

TO:	CHAIR AND MEMBERS STRATEGIC PRIORITIES AND POLICY COMMITTEE MEETING ON JUNE 25, 2018
FROM:	KELLY SCHERR, P.ENG., MBA, FEC MANAGING DIRECTOR, ENVIRONMENTAL AND ENGINEERING SERVICES AND CITY ENGINEER
SUBJECT:	REVIEW OF THE FUNCTION OF THE PUBLIC UTILITY COMMISSION OF THE CITY OF LONDON

RECOMMENDATIONS

That on the recommendation of the Managing Director, Environmental and Engineering Services and City Engineer, the Civic Administration **BE DIRECTED** to undertake all the administrative acts that are necessary to dissolve the corporate entity known as The Public Utility Commission of the City of London and to transfer all of its assets and liabilities to The Corporation of the City of London.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

None.

BACKGROUND

Purpose

The purpose of this report is to recommend actions regarding the future of the Public Utility Commission of the City of London (PUC).

Context

When the London Hydro-Electric Commission was restructured as a result of the deregulation of the Ontario electricity industry, a decision was made to maintain the PUC to limit the City of London's liability and responsibilities with respect to certain contaminated lands. An evaluation of the effectiveness and efficiency of this governance model has been undertaken to determine if it should continue on a go-forward basis, given current legislation and operational practices.

DISCUSSION

Contaminated Lands

The current mandate of the PUC is to manage certain contaminated lands and their associated liability. The predecessor to the PUC (the Hydro-Electric Commission of the City of London) adopted a motion at its meeting on March 10, 1998, which confirmed that:

“for the foreseeable future, there are no intended end uses for the Commission's property contaminated with coal tar, west of Ridout Street, other than to continue with the present uses—employee parking, storage, and the Aboutown Transportation lease.”

The purpose of adopting the motion was to simplify the coal tar site risk assessment process by limiting the end use of the subject property.

Based on a site specific risk assessment by Dillon Consulting in 1999, a parking lot use was assumed to be a suitable long-term solution for management of any coal tar that remained on this site. Over 75% of the site was reported to be within the regional flood lines of the Thames River and, therefore, was assumed to be unsuitable for development. The parking lot is operated by the City under a revenue sharing arrangement with the PUC. In order to prevent the migration of contaminated groundwater from the site, an underground barrier, along with a collection and treatment system, was constructed. The treatment facility continues to be operated by the PUC.

Promissory Note

When the electricity distribution assets of the London Hydro-Electric Commission were transferred to London Hydro on November 1, 2000, an extendible non-interest bearing promissory note for \$95 million, representing approximately 55 percent of the value of the assets, was delivered to the City. The note was then assigned, by way of an undertaking, to the Public Utility Commission of the City of London (PUC), and the PUC retained responsibility for coal tar remediation of the Thames River and adjacent lands.

On August 7, 2001, Council, with the concurrence of the PUC, approved a reduction in the principal amount of the note to \$70 million in order to accommodate London Hydro's proposed revolving line of credit for operating purposes. The contributed capital by the City, as sole shareholder to London Hydro, was correspondingly increased by \$25 million.

The PUC's use of the principle payment made to it under the note are limited to the investigation, remediation, restoration and legal proceedings of the coal tar affected lands owned by the PUC.

In 2014, the note was transferred to the City via a funding agreement between the City and the PUC. The note ensures that \$70 million is held by the City on terms consistent with the original pledge of the undertaking/assignment of the promissory note. These terms include:

- the investigation, remediation, and restoration of the affected lands;
- any related legal proceedings, including proceedings before any court or administrative tribunal; and,
- the Commission's actual and reasonable administrative and incidental costs related, thereto.

Alternative long-term technical solutions were reviewed in 2014, including new cleanup technologies, to confirm that the note's value remains appropriate. A review by Conestoga-Rover Associates concluded that:

- Excavation and off-site disposal of this material is likely the only practical approach to remediate heavily contaminated areas; and,
- The removal of all remaining coal tar impacts would cost in the range of \$60 million, but could be higher depending on "remedial objectives selected (e.g., Generic Standards or Site Specific Property Standards) The extent of contaminant migration that may have occurred since the historic extent of contamination was determined could also impact the cost."

Review of the Function of the PUC

In recent months, work has been undertaken to determine whether the PUC is still relevant, in light of current legislation, and whether the governance model remains effective and efficient. There does not appear to be a sufficient legislative argument to support the PUC's continuance, which in turn suggests that the governance and administrative efforts required to support the entity are not an effective use of resources. As a result, the PUC is recommending that the PUC be dissolved and its assets and liabilities transferred to the City of London. The civic administration is recommending that the PUC be dissolved and is seeking the direction of council to take all actions required to dissolve the PUC.

CONCLUSION

Legislative and operational considerations support the dissolution of the PUC and the transfer of its assets and liabilities to the Corporation of the City of London. The management of the PUC lands and assets are most appropriately undertaken by city staff under the direction and oversight of city council. It is recommended that the civic administration undertake all the administrative acts that are necessary to dissolve the corporate entity known as The Public Utility Commission of the City of London and transfer all of its assets and liabilities to The Corporation of the City of London.

PREPARED BY:	RECOMMENDED BY:
SCOTT MATHERS, MPA, P. ENG. DIRECTOR WATER AND WASTEWATER	KELLY SCHERR, P.ENG., MBA, FEC MANAGING DIRECTOR ENVIRONMENTAL AND ENGINEERING SERVICES AND CITY ENGINEER

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