

APPENDIX 6

VANCOUVER ISLAND - CALL FOR TENDERS

SUMMARY OF SELLER EPA PERFORMANCE AND DELAY LDs, LIABILITIES AND SECURITIES

(Revised: 13 January 2004)

This Appendix is a summary provided for convenience only. It is not intended to be exhaustive. In the event of any conflict between this summary and the EPA, the EPA governs.

EPA Section	Event	Consequence
3.2	Failure to take steps required to enable satisfaction of BCUC approval condition.	<p>\$80,000/MW x Bid Capacity plus any damages in excess of that amount.</p> <p>In the case of gas-<u>fired</u> tolling plants - \$120,000/MW x Bid Capacity plus any damages in excess of that amount.</p>
6.7	Demonstrated Capacity is less than 95% of Nominal Capacity in 2 consecutive tests.	Reduction in Nominal Capacity. Reduces BC Hydro payment obligation. Seller may increase Nominal Capacity within 180 days based on further demonstration tests
13.1	Failure to achieve development and construction milestones.	\$/MW amount (secured by Milestone Security) that increases with each missed milestone from \$2,000/MW for Material Permits milestone to \$7,000/MW for Synchronization milestone. Milestone Security returned if COD is achieved by Guaranteed COD Date.
13.2	COD delay.	\$444/MW/day (\$666/MW/day for gas- <u>fired</u> tolling plants). This liability is in addition to the LDs for missed Milestones, if any. Maximum LD is \$444 or \$666/MW/day X 180 days .
13.3	Shortfall in Capacity at COD compared to Bid Capacity.	<p>\$80,000/MW for each MW below 95% of Bid Capacity.</p> <p>For gas-<u>fired</u> tolling plants - \$120,000/MW for each MW below 95% of Bid Capacity.</p>
13.4	Post-COD capacity shortfall.	\$/MW amount for each MW below 95% of Nominal Capacity. The \$/MW amount commences at \$80,000/MW (\$120,000/MW for gas- <u>fired</u> tolling plants) and

		declines at <u>5</u> year intervals over the term <u>Term</u> based on the length of the term <u>Term</u> . (eg. 10 year term = \$80,000/MW for first 5 years and \$40,000/MW for second 5 years).
17.4	Termination by BC Hydro for missed Milestone, late COD or Seller Default.	<p>Seller required to pay Termination Payment. From EPA execution to 5th<u>1st</u> anniversary of COD - \$80,000/MW (\$120,000/MW for gas-fired tolling plants) x Bid Capacity or Nominal Capacity depending on date of termination. After 5th<u>1st</u> anniversary of COD Termination Payment declines at <u>5</u> year intervals over the term<u>Term</u> based on the length of the term<u>Term</u>.</p> <p>For <u>gas-fired</u> tolling plants, Seller is also liable for the reasonable costs of terminating commitments to the Gas Transporter. No contractual limit of liability.</p>
13.5, 17.7	Deliberate Breach.	BC Hydro can elect to sue for general damages. No contractual limitation of liability.
13.5	Liability for breaches of the EPA not subject to LD provisions.	General Damages. No contractual limitation of liability except in the case of termination for breach where the Termination Payment under section <u>Section</u> 17.4 caps the liability.
Appendix 3	<p>Payment reduction based on availability.</p> <p>Heat Rate Bonus/Penalty (Only applicable <u>only</u> to gas-fired tolling plants <u>other than split bids</u>).</p>	<p>Capital Charge (CC) and Operation & Maintenance <u>Charge</u> (OMC) payment reduced by 2% for every 1% shortfall in availability below 97%. CC and OMC payment is 0 where availability falls below 47%.</p> <p>Amount of Heat Rate bonus/penalty<u>Bonus/Penalty</u> depends on guaranteed heat rate, gas price and actual heat rate.</p>
Appendix 17 – Network Upgrades	Early termination of EPA except where the Seller terminates for a Buyer Default.	Seller required to repay all or a portion of the Network Upgrade Costs incurred by BC Hydro to the date of termination. Amount of repayment obligation declines at <u>5</u> year intervals after COD.

SECURITIES

(All in the form of a Letter of Credit except the Subordinated Mortgage)

EPA Section	Description	Amount of Security
14.3	Milestone Security - Posted if Milestone not achieved by Guaranteed Milestone Date.	Amount of Milestone LDs (See above). Returned without deduction if COD achieved by Guaranteed COD Date.
14.1	Development Security - Posted on EPA Execution. Released on COD.	\$80,000/MW \$120,000/MW for gas-fired tolling plants.
14.2	Operating Security - Posted on COD.	\$80,000/MW \$120,000/MW for gas-fired tolling plants. After 5th <u>1st</u> anniversary of COD, \$/MW amount declines at 5 <u>1</u> year intervals over the term <u>Term</u> based on the length of the term <u>Term</u> .
14.4	Capacity Shortfall Security - Posted at Provisional COD. Called upon at final COD <u>completion of Nominal Capacity Reset Test</u> if Capacity shortfall persists.	\$80,000/MW of shortfall below 95% of Bid Capacity \$120,000/MW for gas- fired <u>ing</u> tolling plants.
14.9	Subordinated Mortgage.	Registered against title to Project Assets.
Appendix 17	Network Upgrade Security. Posted at time BCUC condition is satisfied or waived.	Prior to completion of Network Upgrades – Amount of Network Upgrade cost estimate <u>Cost Estimate</u> . Upon completion of Network Upgrades – Adjusted to actual amount of Network Upgrade costs <u>Costs</u> . Subject to reduction at 5 <u>1</u> year intervals during the term <u>Term</u> .