,393,990	

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It is possible that some costs may not fall into the predicted categories (Hard, Soft or Estimated) by the end of the development work. TCE will indicate to the OPA any changes in category and be held to the due diligence standard of the new category.

Once the Parties have completed the above review the final estimate for the Adjustment Capital Cost Elements shall be used to modify the NRR for inclusion in the Contract.

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The final estimates for the Adjustment Capital Cost Elements will be used to adjust NRR, provided that the adjusted NRR incorporated in the Contract will not exceed \$17,277/MW-Month, as follows:

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February 24th, 2011

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The development of this Schedule C is constructed on the basis of a set of assumptions and engineering at a very preliminary stage of the development process. For example, there were no technical design criteria available (Schedule A) at the time of this work and TCE was not able to determine the availability or suitability of the proposed site for the Potential Project. As such there is a risk that the more detailed engineering and development identifies issues or costs that may impact this Schedule C.

Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: March 1, 2011 1:05 PM
To: Deborah Langelaan; 'safouh@smsenergy-engineering.com'
Cc: Smith, Elliot; Anshul Mathur; Michael Killeavy
Subject: Re: TransCanada Potential Project - Schedules B and C

I trust that given the lateness with which TCE delivered this that we are not going to discuss this today, but will set up a separate internal meeting to discuss it, followed by a meeting with TCE, perhaps later this week.

Thanks, Rocco

From: Deborah Langelaan [mailto:Deborah.Langelaan@powerauthority.on.ca]
Sent: Tuesday, March 01, 2011 12:34 PM
To: Sebastiano, Rocco; safouh@smsenergy-engineering.com <safouh@smsenergy-engineering.com>
Cc: Smith, Elliot; Anshul Mathur <Anshul.Mathur@powerauthority.on.ca>; Michael Killeavy <Michael.Killeavy@powerauthority.on.ca>
Subject: FW: TransCanada Potential Project - Schedules B and C

Gentlemen;

Please find attached TCE's proposed Pricing, Value Propositions, NYR Contract Clean Up and Process schedules for your review.

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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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Cc: JoAnne Butler; Terry Bennett; Brandon Anderson; John Cashin; Geoff Murray
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Best regards,

John Mikkelsen, P.Eng.

Director, Eastern Canada, Power Development

TransCanada

Royal Bank Plaza
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Toronto, Ontario M5J 2J1

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Cell: 416.559.1664

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soumis des droits d'auteur. Il est interdit de l'utiliser ou
de le divulguer sans autorisation.

Aleksandar Kojic

From: Michael Killeavy
Sent: March 1, 2011 1:06 PM
To: 'RSebastiano@osler.com'; Deborah Langelaan; 'safouh@smsenergy-engineering.com'
Cc: 'ESmith@osler.com'; Anshul Mathur
Subject: Re: TransCanada Potential Project - Schedules B and C

I have no intention of discussing it today. I have to read it, too.

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

From: Sebastiano, Rocco [<mailto:RSebastiano@osler.com>]
Sent: Tuesday, March 01, 2011 01:04 PM
To: Deborah Langelaan; 'safouh@smsenergy-engineering.com' <safouh@smsenergy-engineering.com>
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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: March 1, 2011 11:49 AM
To: Deborah Langelaan; Michael Killeavy
Cc: JoAnne Butler; Terry Bennett; Brandon Anderson; John Cashin; Geoff Murray
Subject: TransCanada Potential Project - Schedules B and C

Dear Deborah,

Further to the meeting of February 24, 2011 between TransCanada and the OPA, and in accordance with your designation letter of February 24, 2011, please find attached TransCanada Potential Project Pricing and Terms Proposal designated as Schedules B1, B2, and B3 and Schedule C all dated February 24, 2011.

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

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soumis des droits d'auteur. Il est interdit de l'utiliser ou
de le divulguer sans autorisation.

Aleksandar Kojic

From: Deborah Langelaan
Sent: March 2, 2011 10:24 AM
To: 'Mr. Safouh Soufi'; 'Mr. Rocco Sebastiano'; Michael Killeavy
Cc: Anshul Mathur; 'Mr. Elliot Smith'
Subject: FW: TransCanada - Further Breakdown of the MPS Pricing

Gentlemen;

Below TCE has provided additional information related to the change in scope pricing.

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From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: March 1, 2011 7:14 PM
To: Deborah Langelaan
Cc: Terri Steeves
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Dear Deborah,

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I only have two of the three:

1. Equipment swap
2. Stack
3. ?

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3. Fin cooler price

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From: John Cashin [john_cashin@transcanada.com]
Sent: March 3, 2011 5:26 PM
To: Susan Kennedy
Cc: John Mikkelsen; Deborah Langelaan; Michael Killeavy; Robert Godhue
Subject: RE: FIPPA designation letter

Thanks Susan.

Can you proceed with obtaining the 2 designations that you referred to. I'd suggest the following descriptions:

1. A letter from Alex Pourbaix, TransCanada Energy Ltd. to Colin Andersen, Ontario Power Authority, dated March 4, 2011, including attachments "Implementation Agreement" and "Implementation Agreement Summary", and any and all revisions, amendments or updates thereto or any revised or amended version thereof.
2. Implementation Agreement between TransCanada Energy Ltd. and Ontario Power Authority dated January 24, 2011, including all exhibits and schedules, and any and all revisions, amendments or updates thereto or any revised or amended version thereof.

Regards,

John

Tel: (403) 920-2157
Fax: (403) 920-2354

From: Susan Kennedy [mailto:Susan.Kennedy@powerauthority.on.ca]
Sent: Wednesday, March 02, 2011 2:33 PM
To: John Cashin
Cc: John Mikkelsen; Deborah Langelaan; Michael Killeavy; Robert Godhue
Subject: RE: FIPPA designation letter

Sorry for the delayed response.

Where I believe we are at is that we have, most recently done designations (both on February 24th) for:

1. TransCanada Potential Project Pricing and Terms Proposal designated as Schedule B1, B2, and B3 and Schedule C all dated February 24, 2011 and any and all amendments and updates thereto or any amended version thereof.
2. TransCanada Oakville Generating Station Development Cost Summary – Development Phase/Volume 1/Project 2067945/February 24, 2011
3. TransCanada Oakville Generating Station Development Cost Summary – Implementation Phase/Volume 2/Project 2116164 /February 24, 2011

That leaves (in the foreseeable future/near term), designations for:

1. There would be a letter from TCE to Colin, cc'd to the Ministry of Energy, setting out our proposal (including pricing); we will probably provide the OPA with a draft before formally issuing. Both the letter and draft would need to be designated.
2. Draft Implementation Agreement to incorporate our proposal, including pricing. We'd like to be able to designate the draft IA as well as future drafts and, when and if executed, the final, executed IA.

With respect to the next documents, I would suggest essentially the same approach as was taken re the "TransCanada Potential Project Pricing and Terms Proposal" – describe the document – starting with the relevant draft and include and updates, amendments, future drafts, etc. of the document in the designation.

The drafts will need to be described.

On the Implementation Agreement, I'm content to either designate more generally – i.e. describing the draft and either expressly or by implication starting with the original draft (which according to my records is January 24, 2011) or begin with the draft (draft dated "XXX, 2011") that contains the pricing information.

If you need to speak, please contact Robert Godhue (he is cc'd on this email) and he will find a time that works.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: John Cashin [mailto:john_cashin@transcanada.com]
Sent: February 24, 2011 12:01 PM
To: Susan Kennedy
Cc: John Mikkelsen
Subject: Re: FIPPA designation letter

Thanks Susan. I believe that John Mikkelsen will be calling Deb to discuss designating some material regarding pricing for the Cambridge project that was shown to Joanne this morning, as well as the back-up material for the Oakville sunk costs, which will be ready this week.

What I wanted to discuss with you is how best to handle some documents that would be circulated in a few weeks. In particular, there would be a letter from TCE to Colin, cc'd to the Ministry of Energy, setting out our proposal (including pricing); we will probably provide the OPA with a draft before formally issuing. Both the letter and draft would need to be designated.

In addition, we will be revising the draft Implementation Agreement to incorporate our proposal, including pricing. We'd like to be able to designate the draft IA as well as future drafts and, when and if executed, the final, executed IA.

I'd like to discuss how to best handle these designations.

Regards,

John Cashin
TransCanada

403-920-2157

From: Susan Kennedy [mailto:Susan.Kennedy@powerauthority.on.ca]
Sent: Thursday, February 24, 2011 09:37 AM
To: John Cashin
Subject: RE: FIPPA designation letter

I'm in and out of meetings – in one now, in fact.

If you provide a list of the records you are looking to have designated, I can have a look and call you with questions, if any, and sort out finalization.

It will also allow me to start the process. I'm confident of CEO access today and tomorrow. As far as I know he is around next week as well.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: John Cashin [mailto:john_cashin@transcanada.com]
Sent: February 24, 2011 11:33 AM
To: Susan Kennedy
Subject: Re: FIPPA designation letter

Susan - are you available to chat by phone to discuss what we are considering? If so, what is your phone number?

Regards,

John Cashin
TransCanada

403-920-2157

From: Susan Kennedy [mailto:Susan.Kennedy@powerauthority.on.ca]
Sent: Thursday, February 24, 2011 09:20 AM
To: John Cashin
Cc: Michael Killeavy <Michael.Killeavy@powerauthority.on.ca>; Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>; JoAnne Butler <joanne.butler@powerauthority.on.ca>; Terry Bennett
Subject: RE: FIPPA designation letter

I just need a description of the document/documents that are intended to be covered by the designation.

Susan H. Kennedy
Director, Corporate/Commercial Law Group

From: JoAnne Butler
Sent: February 24, 2011 11:16 AM
To: 'Terry Bennett'
Cc: John Cashin; Michael Killeavy; Susan Kennedy; Deborah Langelaan
Subject: RE: FIPPA designation letter

Terry, I talked with Michael and Susan...yes, please carry on with John talking directly to Susan on this.

Thanks...

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: Terry Bennett [mailto:terry_bennett@transcanada.com]
Sent: Jueves, 24 de Febrero de 2011 10:46 a.m.
To: JoAnne Butler
Cc: John Cashin
Subject: FIPPA designation letter

JoAnne, we were thinking it may be more efficient to have John Cashin talk to Susan Kennedy on the FIPPA designation letter so they can deal with it directly. We are hoping to be able to cover not just the proposal we shared with you today, but the next draft of the Implementation Agreement and possibly a draft of Alex's letter to Colin. As discussed, we hope to send those items to you over the next week or so.

Let me know if you agree and if so, John will call Susan.

Regards,

Terry

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: March 3, 2011 7:00 PM
To: JoAnne Butler
Cc: Deborah Langelaan
Subject: SWGTA Contract Wind Up - Talking Points

Importance: High

*** PRIVILEGED AND CONFIDENTIAL - PREPARED IN CONTEMPLATION OF LITIGATION ***

JoAnne,

As a follow up to today's meeting with Deb, here are some talking points for your evening telephone call with TCE:

1. TCE was asked to provide two things at our meeting of 8 February 2011:

- (i) An NRR between \$11,000/MW-month and \$15,000/MW-month along with a list of contract revisions required to get the NRR in the target range; and
- (ii) An NRR without any contract changes, using the NYR Contract as a baseline

TCE never did this. It gave us a variation of (i) in providing an NRR of \$16,900/MW-month, along with a list of "Value Propositions", which purport to revise the NYR Peaking Contract. We never got the NRR we asked for in(ii), i.e., a baseline NRR. The OPA needs to get both pieces of information from TCE.

2. The OPA relayed orally all of its concerns with the Implementation Agreement at a meeting held on 25 January 2011. It is a fairly "bare bones" agreement, with all of the detail embedded in Schedules A to C, inclusive. These schedules were drafted upon the premise of the OPA and TCE negotiating over a CAPEX, which is then built up into an NRR. We have now changed the approach by having the parties potentially agreeing on an NRR first, which bypasses the need to discuss the CAPEX. We believe that we first must finalize these schedules in order to finalize the front-end Implementation Agreement. Until these detailed schedules are completed, we don't see the point in providing a blackline version of the Implementation Agreement since changes may need to be made to it based on the final form of Schedules B and C.

