FW: OPG/IESO Indemnities - Section 28 Approvals

From: "Veinot, Cindy (TBS)" <"/o=govon/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=veinot, cindy (tbs)d57">
To: "Petsche, Nadine (TBS)" <nadine.petsche@ontario.ca>
Date: Wed, 07 Jun 2017 15:28:26 -0400
Attachments: OPG Indemnity - Torys, OPG Comments (May 17, 2017).docx (22.69 kB); Blackline OPG Indemnity.pdf (222.35 kB); 20170515-s.28 business case - IESO and OPG Indemnity OFHP -DRAFT FINALPK-LSB.docx (68.22 kB); 20170523-IESO Indemnity Agreement Confidential track changes -ENERGY LSB edits v2.docx (39.59 kB)

Not sure I sent these to you -- Cindy

From: Graham, Helen (TBS)
Sent: May 25, 2017 1:32 PM
To: Veinot, Cindy (TBS)
Subject: Fw: OPG/IESO Indemnities - Section 28 Approvals

Fyi I understand ken k may be wanting to talk to you about this

Let me know if you need support?

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Strang, James (TBS) <James.Strang@ontario.ca>
Sent: Thursday, May 25, 2017 1:30 PM
To: Graham, Helen (TBS)
Cc: Kaufman, Paul (TBS)
Subject: FW: OPG/IESO Indemnities - Section 28 Approvals

Here is the latest draft.

From: Kaufman, Paul (TBS)
Sent: May 24, 2017 10:17 AM
To: Strang, James (TBS)
Cc: Fung, Felix (TBS); Compagnone, Lisa (TBS)
Subject: FW: OPG/IESO Indemnities - Section 28 Approvals

James, I spoke to counsel at Energy about the proposed revisions to the boilerplate indemnity agreements. I told her that some minor clarifications to the existing text likely wouldn't raise concerns here, but that even minor changes might add some time to the approvals process on our end.

The changes that OPG is proposing are more substantive in nature and in a number of cases seem like they would result in the province assuming more than a reasonable amount of risk. Energy legal agrees with this and it sounds like energy is going to push back pretty hard with OPG. They also understand that we'll need them to provide a rationale for any substantive deviations from the original draft agreements.

It sounds like Energy is hoping to finalize the agreements today or tomorrow and proceed with approvals on their end. They hope to get us a minister-signed request by early next week, but will share the materials that they send up the line in the interim.

I also flagged the appropriations issue and they are going to consider it further. I didn't note the section 22 option because, as discussed, it's not clear if MOF would be comfortable with it. Our branch is going to discuss this file with MOF legal today, and we understand they are also talking to the OFA today.

Paul

Paul Kaufman
Counsel
Ministry of the Attorney General | Legal Services Branch | Treasury Board Secretariat
9th Floor, 77 Wellesley Street West, Ferguson Block, Toronto, ON M7A 1N3
Phone: 416-327-7012 Fax: 416-325-9404

From: Multani, Harkamal (ENERGY)
Sent: May-23-17 7:02 PM
To: Kaufman, Paul (TBS)
Cc: Strang, James (TBS); Montgomery, Kaitlin (MOF); Ho, Larissa (ENERGY)
Subject: RE: OPG/IESO Indemnities - Section 28 Approvals

Thanks for this Paul.

We received comments back from OPG and IESO on the Business case as well as on the indemnity agreements. I've attached the updated business case that includes changes to reflect your comments as well as OPG and IESO's comments. Please let us know if you have any further concerns.

On the indemnity agreements, we are working through the proposed changes that both IESO and OPG have proposed to them. The IESO indemnity agreement changes that the IESO has proposed appear to be okay, and I've just made some further edits/comments that I am in the process of clarifying with IESO. Could you please take a look at the attached and let us know if there are any concerns from your end on the changes?

The OPG changes to its indemnity agreement are much more substantial and we are working through them still, however, I am wondering whether you can take a look and let us know if you or your policy clients have any significant concerns as well in the interests of time. The changes seem to be more for clarity, but given that they differ from the standard template language just wanted to make sure TBS is comfortable. Both clean and tracked versions of the OPG indemnity agreement are attached.

If it is easier and would be quicker to have a call to discuss, I would be happy to set something up.

