
2007 BUDGET BRIEFING NOTE

Update on Outstanding Issues with Enwave

Issue/Background:

Outstanding Capital Work

- With respect to outstanding capital work, the specific items in question are directly related to a Performance Bond presently valued at \$6.5 million. In April 2005, Council agreed to reduce the initial bond from \$19.4 million to the present \$6.5 million with the understanding that Enwave would complete the outstanding capital work in a timely manner.
- The capital work includes, but is not limited to, the covering of the new intake lines (as outlined in design and construction documents as well as the permit approval submissions made to the Ministry of Natural Resources (MNR) and Ministry of Environment (MOE)) and the installation of the fifth raw water pump (as outlined in the documents supplied to the MOE during the application for the City's Certificate of Approval for the Island Water Treatment Plant).
- The additional pump is required to meet Enwave's future capacity requirements and provide the "Firm Capacity" as outlined in the Certificate of Approval. It is noted that from the perspective of the MOE, the obligation to add the pump to increase capacity rests with the City as a signatory to all permits and approvals and the owner of the drinking water system.
- At a meeting held between the parties on March 23, 2006, it was agreed that Enwave would prepare the appropriate information for submission to MOE and MNR related to Enwave's proposal not to cover the "New Intakes" as per the design documents.
- Council approval is required to amend the Energy Transfer Agreement (ETA) between the City and Enwave prior to submitting an application to the MOE requesting an amendment to the existing Certificate of Approval so the new intake pipes can remain uncovered. Enwave's proposal changes the risk profile for the ongoing maintenance of the intake pipes; therefore, this change must be reported to Council.
- Enwave's Consultant and Toronto Water Staff have been meeting to determine the specific requirements related to the installation of the fifth raw water pump. It is anticipated that this work will be completed shortly, at which time Enwave will be required to prepare the necessary materials and supporting documents to submit to the MOE for approval and amendment of the Certificate of Approval (about 3 to 4 months to prepare).
- Council has provided authority to amend the ETA to consider an alternative to diesel powered back-up electrical generators for the John Street Pumping Station provided that a suitable technical solution can be designed. Toronto Water continues to work with Enwave and Toronto Hydro to find an appropriate technical resolution to allow the amendment and still protect the City's electrical infrastructure.

Incremental Operating Costs

- With respect to the annual “Incremental Operating Costs” as identified in the ETA, Enwave is contractually obligated to pay the actual costs incurred by the City. These are costs incurred by the City above and beyond costs that normally would have been incurred if the Deep Lake Water Cooling Project had not proceeded.
- Numerous discussions have taken place between the parties over the past year and a half.
- It is anticipated that the parties will reach agreement on the operating costs in the near future. The amounts in question are as follows:

Original Estimates		Invoice Amounts
2004	\$1.1M	\$687,006.41
2005	\$1.5M	\$1,283,134.01
2006	\$1.7M	\$1,176,823.60 (to Oct. 1, 2006)
2007	\$1.6M	

Key Points:

Capital

- Should Enwave not proceed as agreed at the March 23, 2006 meeting, the City could call on the Performance Bond and then issue a contract to complete the outstanding work

Incremental Operating Costs

- With respect to the Incremental Operating Costs, the ETA outlines an Arbitration process that could be followed if the parties are unable to reach agreement on the calculation of costs.

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Date: January 10, 2007