3. We are actively reviewing the revisions to Schedules B and C proposed by TCE, which were only delivered to the OPA on 1 March 2011, a few hours prior to the negotiating meeting. We need time to evaluate the "Value Propositions" in Schedule B and Schedule C. Schedule A, the facility technical requirements, is still being worked on by us. Our technical consultant and PSP are discussing this document. We have already told TCE that the final form of Schedule A will not impact equipment selection at all.

4. Based on some preliminary number crunching we've done, we don't see how TCE's NRR is at \$16,900/MW-month given all the proposed contract changes, the CAPEX estimate presented on 25 January 2011, and with the OPA's subsequent agreement to exclude the gas and electricity interconnection costs from that CAPEX estimate. It would be helpful if TCE could provide a breakdown of the the two NRR's we requested in paragraph 1 (above) at our 8 February 2011 meeting.

Deb, have I left anything out?

I will keep my BlackBerry with me all evening if either your or Deb want to contact me.

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

Aleksandar Kojic

From: Deborah Langelaan
Sent: March 3, 2011 7:10 PM
To: Michael Killeavy; JoAnne Butler
Subject: Re: SWGTA Contract Wind Up - Talking Points

Michael - you've done a great job in capturing where we currently are with TCE. I have nothing further to add.

Deb

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

From: Michael Killeavy
Sent: Thursday, March 03, 2011 06:59 PM
To: JoAnne Butler
Cc: Deborah Langelaan
Subject: SWGTA Contract Wind Up - Talking Points

*** PRIVILEGED AND CONFIDENTIAL - PREPARED IN CONTEMPLATION OF LITIGATION ***

JoAnne,

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2. The OPA relayed orally all of its concerns with the Implementation Agreement at a meeting held on 25 January 2011. It is a fairly "bare bones" agreement, with all of the detail embedded in Schedules A to C, inclusive. These schedules were drafted upon the premise of the OPA and TCE negotiating over a CAPEX, which is then built up into an NRR. We have now changed the approach by having the parties potentially agreeing on an NRR first, which bypasses the need to discuss the CAPEX. We believe that we first must finalize these schedules in order to finalize the front-end Implementation Agreement. Until these detailed schedules are completed, we don't see the point in providing a blackline version of the Implementation Agreement since changes may need to be made to it based on the final form of Schedules B and C.

3. We are actively reviewing the revisions to Schedules B and C proposed by TCE, which were only delivered to the OPA on 1 March 2011, a few hours prior to the negotiating meeting. We need time to evaluate the "Value Propositions" in Schedule B and Schedule C. Schedule A, the facility technical requirements, is still being worked on by us. Our technical consultant and PSP are discussing this document. We have already told TCE that the final form of Schedule A will not impact equipment selection at all.

4. Based on some preliminary number crunching we've done, we don't see how TCE's NRR is at \$16,900/MW-month given all the proposed contract changes, the CAPEX estimate presented on 25 January 2011, and with the OPA's subsequent agreement to exclude the gas and electricity interconnection costs from that CAPEX estimate. It would be helpful if TCE could provide a breakdown of the the two NRR's we requested in paragraph 1 (above) at our 8 February 2011 meeting.

Deb, have I left anything out?

I will keep my BlackBerry with me all evening if either your or Deb want to contact me.

Michael

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416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

Aleksandar Kojic

From: JoAnne Butler
Sent: March 3, 2011 7:12 PM
To: Michael Killeavy
Cc: Deborah Langelaan
Subject: Re: SWGTA Contract Wind Up - Talking Points

Ok...got it...thanks...

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

From: Michael Killeavy
Sent: Thursday, March 03, 2011 06:59 PM
To: JoAnne Butler
Cc: Deborah Langelaan
Subject: SWGTA Contract Wind Up - Talking Points

*** PRIVILEGED AND CONFIDENTIAL - PREPARED IN CONTEMPLATION OF LITIGATION ***

JoAnne,

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4. Based on some preliminary number crunching we've done, we don't see how TCE's NRR is at \$16,900/MW-month given all the proposed contract changes, the CAPEX estimate presented on 25

January 2011, and with the OPA's subsequent agreement to exclude the gas and electricity interconnection costs from that CAPEX estimate. It would be helpful if TCE could provide a breakdown of the the two NRR's we requested in paragraph 1 (above) at our 8 February 2011 meeting.

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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: March 3, 2011 7:13 PM
To: Deborah Langelaan; JoAnne Butler
Subject: Re: SWGTA Contract Wind Up - Talking Points

Thank you for looking at it so quick.

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

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

From: Deborah Langelaan
Sent: Thursday, March 03, 2011 07:09 PM
To: Michael Killeavy; JoAnne Butler
Subject: Re: SWGTA Contract Wind Up - Talking Points

Michael - you've done a great jpb in capturing where we currently are with TCE. I have nothing further to add.

Deb

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

From: Michael Killeavy
Sent: Thursday, March 03, 2011 06:59 PM
To: JoAnne Butler
Cc: Deborah Langelaan
Subject: SWGTA Contract Wind Up - Talking Points

*** PRIVILEGED AND CONFIDENTIAL - PREPARED IN CONTEMPLATION OF LITIGATION ***

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Contract. We never got the NRR we asked for in(ii), i.e., a baseline NRR. The OPA needs to get both pieces of information from TCE.

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4. Based on some preliminary number crunching we've done, we don't see how TCE's NRR is at \$16,900/MW-month given all the proposed contract changes, the CAPEX estimate presented on 25 January 2011, and with the OPA's subsequent agreement to exclude the gas and electricity interconnection costs from that CAPEX estimate. It would be helpful if TCE could provide a breakdown of the the two NRR's we requested in paragraph 1 (above) at our 8 February 2011 meeting.

Deb, have I left anything out?

I will keep my BlackBerry with me all evening if either your or Deb want to contact me.

Michael

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416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

Aleksandar Kojic

From: Michael Killeavy
Sent: March 3, 2011 8:03 PM
To: safouh@smsenergy-engineering.com
Cc: Deborah Langelaan; Anshul Mathur
Subject: Peaking Plant NRR Model ...
Attachments: Peaking Plant NRR Model 3 Mar 2011.xls

Importance: High

Safouh,

Attached is the relatively simple model we've been using to estimate the NRR for the peaking plant. It builds up NRR from a specific cost for the facility. Are our assumptions we use in the NRR build up reasonable? Are we missing something that ought to be included?

We cannot reproduce TCE's number for NRR given a CAPEX for the plant indicated on 25 January 2011 and the subsequent contract changes.

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

[illegible]

[illegible]

Aleksandar Kojic

From: JoAnne Butler
Sent: March 3, 2011 10:35 PM
To: Colin Andersen; Kristin Jenkins; Michael Killeavy; Deborah Langelaan
Subject: TC Phone Call

I did talk to Terry Bennett tonight and confirmed that they will be sending a letter to Colin on Monday from Alex Pourbaix. The letter will indicate that the teams have been meeting since early October and have made good progress in that a good candidate, replacement plant has been chosen - a smaller, more responsive, flexible plant which aligns with the LTEP. They will attach the proposal with the schedules and believe that they have a good value proposition and lets get on with getting a Directive and signing an implementation agreement. The letter will be cc'ed to someone at Energy and to Craig. TCE wants all this lined up by the end of March. He did not mention anything to me about getting back to them in 24 hrs.

He said that Chris had talked to Craig who seemed amenable to that the timing was right and generally receptive to acting on it soon before the Opposition got all over it. Craig would not comment on the numbers and would "leave that to the OPA".

It will be better to have a face to face on Monday to fill you in on the discussion of the "value proposition" but suffice to say that there were a a few tense back and forths as I had basically indicated that they were asking too much on all counts. He finally moved off and indicated that they would be receptive to a counter offer. I told him that I would let him know Monday afternoon when he could expect that offer. When I told him that they would putting too much risk on our side now, he said that the "risks are what they are because of what the government has done."

Deb/Mike, as I indicated earlier, we can't wait any longer to sign up that third party commercial consultant. We need to have a credible third party view of the residual value and discount rate by mid next week to plug into our models. We can discuss their other asks on Monday and start to eliminate them.

JCB

Aleksandar Kojic

From: Michael Killeavy
Sent: March 4, 2011 4:57 AM
To: JoAnne Butler; Colin Andersen; Kristin Jenkins; Deborah Langelaan
Subject: Re: TC Phone Call

Ok. Thanks.

Did TCE commit to providing us with the two NRR numbers we asked for in early February?

Will they breakdown the NRR number they already gave us?

We will engage a financial consultant.

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

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

From: JoAnne Butler
Sent: Thursday, March 03, 2011 10:34 PM
To: Colin Andersen; Kristin Jenkins; Michael Killeavy; Deborah Langelaan
Subject: TC Phone Call

I did talk to Terry Bennett tonight and confirmed that they will be sending a letter to Colin on Monday from Alex Pourbaix. The letter will indicate that the teams have been meeting since early October and have made good progress in that a good candidate, replacement plant has been chosen - a smaller, more responsive, flexible plant which aligns with the LTEP. They will attach the proposal with the schedules and believe that they have a good value proposition and lets get on with getting a Directive and signing an implementation agreement. The letter will be cc'ed to someone at Energy and to Craig. TCE wants all this lined up by the end of March. He did not mention anything to me about getting back to them in 24 hrs.

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JCB

Aleksandar Kojic

From: JoAnne Butler
Sent: March 4, 2011 7:15 AM
To: Michael Killeavy; Deborah Langelaan
Subject: Re: TC Phone Call

Yes, we talked about the high end (approx 24) and he said it was impossible to meet the fifteen. We can do our own breakdown of the NRR. Let's stop waiting on them and do our own buildup to the NRR that we can live with. Safouh is working on the CAPEX, our banker will give us some commercial insights and let's run some scenarios. I will set something up for Monday.
Thanks...

JCB

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

From: Michael Killeavy
Sent: Friday, March 04, 2011 04:56 AM
To: JoAnne Butler; Colin Andersen; Kristin Jenkins; Deborah Langelaan
Subject: Re: TC Phone Call

Ok. Thanks.

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We will engage a financial consultant.

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Michael.killeavy@powerauthority.on.ca

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

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JCB

Aleksandar Kojic

From: Michael Killeavy
Sent: March 4, 2011 10:04 AM
To: Deborah Langeleen; Anshul Mathur; Sebastiano, Rocco; Smith, Elliot; safouh@smsenergy-engineering.com
Cc: Susan Kennedy
Subject: Implementation Agreement - Analysis of Proposed Schedule B Value Propositions from TCE
Attachments:
TCE Value Proposition Analysis 4 Mar 2011.doc
Importance: High

*** PRIVILEGED AND CONFIDENTIAL - PREPARED IN CONTEMPLATION OF LITIGATION ***

Everyone,

Attached is the matrix I promised Wednesday evening at our meeting. It is a preliminary first draft of the analysis. There are some embedded notes for OPA, Osler and SMS Energy. I am open to any and all criticisms, suggestions, revisions, etc., to this preliminary draft of the analysis.

