



# PRP International, Inc.

## *Fairness Advisory Services*

June 30, 2009

Ms. Marita Morin  
Secretary Treasurer  
Chapleau Public Utilities Commission  
110 Lorne Street, South, Box 670  
Chapleau, ON P0M 1K0

Dear Ms. Morin:

Subject: Confirmation of the Fairness Commissioner  
Chapleau Public Utilities Commission  
- KTI/Sensus Limited Contract Award  
Advanced Metering Infrastructure RFP, August 2007  
London Hydro & Consortium of LDCs Smartmetering Project

PRP International, Inc. is pleased to submit its Confirming Letter of the Fairness Commissioner for the noted negotiations and contracting phase of the LH AMI Request for Proposal (RFP) procurement. This judgment is being provided for the information and use of Chapleau Public Utilities Commission ("CPUC"), in its administration of the contract awarded to its #1 ranked Proponent, KTI/Sensus Limited.

*"It is the judgment of PRP International, Inc., as the Fairness Commissioner engaged by CPUC for the phase of negotiations and contract award pursuant to the Fairness Protocols issued August 2008, that the successful conclusion of negotiations and contract between Chapleau Public Utilities Commission and KTI/Sensus Limited, were undertaken in accordance with the principle for such negotiations and contract award set out in the RFP, issued August 14, 2007."*

A backgrounder and summary of the Fairness Protocols is attached and forms part of this Confirming Letter.

Yours truly,

Peter Sorensen  
President

Attachment: Negotiations and Contract Phase Backgrounder

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# **BACKGROUNDER TO FAIRNESS CONFIRMATION / ATTESTATION**

## **Advanced Metering Infrastructure Procurement**

### **TO WHOM IT MAY CONCERN:**

#### **Background:**

- A Request for Proposal procurement transaction was conducted by London Hydro Inc., as the lead sponsoring Local Distribution Company (LDC) and with a consortia of another 63 LDCs, during the period August 2007 to July, 2008;
- The evaluation and selection phase of the RFP provided for the determination of the #1 and #2 ranked Proponents for each LDC;
- RFP Provision 7.5.14<sup>1</sup> provides the framework (principle) for negotiations and contracting based on the principle of "first right to negotiation and execution of a contract" being accorded to the ranked order of Proponents commencing with the highest ranked Proponent and proceeding in a consecutive order thereafter; and
- Each LDC was provided the evaluation results for their #1 and #2 ranked Proponents supported by the Attestation Letter of the Fairness Commissioner as to those rankings.

#### **Fairness Coverage Objective:**

Normally, fairness coverage terminates with the determination of the ranked Proponents following the evaluation and selection phase of the RFP; however, certain LDCs expressed a wish to secure additional fairness coverage during the subsequent phase of negotiations and contract award. The objective for this second phase fairness coverage is to assure that LDCs undertook a phase of negotiations and contracting that meets the RFP provisions of consecutive negotiations where required, e.g. with their top two ranked Proponents and in the event of unsuccessful negotiations with the #1 ranked Proponent, a subsequent contract award to the next ranked Proponent would be on an equitable basis as was the requirements in the negotiations with the #1 ranked Proponent.

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#### **7.5.14 Final Contract Negotiations**

Any conditions and provisions that a bidder seeks shall be a part of this proposal. Notwithstanding, nothing herein shall be interpreted to prohibit London Hydro from introducing or modifying contract terms and conditions during negotiation of the final contract.

London Hydro has scheduled no more than two weeks for contract negotiations (if necessary), and expects the successful bidder to maintain a prompt and responsive negotiation to accomplish and complete final contract agreement within that time period. If contract negotiations exceed an interval acceptable to London Hydro, London Hydro retains the option to terminate negotiations and continue to the next apparent successful bidder, at the sole discretion of London Hydro. Said interval shall in no event be less than three weeks.

## **BACKGROUNDER TO FAIRNESS CONFIRMATION / ATTESTATION**

### **Advanced Metering Infrastructure Procurement**

#### **Fairness Protocols:**

- A Fairness Protocol was developed and issued to all LDCs, in August 2008 that set forth the best practices for fair consecutive-based negotiations and contract award.
  - The fundamental principle of the Protocol was the requirement for the LDC to establish the negotiations agenda for their top ranked Proponents and submit a copy to the Fairness Commissioner prior to engagement of their #1 ranked Proponent, i.e. the agenda would demonstrate a common statement of work, a LDC standard for pass/fail in their negotiations and the negotiation issues would only differ to the extent of the respective Proponent's technical solution being offered.

#### **Form of Fairness Confirmation / Attestation<sup>2</sup>:**

1. A confirmation of fair negotiations and contract award would be issued if the LDC's #1 ranked Proponent was awarded a contract; the original Attestation Letter remains in effect.
2. An Attestation of fair negotiations and contract award would be issued if the LDC determined that their #1 Proponent was to be set aside and the LDC successfully contracted with their next ranked Proponent, e.g. their #2; the original Attestation Letter is thus superseded by the Negotiations and Contract Award Attestation Letter.

#### **Local Distribution Company:**

### **Chapleau Public Utilities Commission**

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#### <sup>2</sup> Conditions on the rendering of this Confirmation / Attestation.

- The two Negotiations Agenda were provided by CPUC, via its agent Util-Assist;
- Fairness Commissioner undertook no direct participation or oversight in the negotiations between CPUC and their #1 ranked Proponent;
- The successful contract award was based on the CPUC criteria and no independent analysis nor any comparison with the evaluation results of the RFP process was carried out by the Fairness Commissioner; and
- The confirmation of the Fairness Commissioner was based on the progress report(s) provided by CPUC, via its agent Util-Assist.