

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
NO : R-3925-2015

RÉGIE DE L'ÉNERGIE

HYDRO-QUÉBEC, legal person constituted by the *Hydro-Québec Act*, RSQ c H-5, having its head office at 75 René-Lévesque Boulevard West, Montréal, Province of Québec, H2Z 1A4

Applicant

**SUPPLEMENTAL AFFIDAVIT OF CRAIG MARTIN,
TRANSCANADA ENERGY LTD.**

I. INTRODUCTION

1. I am the Director, Portfolio Optimization of TransCanada Energy Ltd. ("TCE"), which has its head office at 450-1st Street, Calgary, Alberta, T2P 5H1.
2. On May 1, 2015, I executed an affidavit in support of the application by Hydro-Québec Distribution ("HQD") to obtain a confidentiality order prohibiting the disclosure, publication and dissemination of the redacted information and particulars in the Memorandum of Understanding (the "MOU") executed by the parties on April 30, 2015¹ (the "May Affidavit")².
3. On August 19, 2015, TCE and Hydro-Québec ("HQ") executed the *Amending Agreement with respect to Tolling Capacity and Production and Delivery of Electrical Energy from Tolling Capacity* (the "Definitive Agreement") in accordance with Section 13(b) of the MOU.
4. In addition to paragraphs 2 to 36 of my May Affidavit, which I reiterate and incorporate by reference *mutatis mutandis* in the present affidavit, and in accordance with the prior decisions rendered by the Régie de l'énergie (the "Régie") referred to in paragraph 6 of the present affidavit, TCE hereby respectfully requests that the Régie order the confidential treatment, protection and non-disclosure to anyone, other than the Régie, of certain information and particulars contained in the following provisions of the Definitive Agreement, as indicated in the redacted version of the Definitive Agreement filed by HQ in connection with this application:
 - Sections 7.2(g) and 7.2(h) of the Definitive Agreement (Pricing formula in the event the Maximum Peak Tolling Capacity is revised to a value higher than 570 MW);
 - Section 7.4 of the Definitive Agreement (Full Load Heat Rate Target);

¹ R-3925-2015 : Exhibit B-6.

² R-3925-2015 : Exhibit B-4.

- Section 8.2(a)(iii) of the Definitive Agreement (Cost Threshold above which TCE has an option to pay for the cost of the work that could be carried out under this Section if such cost would exceed said Cost Threshold);
- Section 9.2(b) of the Definitive Agreement (Pass-Through Charges);
- Section 9.3(b) of the Definitive Agreement (Fee payable for Peak Tolling Energy during the Remaining 200 Peak Run Time Hours);
- Section 9.4(b) of the Definitive Agreement (Fee payable for Additional Tolling Energy);
- Section 16.3(a) of the Definitive Agreement (Formula for calculating the Damages in the event of a Failure to Deliver);
- Section 16.3(b)(i) of the Definitive Agreement (Compliance margin of the Maximum Peak Tolling Capacity during any Peak Period after the first Peak Period);
- Section 16.3(c) of the Definitive Agreement (Maximum aggregate of all Damages payable in the event of a Failure to Deliver);
- Section 18.2(b)(ii) of the Definitive Agreement (Maximum number of hours of any Forced Outage in any one Calendar Day);
- Section 18.2(c) of the Definitive Agreement (Structure of the Relieved Energy Allowances);
- Section 22.1(b) of the Definitive Agreement (Threshold constituting a Material Adverse Event);
- Section 24.1(a) of the Definitive Agreement (Threshold constituting a Destruction or Damage to the Power Plant)
- Schedule A of the Definitive Agreement (Annual Tolling Fee payable during the Term);
- Schedule C of the Definitive Agreement (Start-Up and Shutdown Fuel Requirements estimates).
- Schedule E, Sections 1 (Major Maintenance Chart), 6, 7 and 8 of the Definitive Agreement (Major Maintenance status of the equipment in the Power Plant and Formula for calculating the Monthly Major Maintenance Payment);
- Schedule E, Section (e) of the Definitive Agreement (Quantity of natural gas to be supplied from the LNG process).