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

ANALYSIS OF TCE PROPOSED SCHEDULE B TO THE IMPLEMENTATION AGREEMENT

#	TCE Value Proposition	Analysis	Cost	Recommendation
1	<i>“... the Contract will provide that if TCE is unable to secure a permit or approval for the construction or operation of the Potential Project or any level of government otherwise prevents the construction or operation of the Potential Project then TCE will be able to terminate the Contract and ... recover from the OPA its reasonable costs incurred with respect to the Facility and the Potential Project and TCE’s anticipated financial value of the Original Contract [Defined as a Number for the IA]. In addition to TCE’s relief from Force Majeure, TCE would also recover from the OPA its reasonable costs as a result of delays arising from Force Majeure relating to permitting.” (emphasis added)</i>	<p>This provision significantly reduces the development risk for TCE since if it encounters any regulatory approval problem, it can exit the contract and receive reimbursement for its development costs and financial value of the contract.</p> <p>This risk profile is inconsistent with the SWGTA Contract and with all other OPA gas-fired generation contracts.</p> <p>Recovery of force majeure-related costs is inconsistent with the common law position on force majeure and other OPA contracts <u>[NTD: Counsel to confirm this]</u></p>	<p>This is difficult to value. It is presumably the present value of the foregone profits under the SWGTA Contract, which may range from \$268M to \$503M plus whatever costs TCE incurs in developing the peaking plant. This latter component depends on when the permitting road block occurs in the project development timeline.</p>	<p>The OPA rejects this TCE Value Proposition.</p>

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ANALYSIS OF TCE PROPOSED SCHEDULE B TO THE IMPLEMENTATION AGREEMENT

#	TCE Value Proposition	Analysis	Cost	Recommendation
2	<p><i>"The Contract will provide that sunk costs associated the development of the Facility totaling (sic) [\$37 million] will be paid immediately to TCE at time of executing the Contract. These sunk costs [have/have not] been reviewed by the OPA and further due diligence and review [will/will not] be required. "</i> (emphasis added)</p>	<p>The OPA is likely liable for these sunk costs if the matter were ever to be litigated. <u>[NTD: Counsel to comment on this]</u></p> <p>The mechanism for direct and immediate payment has to be considered. Can we do this within the scope of the draft directive? The draft directive is silent on this right now.</p>	<p>We have been told that these costs would be approximately \$33M, and would not exceed \$35M. TCE now indicates that these are \$37M. We have been given substantiating information from TCE on these sunk costs and we are reviewing this information now.</p>	<p>The OPA can agree to reimburse TCE for its sunk costs, provided they can be substantiated.</p>
3	<p><i>"... the Contract will provide a mechanism whereby the OPA will directly pay for all costs associated with the electrical and natural gas interconnections in a manner that will not subject TCE to carrying costs. For the gas connection this will include all costs paid to the local gas distribution company ("LDC") that is associated with the connection to the Potential Project from the LDC including a contribution in aid to construction ("CIAC") and terminating at the demarcation between the Potential Project and the</i></p>	<p>These costs are hard to quantify at this point in time. If we include them in the NRR, TCE will add an addition risk premium, which will be paid for by the ratepayer. Even if we include the cost in the NRR, if the estimate is overrun we will likely face a claim anyway, so we'd pay</p>	<p>TCE has estimated \$100M for these costs. <u>[NTD: check with PSP to see if the K-W peaking plant working group has any better information?]</u></p>	<p>OPA should agree to pay these costs, but we need to investigate and land on a mechanism for doing so.</p>

ANALYSIS OF TCE PROPOSED SCHEDULE B TO THE IMPLEMENTATION AGREEMENT

#	TCE Value Proposition	Analysis	Cost	Recommendation
	<i>LDC on the Potential Project site. For the electrical connection this will include all costs associated with the design engineering, construction and commissioning of the electrical facilities between the high voltage side of the Potential Project switchyard and the point of connection to the Hydro One transmission system including land and easements if applicable.” (emphasis added)</i>	<p>for the risk premium and the overrun.</p> <p>The cheapest option for the ratepayer is to pay for these costs directly.</p> <p>The “no carrying cost” language suggests a direct payment by the OPA and not a pass-through cost. We need to confirm this with TCE. Can the OPA make such a direct cost?</p>		
4	<i>“The Contract will provide that all gas delivery and management services costs will be excluded from the NRR and that such costs will be paid for by the OPA in a manner consistent with the Portlands ACES and Halton Hills CES Contracts.”</i>	This transfers all gas risk to the OPA. OPA is not the best placed to manage this risk.	We estimate that this is worth about \$2,000/MW-month based on NYR information.	OPA should reject this proposition since it is not the plant operator and therefore not the best placed to manage this risk.
5	<i>“... The portion of TCE’s costs subject to escalation is approximately 50% as opposed to the current maximum of 20%. Accordingly the Contract will be modified to reflect this higher proportion subject to</i>	<p>It’s unclear that 50% of the NRR is related to the fixed OPEX.</p> <p>This is quite a departure from</p>	<u>INTD: Need to do some modelling on this. We’ve not indexed anything in the models to date to keep them simple. We could</u>	OPA should reject this proposition since it is (a) inconsistent with our other contracts and (b) doesn’t seem to reflect the proportion that fixed

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	<i>escalation by incorporating a NRRIF of 50% ...”</i>	all other OPA contracts, which either do not permit indexing or cap it at 20% of the contract price or NRR. We see no justification for this this.	<u>very simply modify the NYR Evaluation model to permit 50% indexing and let’s see what the effect is on evaluated cost?]</u>	OPEX has in the NRR.
6	<i>“... the Contract will be premised on a 30 year term or premised on a 20 year term with a unilateral option for TCE to extend the term of the Contract, on the same terms, conditions and prices, for an additional 10 years.”</i>	Extending the terms is a means of spreading the costs out over more years to reduce the \$/MW-month value of NRR. It is also a means for TCE to earn more since there are more contract years of contract revenue.	<u>[NTD: Let’s do some modelling to determine what value the extra 10 years has on a \$/MW-month basis over the standard 20-year term. This is relatively easy to do for a range of NRRs from say \$15,000/MW-month and \$17,000/MW-month]</u>	OPA can agree to a longer than 20 year term, but we need to make certain that the return to TCE is consistent with what we’ve agreed to is the “financial value” of the OGS Contract.
7	<i>“... the Contract will be modified to reflect average ambient temperatures during each season ...”</i>	Plan output is inversely related to ambient temperature. The proposed changes in temperature seem odd, though. <u>[NTD: Can SMS Energy help with this?]</u>	<u>[NTD: Can SMS Energy help with this?]</u>	Provided that we can agree on the temperatures, the OPA can agree to this. <u>[NTD: Subject to technical advice from SMS Energy]</u>

ANALYSIS OF TCE PROPOSED SCHEDULE B TO THE IMPLEMENTATION AGREEMENT

#	TCE Value Proposition	Analysis	Cost	Recommendation
8	<i>"... the Contract will be modified to ensure the plant is only deemed on when power prices provide for full recovery of start charges within an hour ..."</i>	<p>TCE is attempting to tie physical operation of the plant with the financial contract means of imputing start up and earning market revenues.</p> <p>Could we just reimburse them for each start-up?</p>	<p><u><i>[NTD: We need to do some modelling to determine what the cost of this might be. We need to get into the dispatch logic of the NYR Evaluation model and modify the logic to see what the effect will be]</i></u></p>	<p>OPA position is undetermined.</p>

Aleksandar Kojic

From: Michael Killeavy
Sent: March 4, 2011 10:18 AM
To: Deborah Langelaan
Cc: Anshul Mathur
Subject: Re: OGS

Great. Thanks.

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

From: Deborah Langelaan
Sent: Friday, March 04, 2011 10:15 AM
To: Michael Killeavy
Cc: Anshul Mathur
Subject: OGS

Michael;

As a result of JoAnne's conversation with Terry last night Anshul and I met this morning and discussed next steps for OGS. I have asked Anshul to work on developing an OPA derived NRR for Cambridge using all of the information we have gathered so far (i.e. MPS firm pricing proposal, TCE's Schedule C, TCE's CAPEX model, OPA due diligence, etc.). The model will assume electric and gas connection costs are a pass through to OPA but everything else will be included in the model. Anshul will document all of his assumptions and provide us with something we can use for our meeting with JoAnne on Monday.

Also, Proposals for the Financial Consultant RFP are due on Monday at 4:00 p.m. Anshul is going to call the two proponents today and ask if they would be able to submit them no later than noon on Monday.

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: March 4, 2011 10:18 AM
To: Anshul Mathur
Cc: Deborah Langelaan
Attachments: Peaking Plant NRR Model 4 Mar 2011 TCE.xls

Importance: High

*** PRIVILEGED AND CONFIDENTIAL - PREPARED IN CONTEMPLATION OF LITIGATION ***

Anshul,

My homework for this week was to clean up the model we've been using. There was a lot of stuff in the one we've been using that we don't need and it makes it prone to error. This is much more simplified and it lets us adjust returns easier.

I have tried to reproduce the TCE NRR of \$16,900 for a 500 MW plant over 30 years. The NPV is out of this world. Have I made a mistake somewhere? Please have a look.

I sent Safouh this model last night just to confirm the costs associated with building up the NRR. The version I sent Safouh is for a more realistic CAPEX of \$500M, not the TCE CAPEX of \$689M.

The \$7,000 "plug" figure is due to certain fixed O&M costs, GD&M costs, etc. I split these up so that the working of the model is more transparent.

Michael

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NRR Calculator - Peaking Plots

[illegible]

Aleksandar Kojic

From: Deborah Langelaan
Sent: March 4, 2011 10:51 AM
To: Michael Killeavy; 'Mr. Rocco Sebastiano'
Cc: 'Mr. Safouh Soufi'; Anshul Mathur; 'Mr. Elliot Smith'
Subject: FW: TransCanada - Further Breakdown of the MPS Pricing

Gentlemen;

I am forwarding you the e-mail I sent to TCE yesterday requesting additional information from MPS. You will note that, in spite of TCE's request, I did not provide a rationale for our request. We have made it clear to TCE on numerous occasions the reasons for our requests for information.

Deb

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From: Deborah Langelaan
Sent: March 3, 2011 2:54 PM
To: 'John_mikkelsen@transcanada.com'
Subject: Re: TransCanada - Further Breakdown of the MPS Pricing

John;

The OPA is in receipt of MPS Canada, Inc's (MPS) firm price proposal for project schedule change and specification/scope change for Equipment Supply Contract#6519 between TransCanada (TCE) and MPS. The proposal consists of a cover letter signed by Mr. Shinichi Ueki, Appendix 1 [Payment Schedule], Appendix 2 [Technical Proposal] and Appendix 3 [Scope Description]. The Technical Proposal makes reference to a commercial proposal but no such document was provided to the OPA. The OPA understands from TCE that US\$14.4 million of the total firm price is for the New Scope as described below. At this point, the OPA is reviewing the firm price for the New Scope and would like more information as listed under the heading Request for Additional Information as shown below.

New Scope

TCE Cooler/FGH

1. Change out 2 shell and type TCA Cooler (TCA) and fuel gas heater (FGH) with a fin fan type TCA/FGH heat exchanger;
2. TCA fan – total of 2
3. Cooling water pump – total of 4
4. Make-up tank – total of 2
5. Additional piping based on roof installation – total of 110 m included

Stack

1. Add 45 m (148 ft) simple cycle stack – total of 2
2. Add vertical mounted stack silencer – total of 2

Request for Additional Information

1. Confirm completeness of the above list of material under the New Scope. If this list is not complete, we would ask that you provide any additional information to complete it;
2. Confirm that US\$14.4 is the firm price for the New Scope (as defined above);
3. Provide a price breakdown for the equipment under the New Scope and any other costs included in the price;
4. Confirm that TCA maximum heat duty is not expected to exceed 32 MMBtu/h;
5. Confirm stack height of 45m and whether or not horizontal stack silencer is being considered;
6. Confirm that no change in GT expansion joints, included in Original Scope, is required for New Scope.

Thanks,
Deborah

From: John Mikkelsen [mailto:john_mikkelsen@transcanada.com]
Sent: Tuesday, March 01, 2011 07:13 PM
To: Deborah Langelan
Cc: Terri Steeves <terri_steeves@transcanada.com>
Subject: TransCanada - Further Breakdown of the MPS Pricing

Dear Deborah,

To ensure a speedy response to the price breakdown request from MPS it would be helpful to have an e-mail from the OPA confirming the need for this information. As I understand it, the OPA needs to be able to demonstrate that the costs associated with the additional scope are reasonable and prudent to permit a decision by the OPA to move forward with a release to MPS to supply the additional scope. Would you be so kind as to confirm this requirement in an e-mail that we can show to MPS?

After the call today Terri Steeves found pricing for an option from MPS that was requested prior to October 7th, 2010 for the change-out of the shell and tube heat exchanger to the fin-fan coolers. At that time the price was \$250k net including both the take-out and the addition. We never exercised the option as we suspended the ESA after October 7.

Thus the majority of the scope in the \$14.4 million price (approximately \$14.1 million) is related to the stacks and cooling system. We believe this is reasonable for this scope and further that having the scope in a single wrapped contract is advantageous from the standpoint of performance guarantees and interfaces. We believe that given this information, it should now be possible for your technical consultant to develop a cost estimate for the scope of supply in the proposal received from MPS in parallel to test the appropriateness of the MPS pricing breakdown either in total or as further provided by MPS.

I will keep you posted on any additional information provided by MPS as soon as I receive it.

Many thanks for meeting with us today.

