



HOUSE OF ASSEMBLY  
NEWFOUNDLAND AND LABRADOR  
**Office of the Leader of the Official Opposition**

February 15, 2018

Commissioner Richard LeBlanc

Commission of Inquiry Respecting the Muskrat Falls Project  
5th Floor, Suite 502, Beothuck Building  
20 Crosbie Place  
St. John's, NL A1B 3Y8  
Telephone Number: (709) 729-6076  
Toll-free Number: 1-833-235-7702  
Facsimile Number: (709) 729-6070  
Email: admin@muskratfallsinquiry.ca

Dear Commissioner LeBlanc:

As Leader of the Official Opposition in our province's House of Assembly, I write to submit the attached written submission in response to the January 24, 2018 request for written submissions with respect to the interpretation of the Terms of Reference for the Commission of Inquiry Respecting the Muskrat Falls Project.

Respectfully, while the request for submissions stated "Submissions... should not exceed 20 pages of minimum 11-point font, double-spaced," considering the importance of this matter and the nature of this submission, it varies from the recommended length. Appended at the back of the submission are some supporting materials, as referenced. The submission is indexed and should be easy to follow.

I trust this will be satisfactory. Please contact me if there are any concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Davis".

**PAUL DAVIS, MHA Topsail-Paradise  
Leader of the Official Opposition**



# **Submission with Respect to the Interpretation of the Terms of Reference for the Commission of Inquiry Respecting the Muskrat Falls Project**

**Office of the Official Opposition  
House of Assembly of Newfoundland and Labrador  
February 15, 2018**

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## Scope of the Terms of Reference

**The Official Opposition believes the Inquiry's Terms of Reference and its intended scope should be interpreted as broadly as necessary to cover all relevant aspects of this matter, not only because the people of the province expect and deserve thorough answers, but also because the government has stated that the Terms of Reference should be "all encompassing" and the Inquiry should bring to light "absolutely every shred of information from the time that this was thought up until the time it's completed."**

Premier Dwight Ball and Justice Minister Andrew Parsons were questioned about the Terms of Reference in the House of Assembly during the Question Periods of October 16, November 20 and November 21, 2017. Both the Premier and the Minister were asked repeatedly whether the Terms of Reference should be read narrowly or broadly and whether the Commissioner would be given sufficient scope to consider all aspects of the subject matter. Below are some of their responses, which can be read in their full context in this Submission's Appendices.

It is abundantly and unambiguously clear from these responses that the Ball government intended the Terms of Reference to be interpreted in a very broad and all-encompassing manner.

Premier Ball explicitly stated: "We will put in a terms of reference that is all encompassing." He said: "That will include everything from a forensic audit." When asked specifically whether certain matters would be included or excluded, he stated: "On this side of the House, we intend to be fully compliant in any decisions that we had made. Whatever the Commissioner needs, I can guarantee you we'll be co-operating with the Commissioner." He said: "**The Commissioner has a right to compel all of this information.**" He said: "All the information should be out there."

Minister Parsons stated: "under the terms of reference, it talks about the fact that everything will come out, including reliable estimates of the cost to the conclusion of the project – to the conclusion of the project. We're talking about the beginning right to the end; everything needs to come out into the light of day." The Minister said: "**We want absolutely every shred of information from the time that this was thought up until the time it's completed to come into the light of day under the watch of Justice Richard LeBlanc.**"

Those statements obviously mean the Terms of Reference ought to be interpreted as broadly as necessary to cover all relevant aspects of this matter.

Below are some of the most poignant statements in support of this position.

October 16, 2017

Premier Ball:

- We will put in a terms of reference that is all encompassing.
- We look forward to having a very intense, detailed, deep dive into how we got into this situation.
- That will include everything from a forensic audit.
- The commissioner and those people, they will have a broad width and they will use whatever resources they need to get the real answers that were hidden from the people of this province.
- Our intention is to expose all of that and let the inquiry do the work.
- Whatever measures they need, they will have the resources to do it.
- We are going to get the answers that are required.

November 20, 2017

Premier Ball:

- We will get the answers.
- I have nothing to hide, that I can guarantee you.
- I for one will be glad to sit in front of the Commissioner and speak about my experience on the Muskrat Falls Project prior to becoming Premier and while being Premier, Mr. Speaker. So let's make that very clear.
- I will comply. I will be more than willing to sit in front of the Commissioner and discuss my experience from the beginning to the end of this project. That you can guarantee.

Minister Parsons:

- Certainly, what we have here I think is a very broad terms of reference.
- When it comes to an inquiry, we want the facts. What happened? The second part we want is to ensure that the recommendations throughout will help avoid a situation like this happening again in the future. That's what happens in an absolute inquiry.
- The second part is that I can guarantee you, everybody on this side would be ready to appear if compelled and put any evidence there.
- At the end of the day, the Public Inquires Act allows for the justice of this independent inquiry to compel everybody – everybody – to appear, to give testimony, for the release of documents so that, at the end of the day, all the facts of this matter will be known. This will be an independent inquiry that's quite

broad so that the people of this province get the full disclosure on what happened.

