Message

Sent: 2018-08-29 3:53:21 PM
To: Barb Anderson [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=aed9ac5b497c451d900820d1687ba9e9-Barb Anders]
Subject: RE: Debt

See red font.

From: Barb Anderson
Sent: August 29, 2018 3:43 PM
To: Anthony Martinello
Subject: Debt

Hi there,

Why did you need to go to OFA for fair hydro and for the general market credit facility? Would OFEC not finance us or was the size too large for them?

- I asked OEFC and they referred me to OFA . OFA said they would be the lender to the IESO for any of the IESO market liquidity. The OEFC facilities are only for IESO corporate and have a higher 50bps interest margin, whereas OFA is a lower margin;

What security do we have for these loans, any?

- All IESO facilities are unsecured

For TD – what is the Permitted Debt?
Permitted Debt:
1.1.71.1 trade and other accounts payable incurred in the ordinary course of business;
1.1.71.2 the Obligations;
1.1.71.3 the unsecured indebtedness in the amount of up to Cdn.$280,000,000 owed by the Borrower to Ontario Electricity Financial Corporation;
1.1.71.4 (i) prior to November 22, 2017, the unsecured indebtedness in the amount of up to Cdn$975,000,000 owed by the Borrower, as successor to Ontario Power Authority, to Ontario Financing Authority pursuant to a credit agreement dated January 1, 2005, as amended pursuant to the amending agreements dated February 14, 2005 (titled, Amending Agreement), October, 11, 2005 (titled, Amending Agreement No.3), September 27, 2006 (titled, Amending Agreement No.4), July 13, 2007 (titled, Amending Agreement No.5), November 9, 2010 (titled, Amending Agreement No.6), December 20, 2013 (titled, Amending Agreement No.7), December 19, 2014 (titled, Amending Agreement No.8), November 30, 2016 (titled, Amending Agreement No. 9) (as amended, the "OFA Credit Agreement") and (ii) on and after November 22, 2017, the unsecured indebtedness in the amount of up to Cdn$475,000,000 owed by the Borrower, as successor to Ontario Power Authority, to Ontario Financing Authority pursuant to the OFA Credit Agreement as amended on November 6, 2017 (with an effective date of November 21, 2017) (titled, Amending Agreement No. 10), as such agreement may be further amended, modified, extended, renewed, replaced, restated, supplemented or refinanced from time to time, provided that the amount of such refinancing does not exceed (y) Cdn$975,000,000 prior to November 22, 2017 and (z) Cdn$475,000,000 on and after November 22, 2017;
1.1.71.5 indebtedness under Capital Lease Obligations entered into by the Borrower from time to time in an aggregate amount not exceeding $10,000,000 at any time; and
1.1.71.6 indebtedness (and any replacement or renewal thereof) incurred other than under any of 1.1.71.1 to 1.1.71.5 for the purchase price of an asset not exceeding Cdn.$5,000,000 provided that the aggregate of such indebtedness shall not, at any time, exceed Cdn.$10,000,000.
1.1.71.7 the unsecured indebtedness in the amount of up to Cdn$2,000,000,000 owed by the Borrower to the Ontario Financing Authority pursuant to a credit agreement dated on or about November 6, 2017 as such

agreement may be further amended, modified, extended, renewed, replaced, restated, supplemented or refinanced from time to time provided that the amount of such refinancing does not exceed Cdn$2,000,000,000;
1.1.71.8 liabilities of the Borrower relating to the payment of the Carrying Costs during the period beginning on April 1, 2017 and ending on August 31, 2021.

Permitted Leins:
1.1.72.1 Liens for taxes, assessments or governmental charges incurred in the ordinary course of business that are not yet due and payable or the validity of which is being actively and diligently contested in good faith by the Borrower and in respect of which the Borrower has established on its books reserves considered by it to be adequate therefor;
1.1.72.2 rights reserved to or vested in any Governmental Body by the terms of any lease, licence, franchise, grant or permit, or by any statutory provision, to terminate the same, to take action which results in an expropriation, to designate a purchaser of any real property of the Borrower or to require annual or other payments as a condition to the continuance thereof;
1.1.72.3 construction, mechanics', carriers', warehousemen's and materialmen's Liens and Liens in respect of vacation pay, workers' compensation, unemployment insurance or similar statutory obligations, provided the obligations secured by such Liens are not yet due and payable or the validity of which is being actively and diligently contested in good faith by the Borrower and in respect of which the Borrower has established in its books reserves considered by it to be adequate therefor;
1.1.72.4 Liens arising from court or arbitral proceedings, provided that the claims secured thereby are being contested in good faith by the Borrower; execution thereon has been stayed and continues to be stayed; and such Liens do not, in the aggregate, materially detract from the value of the assets of the Borrower or materially impair the use thereof in the business of the Borrower;
1.1.72.5 good faith deposits made in the ordinary course of business to secure the performance of bids, tenders, contracts (other than for the repayment of borrowed money), leases, surety, customs, performance bonds and other similar obligations;
1.1.72.6 deposits to secure public or statutory obligations or in connection with any matter giving rise to a Lien described in 1.1.72.3 above;
1.1.72.7 deposits of cash or securities in connection with any appeal, review or contestation of any Lien or any matter giving rise to a Lien described in 1.1.72.1 or 1.1.72.4 above;
1.1.72.8 zoning restrictions, easements, rights of way, leases or other similar encumbrances or privileges in respect of real property which in the aggregate do not materially impair the use of such property by the Borrower in the operation of its business;
1.1.72.9 reservations, limitations, provisos and conditions in any original grants from the Crown of any land or interest therein and statutory exceptions to title;
1.1.72.10 any Lien, other than a construction Lien, payment of which has been provided for by deposit with the Agent on behalf of the Lenders of an amount in cash, or the obtaining of a surety bond or letter of credit satisfactory to the Lenders, sufficient in either case to pay or discharge such Lien or upon other terms satisfactory to the Lenders;
1.1.72.11 Liens securing Capital Lease Obligations permitted by section 1.1.71.5;
1.1.72.12 any other Lien which the Lenders approve in writing as a Permitted Lien;
1.1.72.13 title defects or irregularities of title which are of a minor nature and in the aggregate do not and will not materially impair or materially adversely affect the usefulness of the Property;
1.1.72.14 Liens granted in the ordinary course of business to a public utility or any municipality or governmental or other public authority when required by such utility or municipality or governmental or other authority in connection with the operations of the Borrower;
1.1.72.15 Liens, charges, encumbrances and other security interest whatsoever in connection with indebtedness in respect of services rendered or to be rendered or goods or products provided or to be provided to the Borrower including, without limitation, rent or other payments under leases, including capital leases, contracts, hire-purchase agreements and agreements for sale;
1.1.72.16 plans of subdivision, site plans, municipal agreements or restrictive covenants affecting the use, to which lands may be put, provided that such covenants are complied with and do not materially detract from the value of the land concerned or materially impair its use in the operation of the business of the Borrower;