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: March 4, 2011 10:53 AM
To: Deborah Langelaan; 'RSebastiano@osler.com'
Cc: 'safouh@smsenergy-engineering.com'; Anshul Mathur; 'ESmith@osler.com'
Subject: Re: TransCanada - Further Breakdown of the MPS Pricing

You're email is fine.

Michael Killeavy, LL.B., MBA, P.Eng.
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From: Deborah Langelaan
Sent: Friday, March 04, 2011 10:50 AM
To: Michael Killeavy; 'Mr. Rocco Sebastiano' <rsebastiano@osler.com>
Cc: 'Mr. Safouh Soufi' <safouh@smsenergy-engineering.com>; Anshul Mathur; 'Mr. Elliot Smith' <esmith@osler.com>
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Sent: Tuesday, March 01, 2011 07:13 PM
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Cc: Terri Steeves <terri_steeves@transcanada.com>

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I will keep you posted on any additional information provided by MPS as soon as I receive it.

Many thanks for meeting with us today.

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: March 4, 2011 2:11 PM
To: Deborah Langelaan; JoAnne Butler
Subject: RE: Reminder - Board Presentations Today
Attachments: OGS_BOD_CM_20110316.ppt

Importance: High

Deb and JoAnne,

Have a look at what I've done as an OGS update. Are you both alright with it?

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: Deborah Langelaan
Sent: Fri 04-Mar-11 11:21 AM
To: Michael Killeavy
Subject: RE: Reminder - Board Presentations Today

You must be reading my mind....

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: March 4, 2011 11:16 AM
To: Derek Leung; Viviana von Bertoldi; Bonnie Hiltz; Perry Cecchini; Deborah Langelaan; Catherine Forster; Jaideep Nagpal
Subject: Fw: Reminder - Board Presentations Today

I don't have the agenda handy, but if we have an item, the slides are due today.

Deb, we're on with OGS so can you send me the final version of what you did last time and I'll update them after lunch.

Thanks

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

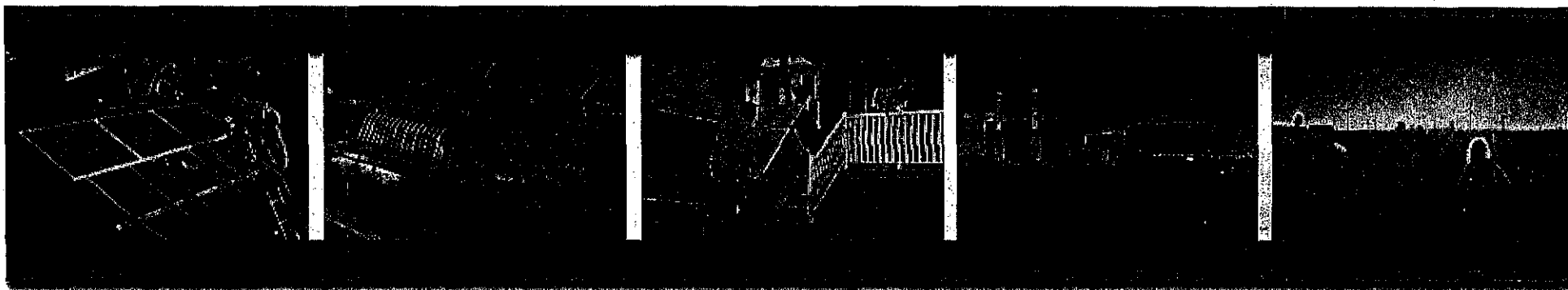
----- Original Message -----

From: JoAnne Butler
Sent: Friday, March 04, 2011 11:07 AM
To: Michael Killeavy; Barbara Ellard; Shawn Cronkwright; Kevin Dick
Cc: Manuela Moellenkamp; John Zych
Subject: Reminder - Board Presentations Today

Please have your draft presentations to John/Colin by the end of the day for Colin to have a look at first. We can then finalize them on Monday. Better to have dated information than no information....we can always update verbally, including confidential information.

Thanks...

JCB



Winding Up of the Oakville Generating Station (OGS) Contract

Board of Directors

March 16, 2011

Privileged and Confidential – Prepared in Contemplation of Litigation

OGS Update

- This presentation is for the Board's information.
- OPA/TransCanada Energy (TCE) negotiating team has met once since February's Board update.
- Discussions continue to be productive with respect to the "winding-up" of the Contract.
- TCE planning to deliver a proposal, implementation agreement and letter to Colin on 7 March 2011.
- MPS has provided its fixed price proposal to TCE for the fast-start GT option, scope of work for the conversion from combined-cycle to simple cycle, and delay/suspension costs. The cost increased by about 10% from \$33M to \$36M.
- TCE presented also us with commercial parameters for the proposed peaking plant, along with the revisions to the NYR contract that it needs.
- We are continuing to do our due diligence on commercial parameters/contract changes and will be hiring a financial consultant to assist us.
- OPA continues to work with the Ministry of Energy on the drafting of the Directive to authorize negotiations with TCE for the replacement project.

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Next Steps

- Continue discussions with TCE to achieve the following:
 - An understanding of TCE's commercial position;
 - Finalize technical design requirements;
 - Siting of replacement facility;
 - Negotiation and execution of the Implementation Agreement;
 - TCE plan for handling First Nations issues.

Inform MO/PO and get buy in to disclose and move forward.

Replacement Generation Project

- TCE still leaning toward development of the Boxwood Industrial Park site.
- Colin has indicated that the MO has no issues with TCE approaching the City of Cambridge.
- There was a mention of the OGS contract cancellation in the 3 March 2011 edition of the Toronto Star – **“Oakville wins nearly \$500,000 in legal costs”**

Price of Peaking Plant Conversion

- The incremental estimated price for the conversion was \$33 MM (US) +/- 25%.
- MPS revised the price to convert the GT's to Fast Start from \$3 MM to \$6 MM.
- MPS revised the price to convert from Combined Cycle to Simple Cycle from \$15 MM to \$12 MM.
- Delayed delivery and suspension costs remain \$15 MM.
- TCE received the MPS final price for Peaking plant conversion on February 28, 2011 and price was \$36 MM, which was within the 25% range indicated above by MPS

Mitsubishi (MPS) Gas Turbines (GT's)

- GT's originally purchased for OGS were designed for a Combined Cycle generation plant.
- Fall 2010 TCE suspended MPS contract until January 31, 2011.
- January 28, 2011 TCE released MPS from suspension and directed them to commence work on converting the GT's to Fast Start.
- Fast Start option will meet the requirements of a Peaking generation plant in Cambridge.
- Fixed the suspension costs that TCE had been incurring under terms of MPS ESA.

TCE Commercial Proposal

- TCE has provided the OPA with its proposed costs for the peaking plant, along with a listing of changes it requires to the NYR Peaking Contract.
- TCE indicates that the plant needs to have a NRR of \$16,900/MW-month, which is slightly lower than its NRR for OGS of \$17,277/MW-month.
- Using TCE's CAPEX figure and indicated OGS rate of return we have come up with an NRR that is about \$15,000/MW-month

TCE Commercial Proposal

- We are continuing to review our estimate in light of theirs.
- We have requested more information from TCE to understand how it has arrived at its NRR figure.
- TCE has also asked for a number of changes to the NYR Peaking Contract, the contract upon which we would base the K-W contract.
- We continue to review these proposed changes.

Aleksandar Kojic

From: Deborah Langelaan
Sent: March 4, 2011 2:39 PM
To: 'John Mikkelsen'
Cc: Michael Killeavy
Subject: RE:

John;

Based on your comments below the OPA understands that TCE would like to provide direction to MPS on the New Scope today. At this point in time the OPA is not in a position to provide you with our comments on the New Scope firm price proposal. OPA's counsel received MPS's firm pricing proposal on the evening of February 28th and we require more time to (i) receive and review MPS responses to the questions OPA provided to TCE on March 3rd and (ii) complete our review the proposal.

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: February 25, 2011 10:26 AM
To: Deborah Langelaan; Michael Killeavy
Cc: Terry Bennett; Geoff Murray; John Cashin; Terri Steeves
Subject:

Dear Deborah,

Attached please find Letter Agreement #4 between TransCanada Energy Ltd. and MPS Canada, Inc.

Further to our e-mail on January 31st, 2011 where we indicated our rationale to release MPS to start the fast start conversion, we need to provide further direction to MPS by early March 4, 2011 with respect to the New Scope as this term is defined in the attached agreement.

Specifically, we need to determine whether to include the New Scope in the amended Contract or to exclude it now and issue direction to MPS for the New Scope at a future date. Firm pricing for the New Scope is to be provided by MPS by February 28, 2011. Please note that in the event TransCanada employs the MPS gas turbines in simple cycle configuration, MPS has exclusivity surrounding the New Scope.

If we were to release MPS to construct the new Scope we believe the benefits to be as follows:

1. This action will provide additional cost certainty on the scope as the currently defined. Given the level of engineering completed to date on the project it is very likely that further changes will be required and facilitated through change orders but it would lock down a baseline. Otherwise assuming we finalize an agreement to develop a potential project with the OPA, we are at risk to future price increases by MPS where they have the exclusivity to supply that scope.
2. The release of MPS provides performance certainty as the entire power island scope is wrapped in a single guarantee from MPS. Again there may be modifications to the performance guarantees as a consequence of changes but at least we would have a strong baseline.
3. The release of MPS will enable the generation of additional engineering information to facilitate the design of the balance of the plant and improve the cost estimate for the balance of plant for the project. There would be fewer gaps in the design between engineer's scope and that of MPS.
4. Lastly the release of MPS will reduce the exposure to risks as we will have completed a greater level of definition by the time of our contract execution and we will be able to close any gaps that might exist (e.g. noise mitigation).

In the event that we are unable to provide direction to MPS on the New Scope in by March 4, our proposal would be to get the New Scope written into the MPS contract as an option. We would attempt to get the terms and conditions to include the scope and guarantees for the option, a date by which the option would need to be exercised, and how the final price would be determined.

We ask the OPA to carefully consider the above and advise us of your views concerning direction on the New Scope. Please do not hesitate to contact me should you have any questions or concerns surrounding the foregoing.

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: March 4, 2011 2:46 PM
To: Deborah Langelaan
Subject: Re:

This is fine. Thanks.

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

From: Deborah Langelaan
Sent: Friday, March 04, 2011 02:39 PM
To: 'John Mikkelsen' <john_mikkelsen@transcanada.com>
Cc: Michael Killeavy
Subject: RE:

John;

Based on your comments below the OPA understands that TCE would like to provide direction to MPS on the New Scope today. At this point in time the OPA is not in a position to provide you with our comments on the New Scope firm price proposal. OPA's counsel received MPS's firm pricing proposal on the evening of February 28th and we require more time to (i) receive and review MPS responses to the questions OPA provided to TCE on March 3rd and (ii) complete our review the proposal.

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Best regards,

John Mikkelsen, P.Eng.

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200 Bay Street
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Aleksandar Kojic

From: Michael Killeavy
Sent: March 4, 2011 2:58 PM
To: Anshul Mathur
Cc: Deborah Langelaan
Subject: Re: TCE Financial Consultant

Ok. Chris is a smart guy. I think he'd have let me know already.

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: Anshul Mathur
Sent: Friday, March 04, 2011 02:56 PM
To: Michael Killeavy
Cc: Deborah Langelaan
Subject: RE: TCE Financial Consultant

Hopefully they can bid in... if they are not conflicted.

I'll check our policy.

From: Michael Killeavy
Sent: March 4, 2011 2:56 PM
To: Anshul Mathur
Cc: Deborah Langelaan
Subject: Re: TCE Financial Consultant

Too late. JoAnne wants someone right away, so I guess it's CIBC.

I think as long as we've asked three, we're okay vis-a-vis our procurement rules, but could someone just check the policy or ask Sally? Jodi Church may even know - she worked in corporate procurement for a while.

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: Anshul Mathur
Sent: Friday, March 04, 2011 02:52 PM
To: Michael Killeavy
Cc: Deborah Langelan
Subject: TCE Financial Consultant

RBC is out – they are conflicted. I wonder if any of the major banks would be able to help as Transcanada is probably their client...

The only one left is CIBC. Do you think it is worth contacting Jacob Securities: <http://www.jacobsecurities.com/> (I know these guys are involved on renewable side of things for sure...)