- What I would point out, though, is that under the terms of reference, it talks about the fact that everything will come out, including reliable estimates of the cost to the conclusion of the project – to the conclusion of the project. We're talking about the beginning right to the end; everything needs to come out into the light of day.
- Again, let me make this extremely clear to the Member of the opposite side, as well as to all the people of the province. This inquiry and its terms of reference, which will be led independently by Justice LeBlanc, will have the power to compel anybody and everybody, to compel all of the evidence. We want absolutely every shred of information from the time that this was thought up until the time it's completed to come into the light of day under the watch of Justice Richard LeBlanc.
- I say to the Member opposite, Nalcor, this government, your government, everything should be scrutinized.
- The Commissioner of this inquiry, Justice Richard LeBlanc, was actually consulted upon these terms of reference. These would not have gone forward unless he felt that this was all encompassing, whether it was broad enough to take in all the factors.
- This is a very broad terms of reference for a very broad project and, at the end of the day, there will be independence so that he can get all of the information and all the answers that he and the people of this province need.
- Again, the terms were specifically drafted to be broad enough to allow for all concerns to be brought forward.
- We want all the facts out there. We want all the information out there. We're willing to do what we can on this end to get that information out there because what's the point of doing an inquiry that doesn't answer the questions that the people have?
- I'm certainly happy to have someone of the calibre of Justice LeBlanc handling this because anybody that knows him knows of his thoroughness, knows how he is going to want all the information out there.
- What I can say in case there's any – I thought there was some clarity over the last number of answers that the Premier and I have given. We're going to put absolutely everything we are asked and more in front of the Commissioner from the last two years. We have nothing to hide.
- The terms of reference are sufficiently broad to ensure that everything that needs to be in front of the Commissioner, in front of the people of this province, will be out there.
- We are certainly happy to release Cabinet confidence as it relates to this process to ensure that this administration's decisions are put out there in the clear.

November 21, 2017

Premier Ball:

- We will be compliant.
- Any Cabinet documents that are required and compelled by the commission, we will put them forth.
- We certainly, on this side of the House, intend to comply with any of the questions that are asked by the Commissioner. So, yes, we'll be making that information available.
- We intend, on this side of the House, to be fully compliant and make that information available.
- As I said, the Astaldi contract, the contracts that were put in place, I think the Commissioner would really like to see that. Mr. Speaker, they need to see that. That information will be provided.
- On this side of the House, we intend to be fully compliant in any decisions that we had made. Whatever the Commissioner needs, I can guarantee you we'll be co-operating with the Commissioner.
- We are prepared to do all of this. The Commissioner has a right to compel all of this information, Mr. Speaker. We want to lay out publicly all of the information that we have used, the decisions that we have made on behalf of the Muskrat Falls Project.
- All the information should be out there. The Commissioner needs to see this. I am looking forward to getting this inquiry started.

## Interim Reporting

**The Official Opposition believes the Commissioner should provide an interim report prior to the conclusion of the Inquiry, including the results of the forensic audit along with any interim findings, conclusions and recommendations that may be appropriate to inform the people of the province and improve the project as it is developing.**

On November 20, 2017, Premier Ball was asked why the Inquiry is not expected to report until December 31, 2019 even though the next provincial election is set by law for either October 9, 2019 or November 26, 2019. Muskrat Falls will be a major general election issue in 2019. The people will be very interested in this Inquiry and would like to have the benefit of its findings before they next go to the polls.

The Premier responded: "Well, when you put together the terms of reference as something as broad and as far-reaching with such an impact as a terms of reference about the inquiry into the Muskrat Falls Project, Mr. Speaker, you speak with the Commissioner. Mr. Speaker, the Commissioner established a date, that being December 31, 2019. That was at the request of the Commissioner." He added: "The date was put in place by him."

The question was again asked: "You're saying this was the decision of the Commissioner; did you consult with anyone else about having the possibility of the inquiry and the report completed before the next provincial election?"

The Premier said: "I take exception with the fact that he would question the advice of someone like Judge Richard LeBlanc. That is what he is saying there, Mr. Speaker. We've given the judge the time that he asked for, Mr. Speaker, for us to interfere in this established process."

Had the Inquiry been commissioned earlier, when the Official Opposition and others were demanding it, of course, it would have been able to conclude the equivalent amount of work and report prior to October 2019.

An alternative to not having a final report issued until December 2019 would be for the Commissioner to issue an interim report. Such a report might include the audit; certain conclusions based on work completed to date; and preliminary recommendations for project management and oversight that could enable the uncompleted project to be managed more effectively, accountably and economically.

We urge the Commissioner to consider taking this approach.

Interim reporting is all the more critical in light of the Commission's decision to request that the Inquiry be exempted from the *Access to Information and Protection of Privacy Act, 2015*.

