Message

From: Michael Boll [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4811917E15054407B665FE16D12FF415-MICHAEL BOL]
Sent: 2017-05-01 5:32:39 PM
To: Peter Hamilton [PHamilton@stikeman.com]; Kim Marshall [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b63a22b42bf14587870d93119a054d88-Kim Marshal]; Anthony Martinello [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3fb7d76317b34780b15d96309b995c31-Anthony Mar]; Michael Lyle [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=704afe32c06a42c78cf357ce53a5b319-Michael Lyl]; Jeannette Briggs [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=148095610f7242f48a5a9da24b1a8a87-Jeannette B]; Glenn Zacher [GZacher@stikeman.com]
Subject: Re: Ontario's Fair Hydro Plan

I'm fine with you sending to Stephen. I haven't opened the draft yet but trust your assessment of the issue.

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Peter Hamilton
Sent: Monday, May 1, 2017 5:15 PM
To: Michael Boll; Kim Marshall; Anthony Martinello; Michael Lyle; Jeannette Briggs; Glenn Zacher
Subject: RE: Ontario's Fair Hydro Plan

They made a pretty comprehensive mess of the regulatory asset/transfer language (this in spite of the fact that he, Feldman and I had agreed on specific language). Below is an email I was intending to send to Ashbourne.

> Obviously most of what we agreed on Friday in relation to the transfer of the regulatory asset has been jettisoned in the drafting process. While I would be happy to be proven wrong, my concern is that we have re-introduced conceptual uncertainty with respect to what happens on a "transfer". That uncertainty may come back to haunt us on a financing
>
> You know that my view is that there is no transfer in the technical sense, for three reasons. First, it is not clear that the regulatory asset is property at common law. Second, while the investment asset is much more likely to be property, that issue is not free from doubt. Lastly, that which is surrendered by the IESO differs from that which is purchased by the financing entity. As a result, have stated consistently that I do not think that a "true sale" opinion can be given if that opinion were to imply that there was an effective conveyance or assignment of a property interest from IESO to the financing entity.
>
> My drafting comments were intended to address this issue by allowing the opinion giver to say that the steps necessary to generate the investment asset had been taken by the IESO and that the IESO retained no interest in the investment asset. While not the same as a "true sale" opinion, it was reasonable to expect that such an opinion would be accepted by lenders and underwriters as providing much the same comfort as a true sale opinion. In the context of an agreement that was built around quit claim and re-grant, I was even prepared to live with some assignment language on the theory that it might give comfort to lenders and did not overmuch confuse what was going on.
>
> The revised drafting rejects all of that thinking and is unambiguously predicated upon a conventional transfer. While Section 22(3) has been retained, it now serves in an ancillary capacity and the link between that section and the tem "transfer" has been severed. Sections 22(1) and 22(2) and all of 23 now purport to operate within a conventional transfer framework. It would be helpful to know why this approach has been taken and whether there is still an opportunity to discuss.

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From: Michael Boll [mailto:Michael.Boll@ieso.ca]
Sent: Monday, May 01, 2017 5:06 PM
To: Kim Marshall; Anthony Martinello; Michael Lyle; Jeannette Briggs; Glenn Zacher; Peter Hamilton
Subject: Fw: Ontario's Fair Hydro Plan

I have asked Jennifer to confirm whether they are seeking further comments. I don't think so but the message is ambiguous. I spoke to Jennifer this afternoon and she indicated they were out of time.

From what Jennifer said, it sounds like the OEB was working with them on the rate adjustment piece.

I won't have a chance to look at this until this evening.

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Kacaba, Jennifer (ENERGY) <Jennifer.Kacaba@ontario.ca>
Sent: Monday, May 1, 2017 4:50 PM
To: Michael Boll; Leslie.Wong@opg.com; Martine Band (Martine.Band@oeb.ca)
Cc: Calwell, Carolyn (ENERGY/MEDEI/MRI); Johnson, Paul (ENERGY/MEDEI/MRI); Shear, Dan (ENERGY); Rehob, James (ENERGY); Huang, Jackson (MEDG/MRIS); Nelms, Scott (MOF); Hume, Steen (ENERGY)
Subject: RE: Ontario's Fair Hydro Plan

Hello,

Please find attached the final consultation draft. Pens are now down and we are starting to work on motions and draft regulations.

Thank you for your comments to date.

Jennifer

Jennifer J. Kacaba
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From: Kacaba, Jennifer (ENERGY)
Sent: April 28, 2017 2:16 PM
To: Michael Boll (Michael.Boll@ieso.ca); Leslie.Wong@opg.com; Martine Band (Martine.Band@oeb.ca)
Cc: Calwell, Carolyn (ENERGY/MEDEI/MRI); Johnson, Paul (ENERGY/MEDEI/MRI); Shear, Dan (ENERGY/MEDEI/MRI); Rehob, James (ENERGY); Huang, Jackson (ENERGY/MEDEI/MRI); Nelms, Scott (MOF); Hume, Steen (ENERGY)
Subject: Ontario's Fair Hydro Plan
Importance: High

Hello,

Please find attached our most recent consultation draft. This is where we are at right now. If you see any fatal flaws please let us know in the next hour.

Jennifer

Jennifer J. Kacaba
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