1.1.72.17 lis pendens that may be registered against any real property or interests therein of the Borrower in respect of any action or proceeding against the Borrower or in which it is a defendant, but with respect to which action or proceeding no judgment, award or attachment against the Borrower has been granted or made and which the Borrower is defending in good faith and in respect of which the Borrower has posted adequate security;
1.1.72.18 Liens given to secure indebtedness (and any replacement or renewal thereof) incurred for the purchase price of an asset not exceeding $5,000,000 provided that the aggregate of such Liens shall not, at any time exceed $10,000,000;
1.1.72.19 Liens listed in Schedule 1.1.72; and
1.1.72.20 obligations of the Borrower as a regulated entity to, from time to time, pay amounts to Market Participants or others by way of rebates of excess accumulated surpluses (including without limitation excess surplus amounts accrued in the Borrower's regulatory deferral account), or other similar obligations arising under Applicable Law or as a result of any order or direction of a Governmental Body;
1.1.72.21 any Lien under the Ontario Fair Hydro Plan Act, 2017 and the regulations made thereunder arising in connection with the Borrower's role and obligations with respect thereto, including with respect to any amounts collected and held by Borrower in relation to the clean energy adjustment (a term defined in the foregoing Act), or otherwise; and
1.1.72.22 Liens arising in connection with the Fair Hydro Security Agreement securing Carrying Costs up to a maximum amount of $1.15 billion, provided that such Liens will cease to be a "Permitted Lien" on August 31, 2021.

For OFA – what is the Permitted Liens?

Permitted Liens:
(a) Liens for taxes and assessments not at the time overdue or any Liens securing workmen's compensation assessments, unemployment insurance or other social security obligations not at the time overdue;

(b) any Liens or rights of distress reserved in or exercisable under any lease for rent and for compliance with the terms of such lease;

(c) any obligations or duties, affecting the property of the IESO to any municipality or governmental, statutory or public authority, with respect to any franchise, grant, license or permit and any defects in title to structures or other facilities arising solely from the fact that such structures or facilities are constructed or installed on lands held by the IESO or such Material Subsidiary under government permits, leases or other grants, which obligations, duties and defects in the aggregate do not materially impair the use of such property, structures or facilities for the purpose for which they are held by the IESO or such Material Subsidiary;

(d) any deposits or Liens in connection with building contracts, bids or tenders, expropriation proceedings, surety or appeal bonds, costs of litigation when required by law, and public and statutory obligations, Liens or claims incidental to current construction, builders', mechanics', labourers', materialmen's, warehousemen's, carriers' and other similar Liens;

(e) the right reserved to or vested in any municipality or governmental or other public authority by any statutory provision or by the terms of any lease, license, franchise, grant or permit, that affects any lands, to terminate any such lease, license, franchise, grant or permit or to require annual or their periodic payments as a condition to the continuance thereof;

(f) any undetermined or inchoate Liens and charges incidental to the current operations of the IESO or a Material Subsidiary that have not at the time been filed against the IESO or such Material Subsidiary; provided, however, that if any such Lien or charge shall have been filed, the IESO or such Material Subsidiary shall be prosecuting an appeal or proceedings for review with respect to which it shall have secured a stay in the enforcement of any such Lien or charge;

(g) any Lien the validity of which is being contested at the time by the IESO or a Material Subsidiary in good faith and the enforcement of which has been stayed;

(h) any easements, rights-of-way and servitudes that in the opinion of the IESO will not in the aggregate materially and adversely impair the use or value of the land for the purpose for which it is held or occupied by the IESO or a Material Subsidiary;

(i) any Liens and privileges arising out of judgments or awards with respect to which the IESO or a Material Subsidiary shall be prosecuting an appeal or proceedings for review and with respect to which it shall have secured a stay of execution pending such appeal or proceedings for review;

(j) any other Liens of a nature similar to the foregoing which do not in the opinion of the IESO, acting reasonably, materially impair the use of the property subject thereto or the operation of the business of the IESO or any Material Subsidiary or the value of such property for the purpose of any such business; and

(k) any Lien arising from the IESO's role and obligations under the Ontario Fair Hydro Plan Act, 2017 (OFHP), including with respect to any amount received or receivable by the IESO (such as, without limitation, amounts received or receivable in respect of the Clean Energy Adjustment), or any other lien, whether arising from the action or inaction of IESO, that is created in connection with the OFHP.

Cheers

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