Prior to the scheduled February 26 start of the spring 2018 sitting of the House of Assembly, the government on February 1 invoked Section 4 of the ATIPP legislation to request that the House of Assembly Management Commission consider granting this exemption while the House was not in session. The Official Opposition opposed both the process and the request. We believe the request should have come before the whole House (as it yet may); and we believe the request should have been denied.

When a representative of the Commission made a presentation to the Management Commission, a principal concern raised was that, without the exemption, the Commission would require more staff to handle ATIPPA requests. To quote: "So we have estimated that if we do not get an ATIPPA exemption, we would need four additional full-time staff. I did ask our chief administrative officer to just give us an idea of what the expense of that would be, given that it's not just the staff but it's all the equipment and space and all that that comes with the staff. He gave me an estimate of between \$300,000 and \$400,000. That's a really significant amount of money. And, really, what is the benefit that we'd be getting for that? Certainly, at the end of our inquiry process, all information that should be made public will be made public. When we are done our work, all the records of the Commission would go to the Department of Justice and Public Safety. There they would be subject to the full ATIPPA scheme; people would be free to make ATIPPA requests."

Respectfully, it is understandable that there would be an additional cost to handle access to information requests; government departments also incur additional costs to administer information access requests. The expenditure is justified because people have a right to access information that belongs in the public domain. That is the cost of accountability. The benefit of the expenditure in this instance is that people – including the Opposition and the news media – will be able to see the information before a lengthy period of time has passed, and before the coming general election.

The Commission's argument actually identifies the crux problem by using the phrase "at the end of our inquiry process." As noted above, the Commission's terms of reference indicate that the end of the process may not come until December of 2019, months **after** the next general election. Muskrat Falls will be a major election issue in October of 2019, and the people require solid information rather than innuendo on which to base their judgment. If important information is not yet in the public domain at that point, then they will be voting in the dark on one of the most important public policy issues of this generation. That would be democratically perilous.

From the perspective of the Official Opposition, critical information we have been requesting on project management and cost overruns spanning the past two years has

been withheld time and again by the current government. At the same time, inflammatory statements about project management and cost overruns during the previous years have been made without supporting evidence. The province's people need more than ungrounded innuendo and aspersions on which to base their decision in the coming general election.

We are deeply concerned that, with a blanket ATIPPA exemption covering the Commission's work, the government will try to hide from disclosure all sorts of related information that would otherwise be accessible under ATIPPA. With an ATIPPA exemption, much of the inquiry's assembled information may remain sealed in the hands of the current government, with the Justice department being the gatekeeper, while the people of the province, the Opposition parties and the news media clamour for access to it. If the Commission's exemption is used to take information out of the public arena at a critical time when the purpose of the Inquiry is to do the opposite, that would represent a shocking and inexcusable abuse of the spirit and intent of both the ATIPP legislation and the Inquiry itself. Yet, the exemption means this scenario is not outside the bounds of possibility.

The point of the Muskrat Falls inquiry is to bring factual information into the public domain. Access to information is the paramount concern, and the flow of information should not be blocked unless there is an overriding public interest in blocking it. People want to see information unfiltered so they can make up their own minds. The Inquiry is the forum for assembling that information and bringing it to light. The Justice department should not be the gatekeeper, either before or after the fact. The Commission should be the gatekeeper, and the gate should be permitted to swing as wide open as possible.

**To ensure the people of the province have access to as much information as possible before they exercise their democratic right to vote in October 2019, we urge the Commission to provide an interim report well in advance of that.**

## Forensic Audit

**The Official Opposition believes the results of the Inquiry's forensic audit should be released to the public prior to the Inquiry's conclusion.**

The Official Opposition has consistently called for a forensic audit to thoroughly account for and evaluate the numbers used in the decision-making and project management processes.

Questioned in the House of Assembly on October 16, 2017, Premier Ball stated emphatically: "Mr. Speaker, we look forward to having a very intense, detailed, deep dive into how we got into this situation. **That will include everything from a forensic audit.** The commissioner and those people, they will have a broad width and they will use whatever resources they need to get the real answers that were hidden from the people of this province."

On February 5, 2018, the Commission announced the following:

<https://www.muskratfallsinquiry.ca/files/20180205-Investigative-and-Forensic-Audit-News-Release.pdf>

The Honourable Justice Richard D. LeBlanc, Commissioner for the Inquiry Respecting the Muskrat Falls Project, has decided that an investigative and forensic audit is required in order for the Commission to properly respond to its Terms of Reference.

Following a competitive process in response to a Request for Proposals issued by the Commission, Grant Thornton LLP has been selected by the Commissioner to conduct the audit. Grant Thornton LLP was selected based upon its thorough proposal, the expertise of the international team proposed to conduct the audit and the cost to complete the work required.

Grant Thornton LLP will complete its audit in two phases. The first phase will involve an investigation into the sanctioning of the Muskrat Falls Project, including the options considered by Nalcor to address the future electricity needs of the Province of Newfoundland and Labrador, as well as the financial analysis conducted by Nalcor for the Muskrat Falls Project and for the Isolated Island option. The second phase will involve an investigation of the costs incurred by Nalcor since commencement of Project construction to the present time, as well as current estimates of the costs to Project completion. The actual costs and current estimates to completion of the Project will be compared to the costs estimated by Nalcor at the time of its sanctioning.

