

October 16, 2020

RE: London Hydro Restructuring

Dear SPPC Colleagues,

This communication contains the **additional motions** required to create the affiliate for London Hydro and some **helpful clarifications** from London Hydro including:

1. A timeline of the restructuring process (there is a degree of urgency).
2. A few highlights about the opportunity.
3. A table showing how the questions raised by our legal department were intended to be addressed by the shareholder declarations.
4. A diagram of how the city retains majority control of the London Hydro board.

Addendum to London Hydro Proposed Corporate Restructuring Report

1. The request to create the new proposed corporate structure is urgent for two reasons. First, the Ontario government has set a deadline for London Hydro Inc. (“LHI”) to complete restructuring (which the government has approved). Second, the government has recently introduced legislation that mandates Green Button as a technical standard for Ontario’s utilities, which now significantly expands the commercial opportunities for London Hydro to market its Green Button expertise and services, and to achieve a market-leading position.

October 2020	October 20 th , 2020*	December 2020	April 2021	September/October 2021	January 2022	December 2022
Ontario Green Button legislation introduced.	Council approval for corporate restructuring.	All by-laws enacted.	Legal incorporation filing and Shareholder Declaration approval.	Transfer LHI shares to HoldCo (LUSI).	Transfer of renewable assets.	Ontario Green Button mandated.
						Expiration of government of Ontario approval for restructuring of LHI.

*Sales effort for Green Button technologies continues throughout; however, if approval is not granted, then sales might cease since a regulated utility like London Hydro cannot provide unregulated services.

2. The business opportunity to further commercialize and expand London Hydro’s Green Button expertise is immediate and time-sensitive. A delay would risk losing London Hydro’s already-established first-mover advantage in a growing market as well as the ability to capitalize on a number of potential profitable business opportunities.
3. A successful and thriving corporation benefits a wide range of stakeholders, and contributes to economic growth and employment within the City of London. The City of London, as shareholder, would benefit from a higher level of future dividends that comes from a growing corporation. This initiative would also support innovation consistent with the City’s strategic plan.
4. Pursuing this corporate restructuring would also assist London Hydro Inc. to design more affordable rates for its customers.

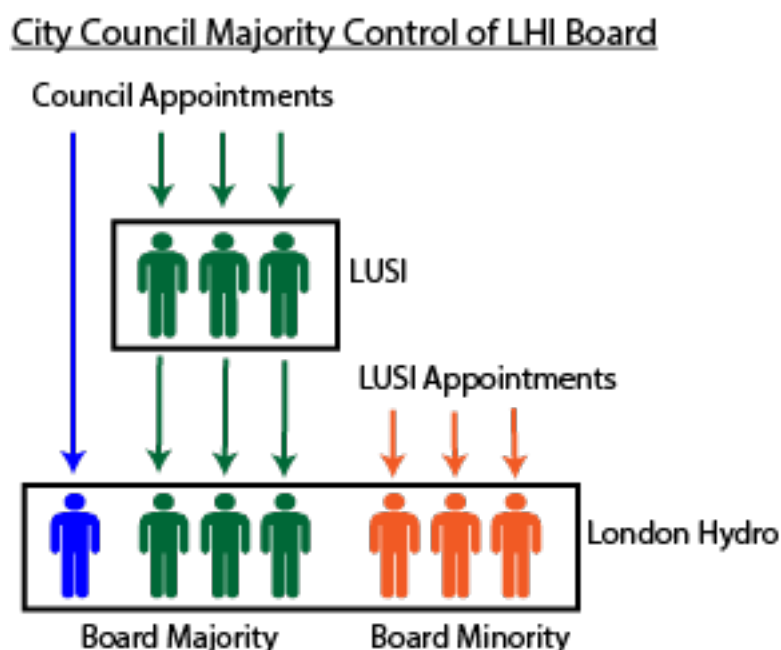
5. London Hydro's business and its oversight by the Municipal Council will remain unchanged (same as it is today). It may be important to note that the Shareholder Declarations have been drafted to ensure that the same Municipal Council oversight and control will exist over the HoldCo (LUSI) and, by extension, over London Hydro and the unregulated affiliate.
6. Without Council approval, none of the required legal documentation, i.e. articles, rights, and/or by-laws can be amended, nor can the corporation issue or enter into an agreement to issue any shares of the HoldCo (LUSI), London Hydro and/or the unregulated affiliate.
7. Again, all of London Hydro and its assets will be fully protected and no action impacting the corporations can be taken by the HoldCo (LUSI) without Council approval.
8. Furthermore, there are 15 questions/topics raised by City Administration in their report and the answers/comments to those are provided in the following table.