Aleksandar Kojic

From: Michael Killeavy
Sent: March 4, 2011 3:37 PM
To: Colin Andersen
Cc: John Zych; Deborah Langelaan; JoAnne Butler
Subject: Board of Directors' OGS Contract Wind Up Update Presentation - 16 March 2011 ...
Attachments: OGS_BOD_CM_20110316.ppt

Importance: High

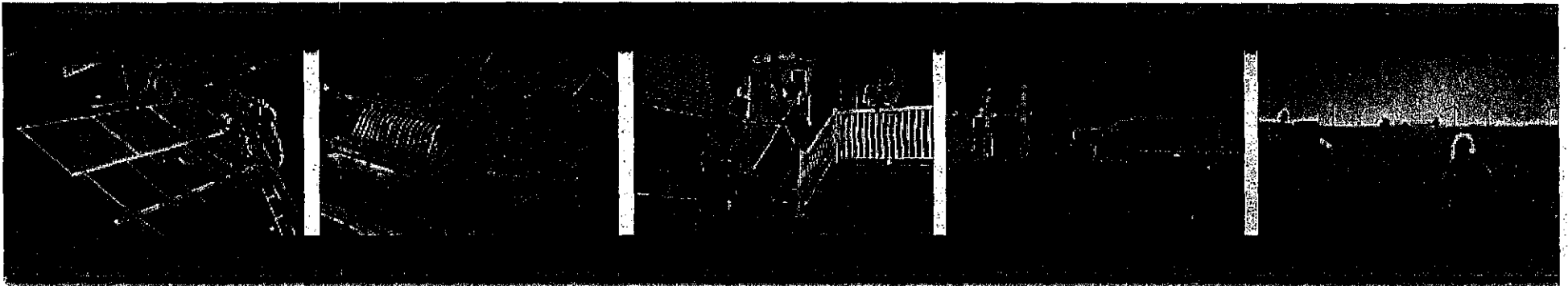
*** PRIVILEGED AND CONFIDENTIAL - PREPARED IN CONTEMPLATION OF LITIGATION ***

Colin,

Attached is the OGS Contract update presentation for the next Board meeting.

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)
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Michael.killeavy@powerauthority.on.ca



Winding Up of the Oakville Generating Station (OGS) Contract

Board of Directors

March 16, 2011

Privileged and Confidential – Prepared in Contemplation of Litigation

OGS Update

- This presentation is for the Board's information.
- OPA/TransCanada Energy (TCE) negotiating team has met once since February's Board update.
- Discussions continue to be productive with respect to the "winding-up" of the Contract.
- TCE planning to deliver a proposal, implementation agreement and letter to Colin on 7 March 2011.
- MPS has provided its fixed price proposal to TCE for the fast-start GT option, scope of work for the conversion from combined-cycle to simple cycle, and delay/suspension costs. The cost increased by about 10% from \$33M to \$36M (US\$).
- TCE also presented us with commercial parameters for the proposed peaking plant, along with the revisions to the NYR contract that it needs.
- We are continuing to do our due diligence on commercial parameters/contract changes and will be hiring a financial consultant to assist us.
- OPA continues to work with the Ministry of Energy on the drafting of the Directive to authorize negotiations with TCE for the replacement project.

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Next Steps

- Continue discussions with TCE to achieve the following:
 - An understanding of TCE's commercial position;
 - Finalize technical design requirements;
 - Siting of replacement facility;
 - Negotiation and execution of the Implementation Agreement;
 - TCE plan for handling First Nations issues.

Inform MO/PO and get buy in to disclose and move forward.

Replacement Generation Project

- TCE still leaning toward development of the Boxwood Industrial Park site.
- Colin has indicated that the MO has no issues with TCE approaching the City of Cambridge.
- There was a mention of the OGS contract cancellation in the 3 March 2011 edition of the Toronto Star – **“Oakville wins nearly \$500,000 in legal costs”**

Mitsubishi (MPS) Gas Turbines (GT's)

- GT's originally purchased for OGS were designed for a Combined Cycle generation plant.
- Fall 2010 TCE suspended MPS contract until January 31, 2011.
- January 28, 2011 TCE released MPS from suspension and directed them to commence work on converting the GT's to Fast Start.
- Fast Start option will meet the requirements of a Peaking generation plant in Cambridge.
- Fixed the suspension costs that TCE had been incurring under terms of MPS ESA.

Price of Peaking Plant Conversion

- The incremental estimated price for the conversion was \$33 MM (US) +/- 25%.
- MPS revised the price to convert the GT's to Fast Start from \$3 MM to \$6 MM.
- MPS revised the price to convert from Combined Cycle to Simple Cycle from \$15 MM to \$12 MM.
- Delayed delivery and suspension costs remain \$15 MM.
- TCE received the MPS final price for Peaking plant conversion on February 28, 2011 and price was \$36 MM, which was within the 25% range indicated above by MPS

TCE Commercial Proposal

- TCE has provided the OPA with its proposed costs for the peaking plant, along with a listing of changes it requires to the NYR Peaking Contract.
- TCE indicates that the plant needs to have a NRR of \$16,900/MW-month, which is slightly lower than its NRR for OGS of \$17,277/MW-month.
- Using TCE's CAPEX figure and indicated OGS rate of return we have come up with an NRR that is about \$15,000/MW-month

TCE Commercial Proposal

- We are continuing to review our estimate in light of theirs.
- We have requested more information from TCE to understand how it has arrived at its NRR figure.
- TCE has also asked for a number of changes to the NYR Peaking Contract, the contract upon which we would base the K-W contract.
- We continue to review these proposed changes.

Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: March 4, 2011 4:26 PM
To: Deborah Langelaan
Cc: Michael Killeavy; Smith, Elliot
Subject: Next Meeting with TCE

Deb,

As we did not receive confirmation about the proposed meeting with TCE next Tuesday, I have now booked another meeting from 2:30 to 4:30 on Tuesday. I am available on Wednesday afternoon if needed instead.

Thanks, Rocco

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Aleksandar Kojic

From: Anshul Mathur
Sent: March 4, 2011 4:52 PM
To: Michael Killeavy; Deborah Langelaan
Subject: TCE Capex and NRR Build-Up
Attachments: TCE Capex and NRR Build Up.xls

*** Privileged and Confidential – Prepared in Contemplation of Litigation ***

Hi Michael / Deb:

I have created a Model (see attached) with the following information (in different sheets):

1. Capex of K-W – I have used both the Capex Presentation as well as Schedule C to come up with a Capex for K-W.
2. Value of OGS
3. Cost of Capital Assumptions
4. NRR Model for 20 and 30 years

Capex of K-W:

I have used numbers from both the Capex Presentation from TCE as well as Schedule C recently submitted. I have stated the source of the information in the financial model itself for reference.

Value of OGS:

This was given to us by TCE. However, I have adjusted the Value of the Contract by changing the Cost of Capital for 1-20 and 21-30 years. This Value of OGS is included in the NRR for K-W.

Cost of Capital Assumptions:

Also attached in the sheet and is used to calculate the OGS NPV and Return's on K-W.

In the NRR Model for 20 and 30 years, the following assumptions are used:

- Capex of ~\$576M (based on the assumptions in the Capex sheet)
- \$18M/year cost of Fixed Operating Expenses. I used an $\frac{2}{3}$ rd of average LTSA costs provided by TCE for OGS (considering that there is no steam turbine I used $\frac{2}{3}$ rd of OGS Fixed Operating costs)
- \$10.35M/year for GD&M to get to \$1700 MW-Month NRR
- NRR of \$5000 MW-Month used as a plug and,
- \$375M OGS Value

Based on the above assumptions, the K-W NRR for a 30-year term is \$22,667 and for a 20-year term is \$24,767.

However, about \$6000 MW-Month is due to OGS NPV of \$375M. If you reduce the NPV to \$123M (using 7.393% for 1-20 year and 9% for 21-30 years) the NRR number decreases to \$19,200 and \$20,760 for 30 and 20 year terms respectively. Further, I tried to do a very crude analysis on the impact of CPI escalation of NRR. The NPV of an escalation difference between 50% and 20% could be up to \$100M in value @2% CPI. In the NRR sheets, the second table provides the variances between Escalation and CPI.

There is a lot of stuff as usual in this model so I have booked a room for 45min for Monday morning and have sent you the invites to discuss this.

Thanks,
Anshul

Capex Development of K-W Peaking Plant

Main Turbine Original Costs	\$156,274,358	27.1%
Main Turbine Additional Scope	\$39,198,860	6.8%
BOP Major Equipment	\$24,349,133	4.2%
Gas Turbine Transportation	\$7,380,680	1.3%
Gas Turbine Technical Assistance	\$3,622,500	0.6%
Change Order CTG	\$4,098,732	0.7%
Change Order EPC	\$7,078,387	1.2%
Engineering Costs	\$20,738,776	3.6%
Construction	\$89,927,715	15.6%
Landscapping	\$2,000,000	0.3%
HV Switching Station / Tap Station	\$1,850,000	0.3%
Interconnection - Water/Waste/Sewer	\$700,000	0.1%
Storm Water Pond	\$4,394,750	0.8%
New Start-up Energy (Fuel + Backfeed...)	\$6,234,172	1.1%
Fuel and Gas Delivery Start-up Costs	\$3,000,000	0.5%
Opex Spares	\$1,824,375	0.3%
Community Benefits	\$20,000,000	3.5%
Development Charges, Park's Fees etc.	\$2,990,000	0.5%
Development Cost	\$4,900,000	0.8%
Project & Construction Mgmt	\$13,807,794	2.4%
O&M Mobilization	\$4,797,287	0.8%
Capital Maintenance	\$17,230,028	3.0%
Insurance and Misc.	\$6,780,987	1.2%
Site Purchase	\$29,250,000	5.1%
Taxes, Duties & Fees	\$4,304,725	0.7%
Escalation	\$16,667,323	2.9%
Engineering & Construction Risk	\$6,552,116	1.1%
IBL Allowances (EPC, CTG ...)	\$18,607,205	3.2%
Development Allowance	\$24,752,309	4.3%
Electrical Connection Costs	\$0	0.0%
Gas Connection Costs	\$0	0.0%
Sunk Costs	\$33,561,710	5.8%
Total Capex	\$576,873,922	

Assumption for information gathering

Other documents (144.9US @1.08CAD/US)

MPS firm price (36.295US @ 1.08CAD/US)

Schedule C - although Capex Presentation is \$18,315,554

Schedule C - although Capex Presentation provides a \$10.1M as 'Other'

Schedule C - although Capex Presentation provides a \$10.1M as 'Other'

Capex Presentation

Capex Presentation

Schedule C - although Capex Presentation provides \$18,315,554

Schedule C - although Capex Presentation says this is \$106,333,140

Schedule C and Capex Presentation

Schedule C

Schedule C

Schedule C

Schedule C

Schedule C

Schedule C

Schedule C

Schedule C

Capex Presentation

Capex Presentation

Capex Presentation

Capex Presentation

Capex Presentation

Schedule C - although Capex Presentation says this is \$31,679,274

Capex Presentation

Capex Presentation - although Schedule C says \$9,372,568

Schedule C - although Capex Presentation lumps Risk & Contingency into \$26M

Schedule C - although Capex Presentation lumps Risk & Contingency into \$26M

Capex Presentation

Pass through to the OPA

Pass through to the OPA

Capex Presentation

Cost of Equity: Based on CAPM Model	
Risk Free Rate (10-year Cdn Govt Bond, 2009)	3.86%
Transcanada beta	1.06
Cost of Equity (CAPM)	7.95%
Cost of Debt (Actual Values from Financial Statements)	
Interest on Long-Term Debt (in 2009)	\$1,285
Long Term Debt (Market Value)	\$19,377
Effective Cost of Debt	6.63%
Effective Tax Rate (Average of 6 years)	25.09%
Cost of Debt (after Taxes)	4.97%
Debt / Capital Ratio	
Debt / Capital Ratio	56%
Equity / Capital Ratio	44%
Cost of Capital (Weighted)	
Cost of Capital (Weighted)	6.28%

Assumptions for NRR Sheet	
Contract Capacity	510 MW's
Fixed Operating Expenses	\$18,000,000 Per year
GD&M Costs	\$10,350,000 Per year
Plug for NRR	\$5,000 /MW-Month
Inflation (CPI)	2% Per year

Cost of Equity: Based on Financial Statements	
Return on Equity (Net Income / S. Equity)	9.80%
Dividend Yield	4.80%
Total Shareholder Return	14.40%
Cost of Debt (Actual Values from Financial Statements)	
Interest on Long-Term Debt (in 2009)	\$1,285
Long Term Debt (Market Value)	\$19,377
Effective Cost of Debt	6.63%
Effective Tax Rate (Average of 6 years)	25.09%
Cost of Debt (after Taxes)	4.97%
Debt / Capital Ratio	
Debt / Capital Ratio	56%
Equity / Capital Ratio	44%
Cost of Capital (Weighted)	
Cost of Capital (Weighted)	9.12%

Cost of Equity: Dividend Discount Model	
After Tax Cost of Debt	4.97%
Cost of Equity	10.48%
WACC	7.393% <--- Probably the best evaluated Cost of Capital

Comparable Companies to calculate Beta		
	Weighting of similarities	Beta
Capital Power	6	3.798
Transalta	24	0.792
Enbridge Energy	24	0.785
Duke Energy	16	0.405
Edison International	12	0.607
Brookfield Asset	6	1.138
Ameresco	6	3.73
Atco	6	0.374
Average	100	1.05852

Transcanada Tax Rates	
2004	26.70%
2005	28.90%
2006	18.75%
2007	27.70%
2008	27.71%
2009	20.77%
Avg. Effective Tax Rates	25.09%

Aleksandar Kojic

From: Safouh Soufi [safouh@smsenergy-engineering.com]
Sent: March 5, 2011 2:46 PM
To: Michael Killeavy
Cc: Deborah Langelaan; Anshul Mathur
Subject: RE: Peaking Plant NRR Model ...