Thank you,

Harkamal

Harkamal Multani
Counsel
Legal Services Branch
ENERGY/MOI/MEDG/MRIS/ADO
Email: harkamal.multani@ontario.ca
Tel: 416-212-5409

SOLICITOR-CLIENT PRIVILEGE. If you are not the intended recipient, please delete this message together with any attachments.

From: Kaufman, Paul (TBS)
Sent: May-18-17 4:24 PM
To: Multani, Harkamal (ENERGY)
Cc: Strang, James (TBS); Montgomery, Kaitlin (MOF); Christie, Tim (ENERGY)
Subject: RE: OPG/IESO Indemnities - Section 28 Approvals

Thanks, Harkamal. I had a few fairly minor comments on the business case, set out in the attached. Let me know if you want to discuss.

Paul

Paul Kaufman
Counsel
Ministry of the Attorney General | Legal Services Branch | Treasury Board Secretariat
9th Floor, 77 Wellesley Street West, Ferguson Block, Toronto, ON M7A 1N3
Phone: 416-327-7012 Fax: 416-325-9404

From: Multani, Harkamal (ENERGY)
Sent: May-17-17 5:27 PM
To: Kaufman, Paul (TBS)
Cc: Strang, James (TBS); Montgomery, Kaitlin (MOF); Christie, Tim (ENERGY)
Subject: RE: OPG/IESO Indemnities - Section 28 Approvals

Thanks very much Paul – we've asked OPG/IESO to provide us with specifics on the risks as they would be in the best position to advise on these. I am hoping to receive their input by tomorrow and will send to you accordingly.

On the timing of the security offerings, I am assuming you are asking about the security offerings to be made to the investors with respect to the special purpose entity. We don't have a certain date but generally I believe we are looking at some time in Fall 2017 (Tim/Kaitlin, please correct me if I am wrong on this).

If you have further questions, please let us know.

Best regards,

Harkamal

Harkamal Multani
Counsel
Legal Services Branch
ENERGY/MOI/MEDG/MRIS/ADO
Email: harkamal.multani@ontario.ca
Tel: 416-212-5409

From: Kaufman, Paul (TBS)
Sent: May-17-17 4:50 PM
To: Multani, Harkamal (ENERGY)
Cc: Strang, James (TBS); Montgomery, Kaitlin (MOF); Christie, Tim (ENERGY)
Subject: RE: OPG/IESO Indemnities - Section 28 Approvals

Hi Harkamal – we're still reviewing whether this might go to MOF instead of TBS, but in the interim had some questions from the information set out in the business case:

Can some examples of the risks associated with securities offerings (generally, typically)be provided, and on how Energy might mitigate those risks risk?

Also, can Energy provide info on timing of securities offerings (when expecting to be in the market)?

I'll have some more technical feedback that I'll likely get to you tomorrow.

Thanks,

Paul

Paul Kaufman
Counsel
Ministry of the Attorney General | Legal Services Branch | Treasury Board Secretariat
9th Floor, 77 Wellesley Street West, Ferguson Block, Toronto, ON M7A 1N3
Phone: 416-327-7012 Fax: 416-325-9404

From: Multani, Harkamal (ENERGY)
Sent: May-16-17 3:12 PM
To: Kaufman, Paul (TBS)
Cc: Fung, Felix (TBS); Strang, James (TBS); Montgomery, Kaitlin (MOF); Christie, Tim (ENERGY)
Subject: OPG/IESO Indemnities - Section 28 Approvals

Hi Paul,

As discussed, I've attached our draft s.28 approval materials as well as the indemnity agreements for the IESO and OPG. We are also consulting further with OPG and IESO on providing input on the risks to them if the indemnities are not provided so there may be further changes to these materials based on comments from OPG/IESO. These materials are drafts for TBS legal/policy review and input before we finalize. Once we've addressed TBS' comments we will submit the finalized documents for formal s.28 approval.

As mentioned, we require the section 28 approval by June 1, 2017, so if there is anything we can do to assist with speeding things up, please let us know as we recognize these are tight timelines.

Also, I understand that this is to go to TBS for approval (this goes back to our conversation earlier, whether Finance or TBS needs to approve). Please let us know if you hear otherwise.

If you require anything else from us please let us know. I've copied our program area clients on this email as well.

Many thanks,

Harkamal

Harkamal Multani
Counsel
Legal Services Branch
ENERGY/MOI/MEDG/MRIS/ADO
Email: harkamal.multani@ontario.ca
Tel: 416-212-5409