Questions/Topics	Answers/Comments
1. The amount of service fees payable to LUSI by the corporations?	There are no inter-company service fees. The resources would be shared between the corporations and as per the OEB, there will be transparent fees charged for the exchange of these resources.
2. Should there be a policy with respect to rates the distributor can charge customers (e.g. just and reasonable rates)?	The OEB regulates distribution rates; however, the Shareholder Declaration of LHI does state a requirement to keep rates just and reasonable as per Article 5.2. This requirement will remain unchanged.
3. Should the Council have the power to regulate debt issues by the corporations?	The debt limits are set in the Shareholder Declaration of all companies, with a maximum allowance of 70/30 as per Articles 8.11, 8.12. Without Municipal Council approval, no additional debt can be issued by the corporations.
4. Should there be geographical constraints?	LHI has natural geographical constraints; however, no such constraints shall be established for the affiliates.
5. Does the revenue from LHI (and other affiliates) go to LUSI, or does such revenue go back into LHI and/or other affiliates?	LHI's revenue remains with LHI. Only the dividends pass through HoldCo (LUSI) to the Municipal Council.
6. Can LUSI amend its articles, or enact, revoke, or amend any by-law?	It cannot; Article 8 defines the Municipal Council approval requirements.
7. Can a corporation issue or enter into any agreement to issue, shares of a corporation?	Municipal Council approval is required for any such issue as per Article 8.
8. Should the Council have the power to approve a shareholder declaration for any of the corporations?	Initial Shareholder Declarations for all corporations would be established by the Municipal Council; thereafter the Municipal Council controls the Shareholder Declaration of the HoldCo (LUSI) only. Nevertheless, the Municipal Council can impose restrictions on the HoldCo (LUSI) to define requirements for any subsidiaries.
9. Should a corporation be permitted to redeem, purchase for cancellation or otherwise retire any of its outstanding shares?	As per Article 8, any such activities require the approval of Municipal Council.
10. Should a corporation be permitted to sell assets or purchase assets with an aggregate value equal to or greater than 10% of the consolidated book value of all the assets of the corporation and its subsidiaries?	Any sale of this nature requires the approval of Municipal Council.

11. Should a corporation have the power to grant security for or guarantee, or otherwise become liable for any debt, liability, or obligation, of any Person other than the corporation or a subsidiary?	Without Municipal Council approval, any such activity cannot be done as per Article 8, especially as it pertains to LHI.
12. Should a corporation have the power to take or institute the proceedings for any winding up, reorganization or dissolution of the corporation or a subsidiary?	Without Municipal Council approval, any such activity cannot be done as per Article 8, especially as it pertains to LHI.
13. Should a corporation have the power to make any decision that would materially adversely affect the tax or regulatory status of the corporation or any of its subsidiaries?	Without Municipal Council approval, any such activity cannot be done as per Article 8, especially as it pertains to LHI.
14. Should a corporation have the power to enter into any amalgamation, (except for such amalgamations with or between subsidiaries which may be authorized by resolution of directors pursuant to the Act), arrangement or consolidation?	Without Municipal Council approval, any such activity cannot be done as per Article 8, especially as it pertains to LHI.
15. Should a corporation have the power to enter into any joint venture, partnership, strategic alliance or other venture, including ventures in respect of the generation or cogeneration of electricity which would require an investment or which would have a financial impact equal to or greater than 10% of the consolidated book value of all of the assets of the corporation?	Without Municipal Council approval, any such activity cannot be done as per Article 8, especially as it pertains to LHI. ¹

¹ Please note the Articles cited in the above table are those of the Shareholder Declarations.

The following diagram shows how one councillor and three LUSI appointments flowing through to London Hydro would give council majority control of the utility according to the shareholder declarations as drafted.



Alternatively, council could assume the task of appointing all board members or reserve the right to approve all appointments.

In our strategic plan, the affiliate path falls squarely under “Growing Our Economy”, where:

- London will develop a top-quality workforce.
- London is a leader in Ontario for attracting new jobs and investments.
- London creates a supportive environment where entrepreneurs, businesses, and talent can thrive.

The specific outcomes and strategies I believe apply are:

- Maintain viability in key global markets.
- Increase partnerships that promote collaboration, innovation, and investment.
- Ensure job growth through attraction of new capital from a diverse range of markets and industries.

To this end I hope you will support the following additional motions:

d) That Civic Administration BE DIRECTED to prepare the necessary by-laws to:

i. Incorporate the HoldCo (LUSI) for the purpose of generating electricity.

ii. Appoint three (3) members to the Board of the HoldCo (LUSI) from among the current LHI Board members.

iii. Authorize the HoldCo (LUSI) to incorporate an unregulated retail affiliate.

iv. Authorize the transfer of all the shares of LHI to HoldCo (LUSI).

v. Authorize the transfer of non-regulated renewable generation assets from LHI to HoldCo (LUSI).

e) That Civic Administration BE DIRECTED to amend the draft shareholder declarations to include council approval of all LHI and affiliate board appointments along with other recommended changes, and return them for council approval in an appropriate timeframe.

Yours,

Michael van Holst,
Council’s representative on the London Hydro Board