Both phases of the audit will be completed in accordance with strict time limits. While Grant Thornton LLP will conduct the audit independently of the Commission, in order to reduce the time and cost for the audit and to ensure the least possible disruption to the Project construction, the Commission will use its legal powers to compel documents and

other evidence to assist in collecting and producing documentation to Grant Thornton LLP.

The audit reports shall be entered into evidence during the public hearings and form part of the Commission's public record. The Commissioner may accept all, some or none of the findings and conclusions of Grant Thornton LLP. In order to fully respond to its Terms of Reference, the Commission may engage other experts, as required.

We welcome the two phases of the forensic audit, which will investigate the options evaluated around the time of project sanction, and the costs incurred by Nalcor from the commencement to the present time, relative to the initial estimates.

The resulting forensic audit ought to be placed before the public, with nothing redacted except the commercially sensitive facts and, if necessary, certain other information that would normally be exempted under the current law. This information ought to be placed before the people in its raw, unfiltered form, as early as possible.

**As the Commission would require additional resources to review this material for disclosure, the government must provide the Commission with these resources in the best interests of the people of the province, who ought to have this information before they cast their ballots in the general election of 2019.**

## **Recommendations for Future Action**

### **The Official Opposition believes the Inquiry's recommendations should be solution-oriented.**

Term 7 clearly states: "The commission of inquiry shall not express any conclusion or recommendation regarding the civil or criminal responsibility of any person or organization." That is not the purpose of the Inquiry.

Arguably, the most important purpose of this Inquiry is to inform future actions to better serve the people of Newfoundland and Labrador.

The Official Opposition urges the Commissioner to dedicate a major portion of the report to recommendations of courses of action, mechanisms and approaches to guide future decisions regarding this project, other energy developments, and indeed developments in general.

A report that is solution-oriented will be instrumental in shaping public policy decisions moving forward.

The Commissioner may wish to make recommendations regarding the structure and function of Nalcor, which has been compared to Norway's exceptionally successful Statoil.

## Considering the Specific Terms

**The Official Opposition believes many questions ought to be asked about the decisions that were made, the information that was considered, and the management and oversight processes that occurred at every step along the way, from start to finish; and we believe the Inquiry's Terms of Reference and scope ought to be interpreted broadly enough to enable all the relevant questions to be answered.**

**Term 4** of Regulation NLR 101/17 (as appended at the end) spells out the Commission's Terms of Reference. Summarized, they focus on the following matters:

- (a) Which **options** did Nalcor consider to meet the province's needs?
  - i. Was the analysis reasonable?
  - ii. Was it reasonable to exclude certain options?
  - iii. Was it reasonable at the time to determine Muskrat Falls was the least-cost option?
  
- (b) What factors led to the considerable **cost** increases?
  - i. Consider the dealings with contractors and suppliers?
  - ii. Consider the contractual arrangements?
  - iii. Consider the overall project management?
  - iv. Consider the overall procurement strategy?
  - v. Consider the risk assessments?
    - Did those assessments follow best practices?
    - Were they in Nalcor's possession?
    - Did Nalcor mitigate the risks appropriately?
    - Did Nalcor make the government aware of the risks?
  - vi. Consider the commercial arrangements?
  
- (c) Was exempting the project from **PUB** oversight reasonable?
  
- (d) Was the government fully **informed** of the risks prior to project sanction, and did the project have proper government **oversight** along the way?

**Term 5** defines five other considerations:

- a) The impact on **Indigenous people**.
- b) People's need for reliable, **least-cost electricity**.
- c) The powers and responsibilities of a **Crown Corporation**.
- d) Balancing **commercial sensitivity** and public accountability.
- e) Balancing the interests of **ratepayers and taxpayers**.

**It is difficult to imagine a question that would not be included under these terms in light of the government’s assertion that the Terms of Reference ought to be interpreted as “all encompassing” such that “absolutely every shred of information from the time that this was thought up until the time it’s completed [comes] into the light of day.”**

The Inquiry should include, not just assessments of the choices made, but rational and evidence-based recommendations for the best courses of action to take in future projects of a similar nature.