II. REASONS FOR TCE'S CONFIDENTIALITY REQUEST

5. The information referred to in paragraph 4 of the present affidavit for which TCE requests non-disclosure is confidential financial, business and technical information which TCE usually treats confidentially. TCE continues to treat all this information as confidential.
6. The disclosure of this information would conflict with the Régie's decisions D-2003-146, D-2007-127, D-2008-106, D-2009-125, D-2010-151, D-2011-144, D-2012-119, D-2013-148, D-2014-029 and D-2014-160 (the "**Decisions**") and would cause the prejudice already evidenced in the files related to these Decisions.
7. This information shows TCE's project development strategy, its business and operating strategies and its price and cost structures. Its disclosure would cause TCE prejudice, would provide its competitors, marketers and other clients with an advantage and could undermine its competitiveness.
8. More specifically, the information contained in **Section 7.2(g)** and **Section 7.2(h)** of the Definitive Agreement, for which TCE is requesting non-disclosure, provides the pricing formula in the event the Maximum Peak Tolling Capacity is revised to a value higher than 570 MW. Such disclosure would therefore give TCE's competitors, marketers and other clients an advantage namely for pricing electrical energy and the economic model used by TCE for this project and would undermine its competitiveness in respect of the Power Plant and other projects. The Régie, by its Decisions, has already prohibited the disclosure, publication and release of similar information.
9. The information contained in **Section 7.4** and **Section (e) of Schedule F** of the Definitive Agreement, for which TCE is requesting non-disclosure, provides the Full Load Heat Rate Target and the quantity of natural gas to be supplied from the LNG process. Disclosure of this information would give TCE's competitors, marketers and other clients an advantage namely for pricing electrical energy and the economic model used by TCE for this project, and the potential costs of producing electrical energy and the efficiency of the Power Plant. Disclosure of this information would undermine TCE's competitiveness in respect of the Power Plant and other projects. The Régie, by its Decisions, has already prohibited the disclosure, publication and release of similar information.
10. The information contained in **Section 16.3(a)**, **Section 16.3(c)**, **Section 22.1(b)** and **Section 24.1(a)** of the Definitive Agreement, for which TCE is requesting non-disclosure, provides the formula for calculating the Damages in the event of a Failure to Deliver, the aggregate Damages payable in the event of a Failure to Deliver, the threshold constituting a Material Adverse Event and the threshold constituting a Destruction or Damage to the Power Plant. Disclosure of this information would give TCE's competitors, marketers and other potential clients an idea of the commercial risks and potential costs and the cost structure associated with TCE's obligations under the Definitive Agreement, and the economic model used by TCE for this project, and would undermine its competitiveness in respect of the Power Plant and other projects.
11. The information contained in **Section 16.3(b)(i)** of the Definitive Agreement, for which TCE is requesting non-disclosure, provides the compliance margin of the Maximum Peak Tolling Capacity during any Peak Period after the first Peak Period. Disclosure of this information would give TCE's competitors, marketers and other potential clients an idea of the commercial risks associated with TCE's obligations under the Definitive Agreement

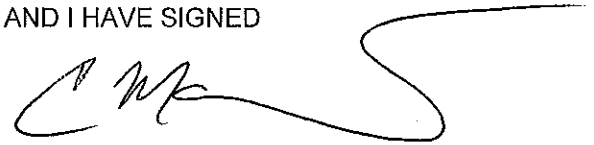
and the required reliability and compliance margin of the Power Plant. Disclosure of the economic and operational model used by TCE would undermine its competitiveness in respect of the Power Plant and other projects. The Régie, by its Decisions, has already prohibited the disclosure, publication and release of similar information.