Micheal,

I had not seen your email earlier but caught it this morning.

I saw the attached model and my comment on it is that it is too simple for the necessary analysis. As I am sure you know the NRR is not arrived at this way. We usually build-up CAPEX and OPEX, integrate performance (output and heat rate), forecast dispatch, add other parameters including offer parameters and then determine NRR for a given return.

Few comments:

- The project is 100% equity financed, the model includes debt financing -The model pegs the return of a levered project at 9% whereas the project is unlevered and its return is unknown to OPA. In fact it is the return that we are trying to guess estimate, not the NRR.
- Also, we are looking for the return net of tax; the pegged return in the model is before tax.

By the way the model shows that GD&M is included but TCE didn't include that in their proposed NRR. Let's compare apples with apples.

Despite the fact that it is too simple, it shows one thing and that is TCE's return is much higher than 9%, when we allow \$5,000/MW-month as OGS uplift.

I have strong reasons to believe that \$5,000/MW-month is too generous and will send you something later this weekend to support that view.

Thanks,
Safouh

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]
Sent: March 3, 2011 8:03 PM
To: safouh@smsenergy-engineering.com
Cc: Deborah Langelaan; Anshul Mathur
Subject: Peaking Plant NRR Model ...
Importance: High

Safouh,

Attached is the relatively simple model we've been using to estimate the NRR for the peaking plant. It builds up NRR from a specific cost for the facility. Are our assumptions we use in the NRR build up reasonable? Are we missing something that ought to be included?

We cannot reproduce TCE's number for NRR given a CAPEX for the plant indicated on 25 January 2011 and the subsequent contract changes.

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

Aleksandar Kojic

From: Michael Killeavy
Sent: March 5, 2011 2:50 PM
To: 'safouh@smsenergy-engineering.com'
Cc: Deborah Langelaan; Anshul Mathur
Subject: Re: Peaking Plant NRR Model ...

It was intended to be a simple model.

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

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

From: Safouh Soufi [<mailto:safouh@smsenergy-engineering.com>]
Sent: Saturday, March 05, 2011 02:45 PM
To: Michael Killeavy
Cc: Deborah Langelaan; Anshul Mathur
Subject: RE: Peaking Plant NRR Model ...

Micheal,

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Sent: March 3, 2011 8:03 PM
To: safouh@smsenergy-engineering.com
Cc: Deborah Langelaan; Anshul Mathur
Subject: Peaking Plant NRR Model ...
Importance: High

Safouh,

Attached is the relatively simple model we've been using to estimate the NRR for the peaking plant. It builds up NRR from a specific cost for the facility. Are our assumptions we use in the NRR build up reasonable? Are we missing something that ought to be included?

We cannot reproduce TCE's number for NRR given a CAPEX for the plant indicated on 25 January 2011 and the subsequent contract changes.

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

Aleksandar Kojic

From: Michael Killeavy
Sent: March 6, 2011 5:57 PM
To: Deborah Langelaan
Subject: Re: OGS Strategy

I sure hope not. I think we need to re-group on this tomorrow.

The issue of CAPEX build up by the OPA has raised its ugly head again. I'm not sure we can do this.

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: Deborah Langelaan
Sent: Sunday, March 06, 2011 05:42 PM
To: Michael Killeavy
Subject: Re: OGS Strategy

Muchael;

Is JoAnne expecting our analysis to be complete this week?

Deb

From: JoAnne Butler
Sent: Sunday, March 06, 2011 02:15 PM
To: Michael Killeavy; Deborah Langelaan; anshul.mather@powerauthority.on.ca
<anshul.mather@powerauthority.on.ca>; Kristin Jenkins
Subject: OGS Strategy

****PRIVILEGED AND CONFIDENTIAL - PREPARED IN CONTEMPLATION OF LITIGATION****

I have prepared this in advance of our meeting tomorrow as a go forward strategy for OGS. I am open to comments and suggestions. No need to respond today, I just wanted to get it out since I am in the Leadership meeting all tomorrow morning.

We can also discuss in light of what the TCE letter says, which we will also review tomorrow.

Kristin, this will really come down to how we communicate the outcome as well (in a no win situation for the OPA) so if you can make it tomorrow at 2:30 PM that would be great....

Thanks...

OGS STRATEGY

March 6, 2011

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Litigation is not preferred. It is not cheap; we will not necessarily win and the ratepayer will get no MW's out of it. TCE will litigate based on the promises received by them from the Premier's office. We also need to show that we have tried to mitigate. Only lawyers will make money out of this.

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- On the assumption that our counter will not be acceptable to TCE, negotiations will commence to get or not get to, final agreement by end of March, 2011.

Aleksandar Kojic

From: Safouh Soufi [safouh@smsenergy-engineering.com]
Sent: March 6, 2011 10:32 PM
To: Michael Killeavy
Cc: Deborah Langelaan; Anshul Mathur
Subject: Privileged and confidential

Without Prejudice

Hello Micheal:

I worked this afternoon on the model to see if I can evaluate what TCE calls Value Added Proposals. I have to get Bill to make changes to the model to facilitate a proper assessment of these parameters. I will try to get him to do this tomorrow.

In the mean time, I would like to give you a preliminary opinion on TCE's capital cost and proposed NRR. We believe TCE's NRR offer for a simple cycle plant is excessive. The inflated capital cost structure and estimate by TCE offers one reason for the increased NRR. We believe that TCE's specific capital cost is about \$300 - \$350/MW higher than that of another simple cycle project, which we all know of. This is based on publicly made available information. The mid point of \$325/MW is estimated (subject to confirmation) to increase NRR by about \$2,200/MW-month or more.

According to Schedule C; TCE is proposing an NRR starting at \$16,900/MW-month and not exceeding \$17,277/MW-month and subject to all the qualifications that TCE made in Schedule C. Assuming that the capital cost is brought in line with market then the maximum NRR could potentially be reduced to $(17,277 - 2,200) = \$15,077/\text{MW-month}$. This sounds like a figure the OPA is willing to work with based on what I heard earlier from OPA. However, I believe this figure is still high and we will make the necessary changes to our model in order to give you an opinion supported by facts.

In the mean time however, here is why I believe it is high and once again this is a preliminary opinion that will be subject to change [and it will change]. Assuming a discount rate of 5.25% (we are not proposing this rate it is just an assumption for this example) then the NPV for a 20-year contract is in the order of \$262Million and this translates to about \$3,000/MW-month in NRR. A higher discount rate will have a lower impact on NRR. Let's take this away from the \$15,077 NRR and we are left with \$12,077/MW-month of NRR excluding OGS uplift. This NRR exclude GM&D and grid connection charges.

The \$12,077/MW-month NRR is still excessive when you compare it to an NRR of \$9,998/MW-month (we are all familiar where this number comes from). The \$9,998/MW-month includes recovery of cost plus return, takes into account higher cost of development and financing which TCE NRR need not consider and includes grid connection whereas TCE NRR doesn't plus a number of variations that for the most part act against that other project and command relatively higher NRR from it such as economy of scale. Considering all the "extras" that has to be built in the \$9,998, it is not clear why TCE NRR is not at least equal.

I want to emphasize one more time that all above figures are preliminary except the NRR of \$9,998.

Thanks,
Safouh

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

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]
Sent: March 5, 2011 2:50 PM
To: safouh@smsenergy-engineering.com
Cc: Deborah Langelaan; Anshul Mathur
Subject: Re: Peaking Plant NRR Model ...

It was intended to be a simple model.

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

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

From: Safouh Soufi [mailto:safouh@smsenergy-engineering.com]
Sent: Saturday, March 05, 2011 02:45 PM
To: Michael Killeavy
Cc: Deborah Langelaan; Anshul Mathur
Subject: RE: Peaking Plant NRR Model ...

Micheal,

I had not seen your email earlier but caught it this morning.

I saw the attached model and my comment on it is that it is too simple for the necessary analysis. As I am sure you know the NRR is not arrived at this way. We usually build-up CAPEX and OPEX, integrate performance (output and heat rate), forecast dispatch, add other parameters including offer parameters and then determine NRR for a given return.

Few comments:

- The project is 100% equity financed, the model includes debt financing
- The model pegs the return of a levered project at 9% whereas the project is unlevered and its return is unknown to OPA. In fact it is the return that we are trying to guess estimate, not the NRR.
- Also, we are looking for the return net of tax; the pegged return in the model is before tax.

By the way the model shows that GD&M is included but TCE didn't include that in their proposed NRR. Let's compare apples with apples.

Despite the fact that it is too simple, it shows one thing and that is TCE's return is much higher than 9%, when we allow \$5,000/MW-month as OGS uplift. I have strong reasons to believe that \$5,000/MW-month is too generous and will send you something later this weekend to support that view.

Thanks,
Safouh

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]
Sent: March 3, 2011 8:03 PM
To: safouh@smsenergy-engineering.com

Cc: Deborah Langelaan; Anshul Mathur
Subject: Peaking Plant NRR Model ...
Importance: High

Safouh,

Attached is the relatively simple model we've been using to estimate the NRR for the peaking plant. It builds up NRR from a specific cost for the facility. Are our assumptions we use in the NRR build up reasonable? Are we missing something that ought to be included?

We cannot reproduce TCE's number for NRR given a CAPEX for the plant indicated on 25 January 2011 and the subsequent contract changes.

Michael

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416-969-6288 (office)
416-969-6071 (fax)
416-520-9788 (cell)
Michael.killeavy@powerauthority.on.ca

Aleksandar Kojic

From: Smith, Elliot [ESmith@osler.com]
Sent: March 7, 2011 9:42 AM
To: Michael Killeavy; Sebastiano, Rocco
Subject: Call

Michael,
I'm at my desk - if you'd like to chat I'll be here until 10, and after 11.

Elliot
416 862 6435

From: Michael Killeavy [mailto:Michael.Killeavy@powerauthority.on.ca]
Sent: Friday, March 04, 2011 10:04 AM
To: Deborah Langelaan <Deborah.Langelaan@powerauthority.on.ca>; Anshul Mathur <Anshul.Mathur@powerauthority.on.ca>; Sebastiano, Rocco; Smith, Elliot; safouh@smsenergy-engineering.com <safouh@smsenergy-engineering.com>
Cc: Susan Kennedy <Susan.Kennedy@powerauthority.on.ca>
Subject: Implementation Agreement - Analysis of Proposed Schedule B Value Propositions from TCE

*** PRIVILEGED AND CONFIDENTIAL - PREPARED IN CONTEMPLATION OF LITIGATION ***

Everyone,

Attached is the matrix I promised Wednesday evening at our meeting. It is a preliminary first draft of the analysis. There are some embedded notes for OPA, Osler and SMS Energy. I am open to any and all criticisms, suggestions, revisions, etc., to this preliminary draft of the analysis.