**In the pages that follow are recommended questions and issues that we believe should be examined with respect to Terms 4 and 5, listed under their respective categories, as outlined here:**

**Term 4:**

**(a) Options**

**(b) Cost**

**(c) PUB**

**(d) Oversight**

**Term 5:**

**(a) Indigenous people**

**(b) Least-cost electricity**

**(c) Crown Corporation**

**(d) Commercial sensitivity**

**(e) Ratepayers and taxpayers**

**Term 4(a): OPTIONS – Should include the following:**

- *Was the analysis reasonable?*
- *Was it reasonable to exclude certain options?*
- *Was it reasonable at the time to determine Muskrat Falls was the least-cost option?*
- Examine the obligations that rested on the shoulders of Nalcor, through Newfoundland and Labrador Hydro, to forecast our province's energy requirements for the medium and long term, to examine the options to meet those needs, and to recommend the preferred, least-cost option.
- Review the independent engineer's office assessments of the project leading up to decision gate 1 and decision gate 2.
- Assess, not only Nalcor's pre-sanction analyses, but also the analytical work of the many outside parties whose findings were published and relied on by Nalcor and the government of the day leading up to project sanction: for example, the work of Manitoba Hydro International, Navigant, Ziff Energy, and Hatch.
- Review the analytical work of the Government of Canada as it exercised due diligence before the Harper administration provided a loan guarantee and, later, before the Trudeau administration provided an extended loan guarantee for the project.
- Assess the industrial and economic growth projections the government was using in the years prior to project sanction to determine the projected electricity needs of the province in the medium and long terms.
- Assess the medium- and long-term energy price projections of the leading economists and analytical experts on which this province's government and other governments relied in the years prior to project sanction.
- Assess the medium- and long-term electricity price projections our province used at the time of project sanction relative to the electricity price projections of other Canadian jurisdictions at the time.
- Critically assess the pre-sanction cost projections for upgrading the Holyrood Generating Station as a project alternative, including the costs of scrubbers and other new technologies.

- Critically assess the carbon-pricing cost projections that were used under the various carbon-pricing options that were under consideration at the time.
- Assess the projections of the impacts on local residents' health and on the local environment of continuing to engage in fossil fuel combustion to produce electricity at the Holyrood facility.
- Critically assess, as one of the alternative options, the proposal that the administration of the day brought to the table in 2001, and later withdrew, involving a partnership with Hydro-Québec to develop both Gull Island and Muskrat Falls.
- Analyze the impediments to electricity export from this province along certain trade routes, such as through Quebec, that our province faced at the time of project sanction.
- Critically review the various analyses conducted prior to project sanction of the relative costs and benefits of various power generation alternatives in light of the experiences of other jurisdictions, including:
  - wind,
  - oil,
  - natural gas,
  - tidal,
  - geothermal,
  - nuclear,
  - solar,
  - biofuel,
  - small hydro at various locations on the Island portion of the province,
  - and any other power generation alternatives that may have been evaluated.
- Critically review any analyses conducted at the time of project sanction of the relative costs and benefits of any option that involved importing electricity to meet our province's energy needs.
- Critically review any analyses conducted at the time of project sanction of the relative costs and benefits of various demand-reducing options, including energy efficiency and conservation.

**Term 4(b): COST – Should include the following:**

- *Critically assess the dealings with contractors and suppliers.*
  - *Critically assess the contractual arrangements.*
  - *Critically assess overall project management.*
  - *Critically assess the overall procurement strategy.*
  - *Critically assess the risk assessments.*
  - *Did those assessments follow best practices?*
  - *Were those assessments in Nalcor's possession?*
  - *Did Nalcor mitigate the risks appropriately?*
  - *Did Nalcor make the government aware of the risks?*
  - *Critically assess the commercial arrangements.*
- 
- Identify all of the factors that led to cost increases, from the commencement of the project to the present day, and quantify the relative impacts of those factors. Some of those factors came into play under the former leadership of Nalcor and the province, while others came into play under the current leadership. All of the factors should be defined and their impacts assessed individually and incrementally over time, and graphed by date.
  - Examine the reasonableness of the cost estimates that Nalcor provided at each step of the gated decision-making process.
  - Critically review all engineering and design of dams, the power house, the Labrador-Island link, the transmission infrastructure, and the Emera link.
  - Critically review the respective roles of Nalcor and SNC Lavalin in the engineering, design, project management and procurement of contracts.
  - Critically review the gated decision-making process that led to project sanction, and the decision-making process after sanction.
  - Critically review the timeline for the completion of engineering design and procurement, prior to and following the project start.

- Critically review the preparation, tendering and awarding of all relevant contracts leading up to and during all phases of project.
- Critically review the initial contract negotiation with Astaldi and every contract renegotiation with Astaldi, and provide comparative assessments of the other options on the table at those times. Critically assess any and all offers made by and to Astaldi with respect to their renegotiated contract.
- Review the process for the replacement of the Chief Executive Officer of Nalcor during the project execution and the effect of this transition on the project.
- Consider the impact on the project's viability, marketability and costs of negative public statements that were made about the project by the current government and the current CEO of Nalcor.
- Critically review the terms of the extended federal loan guarantee and their overall cost implications.
- Determine which risk assessments were done, to what extent they were reasonable and mitigatable, when they were provided to Nalcor, and when they were provided to the government.
- Examine the status of contingency, or buffer, funding throughout the course of this project.
- Critically assess the impacts of changing world energy commodity market prices and energy production policies on this project's costs and economics.
- Consider providing early recommendations on these matters that might be applied immediately to bring down the costs of the project moving forward.