12. The information contained in **Schedule A, Section 9.3(b)** and **Section 9.4(b)** of the Definitive Agreement, for which TCE is requesting non-disclosure, provides the Annual Tolling Fee payable by HQ during the Term of the Definitive Agreement, the fee payable for Peak Tolling Energy during the Remaining 200 Peak Run Time Hours and the fee payable for Additional Tolling Energy. Disclosure of this information would give TCE's competitors, marketers and other potential clients an idea of its project development strategy, and an advantage namely for pricing electrical energy and the economic model used by TCE in this project for its costs and revenue structure. Such disclosure would undermine TCE's competitiveness in respect of the Power Plant and other projects. The Régie, by its Decisions referred to above, has already prohibited the disclosure, publication and release of similar information.
13. The information contained in **Section 8.2(a)(iii)** of the Definitive Agreement, for which TCE is requesting non-disclosure, provides the Cost Threshold above which TCE has an option to pay for the cost of the work that could to be carried out under this Section if such cost would exceed said Cost Threshold. Disclosure of this information would give TCE's competitors, marketers and other potential clients an idea of its project development strategy, and the economic model used by TCE in this project for its costs and revenue structure. Such disclosure would undermine TCE's competitiveness in respect of the Power Plant and other projects. The Régie, by its Decisions referred to above, has already prohibited the disclosure, publication and release of similar information.
14. The information contained in **Section 9.2(b)** of the Definitive Agreement, for which TCE is requesting non-disclosure, provides information regarding Pass-Through Charges. Disclosure of this information would give TCE's competitors, marketers and other potential clients an idea of the costs and risks not assumed by TCE under the Definitive Agreement and the cost structure of the project and would undermine its competitiveness in respect of the Power Plant and other projects. The Régie, by its Decisions, has already prohibited the disclosure, publication and release of various costs associated with the Power Plant.
15. The information contained in **Section 18.2(b)(ii)** and **Section 18.2(c)** of the Definitive Agreement, for which TCE is requesting non-disclosure, provides the maximum number of hours of any Forced Outage in any one Calendar Day and the structure of the Relieved Energy Allowances in relation to reliability level of the Power Plant. Disclosure of this information would give TCE's competitors, marketers and other potential clients an idea of the commercial risks associated with TCE's obligations under the Definitive Agreement and the required reliability of the Power Plant. Disclosure of the economic and operational model used by TCE would undermine its competitiveness in respect of the Power Plant and other projects. The Régie, by its Decisions, has already prohibited the disclosure, publication and release of similar information.
16. The information contained in **Schedule C** of the Definitive Agreement, for which TCE is requesting non-disclosure, provides Start-Up and Shutdown Fuel Requirements estimates. Disclosure of this information would give TCE's competitors, marketers and

other potential clients an advantage, namely for pricing electrical energy and the cost structure of the project, including the potential costs of producing electrical energy, the efficiency of the Power Plant and the economic model used by TCE in this project, and would undermine its competitiveness in respect of the Power Plant and other projects. The Régie, by its Decisions, has already prohibited the disclosure, publication and release of similar information.


- 17. The information contained in **Schedule E (Sections 1 (Major Maintenance Chart), 6, 7 and 8)** of the Definitive Agreement, for which TCE is requesting non-disclosure, provides the Major Maintenance status of the equipment in the Power Plant and the formula for calculating the Monthly Major Maintenance Payment payable in the event of a Major Maintenance event. Disclosure of this information would give TCE's competitors, marketers and other potential clients an idea of the economic model used by TCE for this project, and would undermine its competitiveness in respect of the Power Plant and other projects.
- 18. For all these reasons, TCE asks the Régie to (i) **GRANT** the present request for confidentiality of the redacted information and particulars in the Definitive Agreement, (ii) **ORDER** the confidential treatment of the redacted information and particulars in the Definitive Agreement mentioned in paragraph 4 of the present affidavit, and (iii) **RENDER** an order prohibiting the disclosure, publication and release of the said redacted information and particulars in the Definitive Agreement.
- 19. I sign the present affidavit in support of the application by HQD to obtain a confidentiality order prohibiting the disclosure, publication and dissemination of the said redacted information and particulars in the Definitive Agreement mentioned in paragraph 4 of the present affidavit.
- 20. At the time of executing the present affidavit, TCE had not been provided yet with the exhibit number of the Definitive Agreement.
- 21. TCE remains at the Régie's disposal to answer, *in camera*, as the case may be, any questions the Régie might have in this regard.
- 22. All of the facts alleged in the said confidentiality request are accurate.

AND I HAVE SIGNED



CRAIG MARTIN

Solemnly affirmed before me
in Westborough, Massachusetts, U.S.A.,
this 21st day of August 2015


 Notary Public **RICHARD P. SCHULER**
 Notary Public
 COMMONWEALTH OF MASSACHUSETTS
 My Commission Expires
 May 29, 2020

1000