Michael

Michael Killeavy, LL.B., MBA, P.Eng.
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Ontario Power Authority
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soumis des droits d'auteur. Il est interdit de l'utiliser ou
de le divulguer sans autorisation.

Aleksandar Kojic

From: Michael Killeavy
Sent: March 7, 2011 12:53 PM
To: 'Sebastiano, Rocco'; 'Smith, Elliot'
Subject: FW: TCE Letter
Attachments: TCE 001.pdf

FYI – it came in last Friday.

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: JoAnne Butler
Sent: March 7, 2011 11:28 AM
To: Michael Killeavy; Deborah Langelaan; Anshul Mathur
Cc: Manuela Moellenkamp
Subject: Fw: TCE Letter

FYI. Came in last night...still unsigned...

Manuela, please print for me...thanks...

JCB

From: Kristin Jenkins
Sent: Sunday, March 06, 2011 07:53 PM
To: JoAnne Butler
Subject: Fw: TCE Letter

Letter attached.

Sent using BlackBerry

From: Kristin Jenkins [<mailto:kmjkristin@gmail.com>]
Sent: Sunday, March 06, 2011 07:53 PM
To: Kristin Jenkins
Subject: TCE Letter

CONFIDENTIAL AND WITHOUT PREJUDICE

March 4th, 2011

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

Re: Negotiations with TransCanada Energy Ltd.

Dear Mr. Andersen,

First, please accept my appreciation for your recent time taken to discuss our opportunity. As Ontario's largest private power investor, TransCanada continues to value its relationship with the Ontario Power Authority (OPA) and electricity ratepayers it serves.

As you are aware, we successfully responded to your SWGTA RFP and executed a contract with you to build, own and operate a 900MW combined cycle natural gas power plant. During the development and permitting phase of that project, the Minister of Energy announced that the project would not proceed due to significant changes in projected power system needs.

In your letter dated October 7, 2010 you confirmed that the OPA would not proceed with the contract, acknowledged our entitlement to reasonable damages from the OPA and expressed your desire to identify other projects which could compensate us for the termination of the contract. While initially disappointed, we focused on the changing needs of the OPA as our customer and welcomed the opportunity to meet those needs.

Since last October our respective teams have been seeking a mutually satisfactory solution. The basis for these discussions was the desire of both sides to find an arrangement which ensured value to Ontario electricity rate payers and fairness to TransCanada shareholders. The purpose of this letter is for me to formally convey such a solution. Furthermore, I have taken the liberty of summarizing the solution in the attached implementation agreement summary.

Ontario's Long Term Energy Plan states "As indicated in 2007 Plan, the procurement of a peaking natural gas fired plant in the Kitchener-Waterloo-Cambridge (KWC) area is still necessary. In that region, demand is growing at more than twice the provincial rate." This clear and consistent expression of electricity need became a natural focal point in our discussions. The plant described in the attached will meet the timing and reliability

requirements of the KWC area as identified by the OPA and the Independent Electricity System Operator. We have identified potential sites more than 500 meters from residential neighborhoods and schools. The plant will of course meet or exceed all environmental standards related to emissions and noise.

Simply put, this plant is a smaller, less expensive and more responsive plant than the one originally contracted for in the SWGTA RFP. Its capacity of 515 megawatts compared to the SWGTA at 900 megawatts reflects today's demand forecasts and is the basis for tremendous savings to Ontario's electricity ratepayers. The capital cost is estimated at \$540 million where the SWGTA capital cost was \$1.2 billion, representing a \$660 million reduction. Acting now will allow us to use the \$200 million gas turbines purchased for the SWGTA plant, thus turning an OPA liability into a valuable asset. By switching from combined cycle to simple cycle the plant will be able to respond faster and more efficiently to sudden increases in regional power demand.

Our respective teams have worked diligently for five months to identify an efficient and cost effective project. The anticipated contingency support payment necessary to support this project is now actually lower than that which was contracted for in the SWGTA Clean Energy Supply contract. You will also note in our attached implementation agreement summary that we have capped the anticipated NRR and offered shared savings in event cost efficiencies are identified prior to signing the CES contract.

TransCanada is confident it can develop, construct and operate a successful power project. Having built and operated power facilities across Ontario for over twenty years, TransCanada is deeply committed to consulting local stakeholders including First Nations, municipalities, local neighbors and environmental groups. We have had preliminary conversations with the Mayor and local First Nations and have committed to treating them as critical stakeholders in our development efforts.

In closing, I believe this project is an excellent alternative that will provide great value for Ontario electricity ratepayers and fairness to TransCanada shareholders. However, time is of the essence if we are to realize this potential value. In order to ensure the successful implementation of this project, including the technical scope, stakeholder outreach and permitting process, work needs to begin within the next several weeks.

I therefore request that the OPA seek formal approval and direction from its Board and the Minister of Energy to proceed with this project by March 31st on the terms outlined in the attached implementation agreement summary and as more formally drafted in the attached Implementation Agreement. Once that agreement is executed, we can begin the development work necessary to complete the CES contract in a timely manner.

I look forward to your earliest response and to concluding contractual arrangements on this great opportunity.

Yours truly,

Alex Pourbaix
President

Attachment

c.c. David Lindsay, Deputy Minister of Energy
Craig MacLennan, Chief of Staff to the Minister of Energy

DRAFT

Aleksandar Kojic

From: Deborah Langelaan
Sent: March 7, 2011 1:47 PM
To: 'Rocco Sebastiano (rsebastiano@osler.com)'; 'Safouh Soufi (safouh@smsenergy-engineering.com)'
Cc: 'Smith, Elliot'; Michael Killeavy
Subject: Privileged and Confidential
Attachments: TCE 001.pdf

Gentlemen;

Attached please find a draft letter from Alex Pourbaix to Colin Andersen requesting approval of the Cambridge project under their proposed terms.

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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c.c. David Lindsay, Deputy Minister of Energy
Craig MacLennan, Chief of Staff to the Minister of Energy

DRAFT

Aleksandar Kojic

From: Michael Killeavy
Sent: March 7, 2011 3:37 PM
To: 'RSebastiano@osler.com'; 'ESmith@osler.com'; 'safouh@smsenergy-engineering.com'
Subject: Fw: OGS Strategy

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: Sunday, March 06, 2011 02:15 PM
To: Michael Killeavy; Deborah Langelaan; anshul.mather@powerauthority.on.ca
<anshul.mather@powerauthority.on.ca>; Kristin Jenkins
Subject: OGS Strategy

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JCB

OGS STRATEGY
March 6, 2011

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- On the assumption that our counter will not be acceptable to TCE, negotiations will commence to get or not get to, final agreement by end of March, 2011.

Aleksandar Kojic

From: JoAnne Butler
Sent: March 7, 2011 4:10 PM
To: Michael Killeavy; Deborah Langelaan
Subject: FW: Board of Directors' OGS Contract Wind Up Update Presentation - 16 March 2011 ...
Attachments: OGS_BOD_CM_20110316.ppt

Importance: High

Can you please revamp in light of what we talked about today...also, we should be able to do this in about four slides. They have already seen the detail on the turbines, please just highlight that we have a final price and have capped the interest exposure. Thanks...

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

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

From: Michael Killeavy
Sent: Viernes, 04 de Marzo de 2011 03:37 p.m.
To: Colin Andersen
Cc: John Zych; Deborah Langelaan; JoAnne Butler
Subject: Board of Directors' OGS Contract Wind Up Update Presentation - 16 March 2011 ...
Importance: High

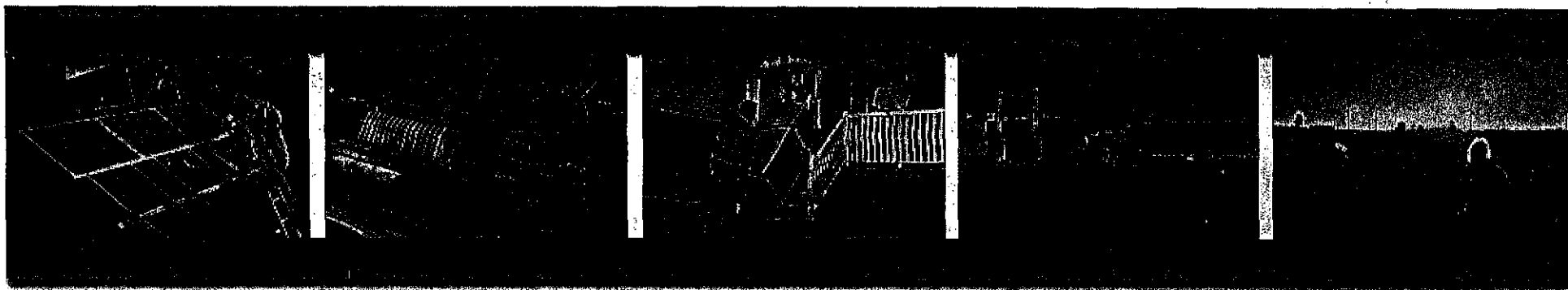
*** PRIVILEGED AND CONFIDENTIAL - PREPARED IN CONTEMPLATION OF LITIGATION ***

Colin,

Attached is the OGS Contract update presentation for the next Board meeting.

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



Winding Up of the Oakville Generating Station (OGS) Contract

Board of Directors

March 16, 2011

Privileged and Confidential – Prepared in Contemplation of Litigation

OGS Update

- This presentation is for the Board's information.
- OPA/TransCanada Energy (TCE) negotiating team has met once since February's Board update.
- Discussions continue to be productive with respect to the "winding-up" of the Contract.
- TCE planning to deliver a proposal, implementation agreement and letter to Colin on 7 March 2011.
- MPS has provided its fixed price proposal to TCE for the fast-start GT option, scope of work for the conversion from combined-cycle to simple cycle, and delay/suspension costs. The cost increased by about 10% from \$33M to \$36M (US\$).
- TCE also presented us with commercial parameters for the proposed peaking plant, along with the revisions to the NYR contract that it needs.
- We are continuing to do our due diligence on commercial parameters/contract changes and will be hiring a financial consultant to assist us.
- OPA continues to work with the Ministry of Energy on the drafting of the Directive to authorize negotiations with TCE for the replacement project.

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Next Steps

- Continue discussions with TCE to achieve the following:
 - An understanding of TCE's commercial position;
 - Finalize technical design requirements;
 - Siting of replacement facility;
 - Negotiation and execution of the Implementation Agreement;
 - TCE plan for handling First Nations issues.

Inform MO/PO and get buy in to disclose and move forward.

Replacement Generation Project

- TCE still leaning toward development of the Boxwood Industrial Park site.
- Colin has indicated that the MO has no issues with TCE approaching the City of Cambridge.
- There was a mention of the OGS contract cancellation in the 3 March 2011 edition of the Toronto Star – **“Oakville wins nearly \$500,000 in legal costs”**

Mitsubishi (MPS) Gas Turbines (GT's)

- GT's originally purchased for OGS were designed for a Combined Cycle generation plant.
- Fall 2010 TCE suspended MPS contract until January 31, 2011.
- January 28, 2011 TCE released MPS from suspension and directed them to commence work on converting the GT's to Fast Start.
- Fast Start option will meet the requirements of a Peaking generation plant in Cambridge.
- Fixed the suspension costs that TCE had been incurring under terms of MPS ESA.

Price of Peaking Plant Conversion

- The incremental estimated price for the conversion was \$33 MM (US) +/- 25%.
- MPS revised the price to convert the GT's to Fast Start from \$3 MM to \$6 MM.
- MPS revised the price to convert from Combined Cycle to Simple Cycle from \$15 MM to \$12 MM.
- Delayed delivery and suspension costs remain \$15 MM.
- TCE received the MPS final price for Peaking plant conversion on February 28, 2011 and price was \$36 MM, which was within the 25% range indicated above by MPS

TCE Commercial Proposal

- TCE has provided the OPA with its proposed costs for the peaking plant, along with a listing of changes it requires to the NYR Peaking Contract.
- TCE indicates that the plant needs to have a NRR of \$16,900/MW-month, which is slightly lower than its NRR for OGS of \$17,277/MW-month.
- Using TCE's CAPEX figure and indicated OGS rate of return we have come up with an NRR that is about \$15,000/MW-month

TCE Commercial Proposal

- We are continuing to review our estimate in light of theirs.
- We have requested more information from TCE to understand how it has arrived at its NRR figure.
- TCE has also asked for a number of changes to the NYR Peaking Contract, the contract upon which we would base the K-W contract.
- We continue to review these proposed changes.