**Term 4(c): PUB**

#### **Term 4(d): OVERSIGHT – Should include the following:**

- *Was the government fully **informed** of the risks prior to project sanction, and did the project have proper government **oversight** along the way?*
- Determine which risk assessments were done internally, and when.
- Determine which risk assessments were done externally; when they were completed; if and when they were provided to Nalcor; and if and when they were provided to the government.
- Determine to what extent the various assessed risks were reasonable and mitigatable.
- Determine what action plans were put into place to manage the assessed risks.
- Determine and evaluate how the risks were managed in practice.
- Determine whether there were deficiencies in risk assessment and mitigation.
- Evaluate whether it was appropriate to moderate the preparation for certain risks that might have been considered unlikely.
- Determine the best practices of other jurisdictions for assessing and mitigating risks to understand which risks a government engaged in such a project ought to consider reasonable and how they ought to be addressed.
- Recommend best practices for risk identification and mitigation for this and other projects moving forward.
- Consider whether the gated decision-making process was a “best practice” and the most optimal practice for this project at the time of project sanction.
- Evaluate the propriety and adequacy of the work completed at each of these gates.
- Determine whether and to what extent the government was informed by Nalcor and involved in the decision-making process at each of the gates.
- Evaluate whether the information available at each gate was sufficient for the magnitude of the decision being made on whether and how to move forward.
- Describe and evaluate the various oversight processes put in place by various governments across Canada for similar projects.
- Critically review the oversight mechanisms put in place to oversee work on this project at various junctures throughout the project, particularly at the outset; after March 2014; after the change of government administration in December 2015; and after the change of Nalcor leadership in 2016.
- For each oversight mechanism, describe how it worked, and assess the thoroughness of its oversight work.
- Determine to whom and how frequently each oversight mechanism reported.
- Examine precisely what information was passed by each oversight committee to the government and when.

- Evaluate the frequency and thoroughness of the public reporting of oversight work for each oversight mechanism.
  - Report on which oversight reporting material was withheld from the public at each juncture and whether these denials or delays of information were appropriate.
  - For each oversight mechanism, identify any details that may have been missed or poorly examined at various junctures of the project.
  - Recommend how the oversight processes should be structured and improved for the benefit of this and future projects.
- Examine the relationships between the various Premiers, Natural Resources Ministers and government officials to the Nalcor Chief Executive Officer and Nalcor officials at each step along the way of the project.
  - Determine to what extent the Premiers, various Cabinet Ministers and officials of the government had a direct role in Nalcor's decision-making on the project.
  - Determine to what extent the Premiers, various Cabinet Ministers and officials of the government had information about the management of the project on an ongoing basis.
- Examine the process by which the former CEO of Nalcor was terminated from the post, whether it was handled appropriately and what impact the transition may have made on the management of the project during the transitional period and thereafter.
- Examine the process by which the terms of the current CEO's contract were determined, how they came to differ from the terms of his predecessor in that role, and whether the new terms were appropriate.
  - Examine whether the current CEO of Nalcor was in any way distanced from project reporting or decision-making in virtue of any real or perceived conflict of interest that may have been identified.
  - Evaluate the nature and appropriateness of the contract provisions that permitted the current CEO of Nalcor to retain personal financial interests in a company or companies with which Nalcor might have been doing business directly or indirectly related to the Muskrat Falls Project or related to Nalcor generally.
- Determine how many of Nalcor's senior Muskrat Falls project management team members were retained following the transition, and the nature and impact of any project management team changes that were made; and evaluate whether the retention of the team members was appropriate.
  - Evaluate all the information the current CEO considered immediately after his appointment before declaring the project to be a "boondoggle."
  - Evaluate the extent of any project management changes that were made by the new CEO after his appointment, the dates of those changes, and their impacts.

- Determine whether project management changes have been significant or minor since the change of CEO.
  - Identify any specific project management directions the current government may have given to the new CEO around the time he took on this role.
  - Determine the extent to which the current government was apprised of any project management changes the new CEO made, and whether the approval of the current government for any of those changes was sought or given.
  - Evaluate the relative autonomy of the two Nalcor CEOs vis-à-vis the governments of the day in terms of management of this project.
  - Evaluate the chains of communication and command linking Nalcor and the governments of the day at various times during the execution of this project.
  - Determine whether the current government demanded or received greater direct decision-making authority over this project.
- 
- Examine and evaluate the purpose of any project tour that Nalcor's officials may have given to officials of Hydro-Québec, particularly in 2016.
  - Identify and evaluate all instances of communication between Nalcor and Hydro-Québec regarding this project.
- 
- Examine and evaluate the process by which contract work was awarded to Astaldi, and to what extent there was government oversight of, and involvement in, this decision.
  - Examine and evaluate the process by which Astaldi's contract terms were subject to renegotiation, and the extent to which there was government oversight of, and involvement in, this process.
- 
- Examine and evaluate the process by which the decision was made regarding the site 'dome', and the extent to which there was government oversight of, and involvement in, this process.
- 
- Examine and evaluate the process by which the integrity of the North Spur was considered, and the extent to which there was government oversight of, and involvement in, this process.
- 
- Examine and evaluate the process by which the cause of the flooding of the community of Mud Lake and related flooding was investigated, and the extent to which there was government oversight of, and involvement in, this process.
- 
- Examine and evaluate the process by which Premier Ball and his Ministers and officials negotiated with representatives of Labrador's Indigenous communities regarding their concerns about methylmercury contamination, preventative efforts such as soil-clearing, remedial efforts, scientific monitoring efforts, consultative commitments, promises regarding reservoir testing, and so forth.

