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Subject: RE: Legal Hold Notice - Fair Hydro Plan

Attachments: Preservation of Records - September 28 2018.docx; Memo to CAOs re Disposition Suspension-Final (2018-09-28).docx

This email is to refresh the legal hold notice relating to Fair Hydro (see below) to ensure that all documents that may be relevant to the Select Committee on Financial Transparency's mandate are preserved. The IESO can anticipate being required to provide records to the Committee.

The Committee's proposed mandate (as introduced in the legislature on September 25) is to:

- consider and report to the House its observations and recommendations with respect to the report submitted by the Independent Financial Commission of Inquiry; and

- That the committee investigate and report on the accounting practices, decision-making and policy objectives of the previous government or any other aspect of the report that the committee deems relevant;

Similarly, Secretary of Cabinet, Steve Orsini, issued an instruction to Deputy Ministers on September 28, 2018 (attached for your reference), to retain all records held by their Ministries including suspending the operation of applicable Records Schedules regarding the archiving of records or the disposition of transitory records. The purpose of the instruction is to preserve records that may be relevant to the mandate of the Select Committee on Financial Transparency.

Please let me know if there are any questions.

Thank you
Michael

Michael Boll | Associate General Counsel

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From: John Rattray

Sent: October 24, 2017 5:32 PM

To: Peter Gregg; JoAnne Butler; Leonard Kula; Michael Lyle; Kim Marshall; Doug Thomas; Terry Young; Susan Nicholson; Anthony Martinello; Jeannette Briggs; Michael Boll; Anushka Walgama; John Rattray; Victor Buza; Reena Goyal; Dianne Hayes; Jordan Penic; Kate Longmoore; Tam Wagner; Lia Kasic; Alexander DeAngelis; George Pessione; Joyce Poon

Cc: Margaret McNeil

Subject: FW: Legal Hold Notice - Fair Hydro Plan (12)

Importance: High

As you know, the Auditor General of Ontario released a report regarding the Province's Fair Hydro Plan on October 17, 2017. On October 18, 2017, the Office of the Official Opposition sent a letter to Secretary of Cabinet demanding that all records relating to Ontario's Fair Hydro Plan be preserved. Further to this, on October 23, 2017 Ontario's Deputy Attorney General (DAG) issued a memorandum to deputy ministers advising of the need to preserve records in their custody and control related to Ontario's Fair Hydro Plan. The DAG memo requested that Deputy Imbrogno share a copy of his memo with the IESO and OPG.

You have received this notice because you have been identified as someone who may possess or control documents (including electronically stored information), which may be relevant to Ontario's Fair Hydro Plan.

1. Obligation to Preserve and Produce Documents

The IESO is required to take steps to preserve now, and on an ongoing basis, all documents and records relating to Ontario's Fair Hydro Plan, including electronically stored information in their original format. This includes any records already provided to the Auditor General as part of the preparation of her report, and any records not requested by the Auditor General that may be relevant to this matter. This means that **you are required to keep and not alter, destroy or delete any documents that may relate, directly or indirectly, to Ontario's Fair Hydro Plan, including records created**

leading up to the development of the Plan. In addition, you must keep any document that is created or received after the date of this notice that has or may have any potential relevance to this matter.

Failing to preserve (and subsequently produce) potentially relevant documents can have serious legal and reputational consequences for the IESO. **It is therefore essential that you read, understand and immediately comply with this notice and indicate same by reply email to me by no later than next Wednesday, November 1, 2017, stating that you acknowledge receipt of the legal hold notification to preserve documents and confirming that you have read, understand and will comply with it.**

Documents that relate, directly or indirectly to this matter, are likely to include the following:

- all correspondence, including, without limitation, all email correspondence, between IESO and the Government of Ontario (including the Ministry of Energy, Ministry of Finance, Provincial Controller's Office, and Ontario Financing Authority), Ontario Power Generation Inc., and any IESO accounting or legal advisors in connection with Ontario's Fair Hydro Plan;
- documents produced by the IESO in connection with Ontario's Fair Hydro Plan, including memoranda, presentations and board of directors materials and minutes;
- documents, reports, or opinions prepared by third parties, including professional advisors, for the IESO in connection with Ontario Fair Hydro's Plan;
- any notes from any discussions and/or meetings internally, or with third parties, in connection with Ontario's Fair Hydro Plan; and
- any voicemails relating to Ontario's Fair Hydro Plan.

Please note that this is not an exhaustive list.

2. Broad Meaning of "Document"

In identifying and preserving documents that may be relevant to this matter, please keep in mind that "document" has a very broad meaning and includes both paper and electronic documents in whatever format they may be stored, as well as sound (e.g. voicemail), video and digital recordings. It further includes all handwritten notes, calendars, journals and other sources of relevant notations.

In terms of electronic documents, please have regard to documents (Word, Excel, PowerPoint or any other application for text, voice or image recording) stored on your desktop computer or local hard drive, emails stored in your inbox, sent, deleted and any subfolders, calendar entries, texts and other electronic documents archived or stored on a shared department or network server, cloud, on a PDA or other handheld device (such as a Blackberry, iPhone or other mobile phone) or removable media (such as CDs, DVDs and USB keys).

Relevant documents may be located in devices owned by the IESO or by you personally. It is therefore necessary that you also consider where you may have stored potentially relevant documents, such as your office, home, desk, filing cabinets, on-site or off-site storage, department or other shared files, portable computers, mobile phones, PDAs or other handheld devices etc. Any such relevant documents should be clearly identified so as to avoid inadvertent destruction and should be kept in a secure location.

John

John Rattray | General Counsel, Secretary, and Chief Reliability Compliance Officer

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