

TO:	CHAIR AND MEMBERS STRATEGIC PRIORITIES AND POLICY COMMITTEE MEETING ON NOVEMBER 24, 2014
FROM:	MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	CONFIRMATION OF LONDON HYDRO BORROWING REQUIREMENTS

RECOMMENDATIONS

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer for the City of London, that the City Treasurer **BE DIRECTED** to sign the attached letter (Appendix “B”) as confirmation that London Hydro’s borrowing requirements are considered to be in the ordinary course of business and shareholder approval is not required in any event.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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- London Hydro Promissory Note – Agreements (August 27, 2014 – Strategic Priorities and Policy Committee)
- London Hydro Promissory Note To The City of London (July 28, 2014 – Strategic Priorities and Policy Committee)

BACKGROUND

What is the basis for the action recommended in this report?

London Hydro has requested the City Treasurer to provide a letter confirming that the City also considers the Credit Facilities described below to be in the ordinary course of business and do not require shareholder approval. London Hydro has provided the attached letter (Appendix “A”) confirming that London Hydro considers the above-mentioned Credit Facilities to be in the ordinary course of business for the purpose of section 8.9 of the Shareholder Declaration and no further action of either London Hydro or the City is required to comply with the requirement of the Shareholder Declaration in respect of the Credit Facilities.

On July 29, 2014, Council resolved:

- the Civic Administration BE AUTHORIZED to call the \$70 million promissory note on November 30, 2014, prior to the maturity date of October 31, 2015, subject to the mutual agreement of The Corporation of the City of London and London Hydro Inc.; it being noted that action should be taken prior to year end to ensure that the promissory note is not reclassified as a short-term liability on London Hydro Inc. financial statements which may cause financial challenges for London Hydro Inc. because it would change liquidity ratios resulting in covenants being breached and may ultimately negatively impact London Hydro Inc.’s credit rating;

On September 2, 2014, Council resolved:

- the proposed by-law (Appendix A), as appended to the staff report dated August 27, 2014, BE INTRODUCED at Municipal Council on September 2, 2014, to authorize the Tri-Party Payment Agreement between The Corporation of the City of London, London Hydro Inc. and the Public Utility Commission of the City of London;;

Why was the Promissory Note payable by London Hydro to the City settled prior to its maturity date?

According to David Arnold, Chief Financial Officer, Vice-President of Finance, Corporate Secretary of London Hydro:

“As part of the 2013 Cost of Service Application, our regulator, the Ontario Energy Board, has reduced the interest on the Promissory Note in our rates from the current level to the market interest rates (around 4%). As a result of the reduced rates, which came into effect on May 1, 2013, it is challenging to sustain a 6% interest on the Note while maintaining current dividend levels and our infrastructure investment requirements.”

In addition, once the promissory note becomes due within one year of the maturity date then it must be reclassified from a long-term liability to a short-term liability on London Hydro's financial statements. This reclassification may cause financial challenges for London Hydro because it would change liquidity ratios resulting in covenants being breached and may ultimately negatively impact London Hydro's credit rating.

What are London Hydro's Financing Needs having regard to the Tri-Party agreement referenced above?

London Hydro is seeking to enter into Credit Facilities with an external financial institution which consists of the following:

- i. \$70 million to finance the repayment of the promissory note to the City. London Hydro will be fully discharged from any and all of its obligations under the promissory note by paying the promissory note in full on November 30, 2014;
- ii. \$15 million to finance capital investments; and
- iii. \$23 million that restates a previous financing agreement with respect to expenditures to purchase smart meters and associated infrastructure and install them within London Hydro's service territory.

What does the Shareholder Declaration provide in relation to financing?

London Hydro Inc. (London Hydro) is a corporation with share capital incorporated under the *Business Corporations Act*, R.S.O. 1990 c. B.16. London Hydro is managed by a Board of Directors appointed by The Corporation of the City of London (“the City”) as the sole shareholder.

Section 8.9 of the August 18, 2008 Shareholder Declaration for London Hydro provides that London Hydro may not borrow money or give security on its assets “other than in the ordinary course of business, or in connection with the purchase of assets” unless Council passes a by-law approving the transaction.

Conclusion

In all of the circumstances, the City Treasurer also considers the above-mentioned Credit Facilities to be in the ordinary course of business and shareholder approval is not required in any event.

It is recommended that the City Treasurer be directed to sign the attached letter (Appendix “B”). This recommendation is based upon the actions taken to date (including the By-law and Agreement that has been entered into between the City, the P.U.C. and London Hydro) and the acknowledgement of London Hydro that the Credit Facilities are in the ordinary course of business for London Hydro and, as such, the borrowing under the Credit Facilities does not require City approval under the Shareholder Declaration.

PREPARED BY:	CONCURRED BY:
JASON SENESE MANAGER OF FINANCIAL PLANNING & POLICY	LARRY PALARCHIO DIRECTOR OF FINANCIAL PLANNING & POLICY
	RECOMMENDED BY:
	MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER

C.c. James Barber, City Solicitor
Jennifer Smout, Solicitor

APPENDIX B

November 25, 2014

To:

London Hydro
111 Horton Street
P.O. Box 2700
London, ON N6A 4H6

Attention: Vinay Sharma, Chief Executive Officer

- and to -

Lerners LLP
88 Dufferin Avenue
London, ON N6A 4G4

Attention: Mr. Ian D. Shewan

Dear Sirs/Mesdames:

RE: Proposed Credit Facilities (the “Credit Facilities”) pursuant to an amended and restated credit agreement between London Hydro Inc. (“London Hydro”) and the Royal Bank of Canada (“RBC”)

I refer to the Credit Facilities and to the requirements of the Amended and Restated Shareholder Declaration of London Hydro (the “**Shareholder Declaration**”) with respect thereto.

I note that Section 8.9 of the Shareholder Declaration provides that London Hydro may not borrow money or give security on its assets “other than in the ordinary course of business, or in connection with the purchase of assets” unless the City of London passes a bylaw approving such transaction and certain reporting requirements to City Council are complied with.

I confirm that that the City considers the Credit Facilities to be in the ordinary course of business for the purposes of Section 8.9; no further action of the City is required for London Hydro to comply with the Shareholder Declaration in respect of the Credit Facilities and the borrowing under the Credit Facilities does not require shareholder approval or further reports to City Council under Article 6 of the Shareholder Declaration.

Please do not hesitate to contact me if you have any questions or concerns about the above request.

Yours truly,

THE CORPORATION OF THE CITY OF LONDON

Per: _____
Martin Hayward, City Treasurer