- Determine what was requested, what was agreed to, and whether and to what extent the commitments made were honoured.
  - Determine who was involved in making these commitments and whether the process was managed appropriately.
  - Determine the cost estimates for the commitments requested, the commitments made and the actions taken.
- 
- Examine the process by which the employment and other benefits promised and awarded to Indigenous residents of the province were determined and evaluated.
  - Quantify the benefits of the project to Indigenous Newfoundlanders and Labradorians, and evaluate whether the benefits oversight and monitoring processes have been adequate.
- 
- Examine the protests against the project in Labrador in 2016-17.
  - Evaluate the extent to which a breakdown in proper communications between the government and local Indigenous communities may have exacerbated the risks of protests and conflict.
  - Determine what led to the protests and whether certain management and consultation deficiencies may have precipitated those protests.
  - Evaluate the response to these protests by Nalcor and the government; whether response plans had been developed in advance and implemented; how the response unfolded; and the extent to which the government was involved in the response.
  - Determine who ordered the police presence, when and by what means.
  - Determine the magnitude of the police and security response and its cost.
  - Determine the government's role in oversight of the response to the protests.
  - Determine how the cost of the response has been, or will be, borne.
- 
- Examine and evaluate all information that was requested of Nalcor by the current government and provided by Nalcor to the current government related to the projected future price of electricity to the province's consumers.
  - Determine whether the information and evidence provided by Nalcor to the government justified any statements regarding a projected doubling of consumers' electricity rates.
  - Identify and evaluate any communications between the current government and Nalcor regarding electricity rate mitigation and the mitigation fund.
  - Evaluate whether any project figures were altered or presented in an altered manner by Nalcor or the current government since December 2015 to unfairly inflate the projected consumer electricity rates.
  - Examine and evaluate the commitment the Natural Resources Minister made in November 2017 regarding commercial electricity rates.

### **Term 5(a): INDIGENOUS PEOPLE – Should include the following:**

- *Critically examine the impact of this project on Indigenous people in Newfoundland and Labrador.*
- Critically assess whether the recommendations of the initial environmental assessment were appropriately regarded with respect to their direct and indirect impacts on Indigenous people.
- With respect to the efforts to mitigate any negative impacts on the environment, wildlife and people's health of the project's development, critically review and compare the mitigation efforts that were initially recommended through the environmental assessment; the mitigation efforts that were initially agreed to; and the mitigation efforts that were actually undertaken.
- Compare these mitigation efforts and their impacts to mitigation efforts undertaken on other hydroelectricity projects both inside and outside Canada.
- Critically review any documents considered by the government or Nalcor in comparing the relative risks to the environment, wildlife and human health of the various mitigation options. Compare these risks to the risks associated with non-development scenarios, such as baseline risks and natural flooding.
- Critically assess whether the government's dealings with Indigenous groups in 2016-17 were undertaken in good faith and whether all agreements made were properly honoured.
- Critically assess the actual mitigation efforts undertaken in 2016-17, to what extent they accorded with the agreements that were made, to what extent they further mitigated the risks according to any scientific evidence generated, what the costs of those mitigation efforts have been, and how those mitigation efforts compare with the mitigation efforts undertaken on similar projects in other jurisdictions in Canada and abroad.
- Identify the best practices that should guide Newfoundland and Labrador in dealing with the concerns of Indigenous people in undertaking future hydroelectricity projects.
- Critically assess the benefits that various Indigenous groups in our province and many individual Indigenous Newfoundlanders and Labradorians have received through the development of this project.

**Term 5(b): LEAST-COST POWER – Should include the following:**

- *Consider people's need for reliable, least-cost electricity.*
- Critically review the projected medium- and long-term electricity costs of all of the options considered around the time of project sanction.
- Compare these medium- and long-term cost projections with similar projections for other jurisdictions across Canada at the time under the various energy development scenarios those jurisdictions were considering.
- Where were our electricity prices projected to be within a decade under the various options considered, and how did these projections rank nationally relative to the electricity price projections of other provinces at the time? Under the projections used, how would our province's electricity rates compare, during the decade after first power, to electricity rates in each other province of the country, and were these projections reasonable?
- Was it reasonable to conclude that Muskrat Falls development was – at the time of project sanction – the best option for providing reliable, least-cost electricity to meet the projected energy needs of the province for the decade following first power from the project?