Aleksandar Kojic

From: Deborah Langelaan
Sent: March 8, 2011 11:45 AM
To: JoAnne Butler; Michael Killeavy
Subject: Revised OGS Board Presentation
Attachments: OGS_BOD_CM_20110316.ppt

JoAnne and Michael;

I have revised the presentation to incorporate our discussions from yesterday. Please review and provide me with your comments.

Thanks,
Deb



Winding Up of the Oakville Generating Station (OGS) Contract

Board of Directors

March 16, 2011

Privileged and Confidential – Prepared in Contemplation of Litigation

OGS Update (for information purposes only)

- OPA/TCE negotiating team met once since February's Board update
- OPA awaiting response from the Ministry of Energy on the drafting of the Directive
- February 28th MPS provided its fixed price proposal to TCE for:
 - Fast-start GT option
 - Scope of work for the conversion from combined-cycle to simple cycle
 - Delay/suspension costs
- MPS cost increased by ~10% (US \$33MM to \$36MM)
- March 1st OPA received TCE's Potential Project Pricing and Terms Proposal
 - commercial parameters for the proposed peaking plant along with proposed revisions to the peaking contract
- March 6th OPA received draft letter from Alex Pourbaix, President TCE requesting approval of the Cambridge project under their proposed terms

TCE Potential Project Pricing and Terms Proposal

- TCE provided OPA with its estimated costs for the peaking plant along with a list of suggested changes to the peaking Contract
- TCE's position is they require a \$16,900/MW-month NRR which is slightly lower than the \$17,277/MW-month NRR for OGS
- TCE proposing to pass through majority of risk to Ontario ratepayer
- OPA has requested more information from TCE to understand how it arrived at its NRR

TCE Potential Project Pricing and Terms Proposal

- OPA has retained NERA Economic Consulting as its Financial Consultant
- OPA performing sensitivity analysis to develop matrix of NRR's based on various assumptions for discount rate, CAPEX, O&M contract term, etc.
- OPA continuing its due diligence on commercial parameters and contract changes
- OPA to provide TCE with counter offer before end of March

Next Steps

- Continue discussions with TCE to achieve the following:
 - An understanding of TCE's commercial position
 - Finalize technical design requirements
 - Siting of replacement facility
 - Negotiation and execution of Implementation Agreement
 - TCE plan for handling First Nations issues
- Inform MO/PO and get buy in to disclose and move forward

Aleksandar Kojic

From: JoAnne Butler
Sent: March 8, 2011 12:15 PM
To: Michael Killeavy; Susan Kennedy
Subject: RE: Designation Letter for TCE

I talked to Terry Bennett about this....he says that they had it checked out and didn't feel that they were in violation. Please confirm that we remain clear that it is a violation and I will get back to him again. Thanks..

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

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

From: Michael Killeavy
Sent: Lunes, 07 de Marzo de 2011 03:41 p.m.
To: Susan Kennedy
Cc: JoAnne Butler
Subject: Designation Letter for TCE

Susan,

Please do not send the Designation Letter to TCE. They are copying the Ministry on the Alex Pourbaix letter, which violates our confidentiality agreement. The Ministry is not a party to the confidentiality agreement.

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

Aleksandar Kojic

From: Sebastiano, Rocco [RSebastiano@osler.com]
Sent: March 8, 2011 12:22 PM
To: Michael Killeavy
Cc: Smith, Elliot
Subject: FW: New Matter

Michael,

I just got off the phone with Gene. He is very interested in this project. He does not think that he has a conflict as he is not aware of any work they are doing for TCE. He is going to complete his conflict search and then send me an email confirming his interest, hour rates, form of engagement letter, etc. I also asked him whether he would be available to get going quickly on this as we have an internal meeting scheduled for Thursday at 1 pm and he said that he has the time to devote to this and if required, he can participate on Thursday's conference call.

If we can get this all sorted out this afternoon, then Elliot and I can perhaps send out to Gene some relevant documents to start looking at, but we'll need to get him to sign a CA similar to the one that SMS Engineering signed, before we can send over some of the TCE materials.

Regards, Rocco

From: Meehan, Gene [mailto:Gene.Meehan@NERA.com]
Sent: Tuesday, March 08, 2011 10:11 AM
To: Sebastiano, Rocco
Subject: RE: New Matter

Rocco

Just left a voice mail. Give me a call anytime. I am in office at 202 466 9287 and cell will also work.

Best,
Gene

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: Monday, March 07, 2011 5:55 PM
To: Meehan, Gene
Subject: RE: New Matter

Tomorrow morning would be just great. Thanks, Rocco

From: Meehan, Gene [mailto:Gene.Meehan@NERA.com]
Sent: Monday, March 07, 2011 5:51 PM
To: Sebastiano, Rocco
Subject: Re: New Matter

Rocco

Thanks. I am very interested. We don't have Trans Canada conflicts that I can think of I will call tomorrow AM if

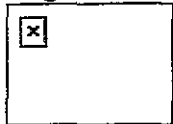
that is soon enough. If not let me know I am on granddaughter duty today with two five month old twins with colds

Gene

From: Sebastiano, Rocco
To: Meehan, Gene
Cc: Smith, Elliot
Sent: Mon Mar 07 17:26:28 2011
Subject: New Matter
Gene,

I just left you a voice mail about a new matter where we'd like to retain you on behalf of the Ontario Power Authority (OPA). It relates to the cancellation by the Province of TransCanada Energy's Oakville Generating Station which had been awarded a CES contract through a competitive procurement process on 2009. We are advising the OPA on the termination of this contract and a potential new project where we'd like to get your financial/economic advice. Please call me as soon as you so that we can discuss whether you would be interested and available to take on this new matter.

Regards, 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: Michael Killeavy
Sent: March 8, 2011 12:27 PM
To: 'RSebastiano@osler.com'
Cc: 'ESmith@osler.com'; Deborah Langelaan; Susan Kennedy
Subject: Re: New Matter

Great. Thanks!

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

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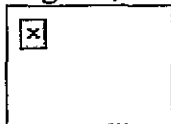
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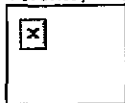
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Partner

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Aleksandar Kojic

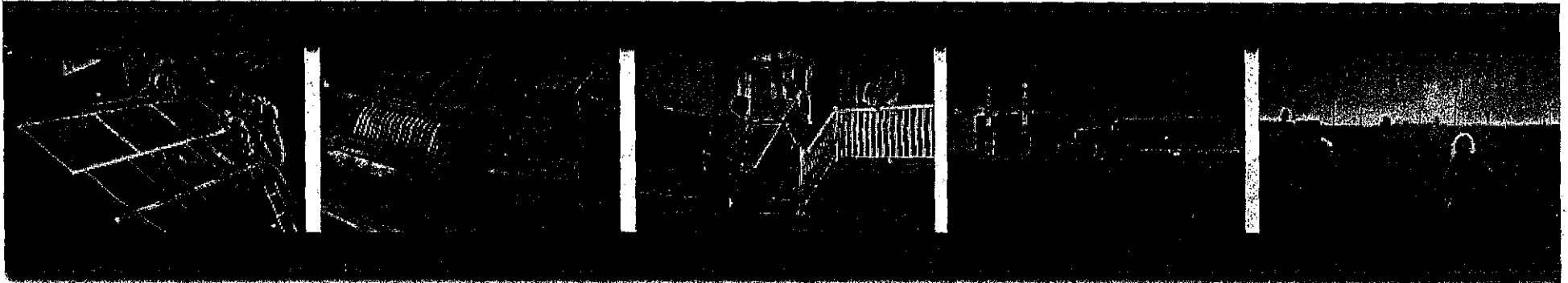
From: Deborah Langelaan
Sent: March 8, 2011 1:02 PM
To: Nimi Visram
Cc: JoAnne Butler; John Zych; Michael Killeavy
Subject: OGS Presentation for Board of Directors
Attachments: OGS_BOD_CM_20110316.ppt

*** PRIVILEGED AND CONFIDENTIAL - PREPARED IN CONTEMPLATION OF LITIGATION ***

Nimi;

Please find attached the Oakville Generating Station presentation for the upcoming Board meeting.

Deb



Winding Up of the Oakville Generating Station (OGS) Contract

Board of Directors

March 16, 2011

Privileged and Confidential – Prepared in Contemplation of Litigation

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 - TCE plan for handling First Nations issues
- Inform MO/PO and get buy in to disclose and move forward
- OPA to provide TCE with counter offer before end of March

Aleksandar Kojic

From: Smith, Elliot [ESmith@osler.com]
Sent: March 8, 2011 2:17 PM
To: Michael Killeavy
Cc: Sebastiano, Rocco
Subject: RE: Designation Letter for TCE

Michael,

We have reviewed the draft letter dated March 4, 2011, from Alex Pourbaix to Colin Andersen, with copies to the Deputy Minister of Energy and Chief of Staff to the Minister of Energy (the "Letter"). Although no attachments were included with the Letter, it is our understanding from the second last paragraph of the Letter that the final version will contain as attachments (i) an implementation agreement summary and (ii) the draft implementation agreement. We have considered the implication of sending this letter in connection with the October 8, 2010 Confidentiality Agreement between the OPA and TCE (the "CA"). The following is a summary of our analysis.

It is likely that the attachments to the Letter will contain "Confidential Information", as such term is defined in the CA. Specifically, we believe that these attachments will contain Mutually Confidential Information, which is defined to include, amongst other things, information "related to or part of the financial parameters for any other project or potential opportunity being discussed between the Parties". There is also the possibility that these attachments will contain the OPA's Confidential Information, if they disclose anything that is derived from confidential information provided by the OPA.

In accordance with the CA, a party is permitted to disclose Confidential Information to their Representatives. The Government of Ontario is included as a Representative of the OPA only, not of TCE, and as a result this exception would not be applicable to TCE's disclosure of the Letter. Consequently, it appears that if TCE transmits the Letter (including its attachments) to the Ministry of Energy, this would be a disclosure of Confidential Information by TCE contrary to the term of the CA. We believe that if TCE were to send the Letter without the attachments to the Ministry, this would be less likely to violate the terms of the CA.

If you have any further questions or would like to discuss, please let me or Rocco know.

Thanks,
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

osler.com

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

From: Sebastiano, Rocco
Sent: Tuesday, March 08, 2011 1:22 PM
To: Smith, Elliot
Subject: FW: Designation Letter for TCE

Can you respond to this? I have a meeting out the GTAA all afternoon that I have to leave for soon. Thanks, Rocco

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

From: Michael Killeavy [<mailto:Michael.Killeavy@powerauthority.on.ca>]
Sent: Tuesday, March 08, 2011 12:35 PM
To: Sebastiano, Rocco
Subject: Fw: Designation Letter for TCE

Can you provide me with some advice on this please?

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

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

From: JoAnne Butler
Sent: Tuesday, March 08, 2011 12:14 PM
To: Michael Killeavy; Susan Kennedy
Subject: RE: Designation Letter for TCE

I talked to Terry Bennett about this....he says that they had it checked out and didn't feel that they were in violation. Please confirm that we remain clear that it is a violation and I will get back to him again. Thanks..

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

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To: Susan Kennedy

Cc: JoAnne Butler
Subject: Designation Letter for TCE

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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
416-969-6288 (office)
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Michael.killeavy@powerauthority.on.ca

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Aleksandar Kojic

From: Michael Killeavy
Sent: March 8, 2011 2:52 PM
To: 'Smith, Elliot'
Cc: 'Sebastiano, Rocco'; Deborah Langelaan
Subject: RE: Designation Letter for TCE

Thank you. This is helpful.

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)

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

From: Smith, Elliot [mailto:ESmith@osler.com]
Sent: March 8, 2011 2:17 PM
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Cc: Sebastiano, Rocco
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