**Term 5(c): CROWN CORPORATION – Should include the following:**

- *Consider the implications of Nalcor's status as a Crown Corporation.*
- Critically assess the degree to which Nalcor operates at arm's length from the provincial government, and the implications of this degree of separation. Critically assess the provincial government's oversight of Nalcor's operations, both generally and in terms of the Muskrat Falls project.
- As this Inquiry should make recommendations that are future oriented, critically assess – for comparison purposes – the hypothetical implications of Nalcor NOT being a Crown Corporation when undertaking such a hydroelectricity project. In other words, how would such a project unfold differently if Nalcor were a private corporation, and what are the advantages and disadvantages of these differences?
- What would be the impact of a whole or partial divestiture of Nalcor's assets and operations relative to the long-term value to the province of keeping Nalcor intact as our province's publicly owned energy corporation?
- Determine whether Nalcor or the government are, or have been, in the process of considering divestiture, side agreements or other measures to change the status of Nalcor as a Crown Corporation or to divest of all or part of the Muskrat Falls project or any related infrastructure.
- Critically assess whether any efforts to alter Nalcor's current status as a Crown Corporation or any efforts to divest Nalcor of infrastructure or control could be affecting the viability of this project.
- Identify any contractual restrictions on changes to the status of the Muskrat Falls project or the status of Nalcor. Would the terms of any loan guarantee or any other provisions prevent or restrict the whole or partial divestiture of any assets of Nalcor associated with the Muskrat Falls project?

**Term 5(d): COMMERCIAL SENSITIVITY – Should include the following:**

- Critically assess any decisions to withhold certain information from the public on commercial grounds.
- Offer recommendations for the future release of information in similar situations.

**Term 5(e): RATEPAYERS AND TAXPAYERS – Should include the following:**

- Quantify and graph the projected consumer electricity rates during the decade after first Muskrat Falls power as those projections changed over time.
- In other words, at the time of project sanction, what were consumer electricity rates projected to be during the decade after first power?
- Every time those rate projections changed, determine what factors caused them to change.
- Determine the current rate projections for the decade after first power.
- Compare all those changing rate projections to the rate projections at the time of project sanction associated with the other options, including the option of simply upgrading and relying on the Holyrood Generating Station, factoring in the associated technology upgrade costs and carbon costs of that option.
- In all cases, critically assess the rate projections to determine whether the numbers put forward have been reasonable, evidence-based and fully comparable.
- Thoroughly assess and quantify all of the options available to the province to mitigate electricity rate increases.
- Critically assess the rate mitigation fund proposal announced by the provincial government in 2017 and how it is being, or will be, financed.
- For assessment purposes, include among these rate mitigation options the following:
  - Using other revenue-generating measures or fiscal measures to offset electricity rate increases.
  - Using Muskrat Falls power effectively to attract new industries to promote economic growth and revenue growth.
  - Selling surplus Muskrat Falls power for profit.
  - Adjusting the return the province receives from Nalcor.
  - Effectively lobbying for carbon tax exemptions by crediting to Newfoundland and Labrador the total potential carbon-reducing impact

for the country of this hydroelectricity project and the monies invested to bring this energy on stream.

- Effectively lobbying for carbon tax exemptions by crediting to Newfoundland and Labrador the total potential carbon-reducing impact of Upper Churchill power and factoring in, as our investment, the foregone revenue that would have accrued to us during the life of this contract if the return for our province were fair.
  - Obtaining fair compensation for the Upper Churchill Contract, which – under renewal terms even more lopsided than the original agreement’s terms – is an ongoing drain on the revenue-generating potential of our province to the benefit of a province that also receives the lion’s share of Equalization financing.
  - Effectively pressing for new terms for the constitutionally mandated Equalization program that more fairly reflect the relative costs and fiscal capacity of provinces.
  - Leveraging and negotiating fair interprovincial power transmission agreements that enable our province to get power to market and receive a fair return on those sales.
  - Making optimal use of the province’s total energy potential, including other undeveloped hydro resources and the Upper Churchill to fully realize and benefit from our export potential as a North American energy warehouse and our economic growth potential.
- 
- Critically assess the state of the power export market at the time of project sanction and at the current time.
  - Critically assess whether appropriate actions have been taken to capitalize on export opportunities to enable power sales to offset project costs, and whether negative statements about the project by the current leadership have hurt the project’s status among prospective customers.
  - Critically assess the value to the province of the infrastructure constructed as part of the Muskrat Falls project.
  - Critically assess the value of the opening of a new route for power transmission.
  - Assess the potential implications of the Muskrat Falls project for future power project development and the value of those gains.

## Appendices

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## Public Notice

This Submission is provided in response to the following Public Notice dated January 24, 2018:

<https://www.muskratfallsinquiry.ca/files/20180124-Public-Notice-Call-for-Submissions-on-TOR-Final.pdf>

Commission of Inquiry Respecting the Muskrat Falls Project

### PUBLIC NOTICE

Commissioner Richard LeBlanc is calling for submissions with respect to the interpretation of the Terms of Reference for the Commission of Inquiry Respecting the Muskrat Falls Project. The Terms of Reference can be found at:

<http://www.releases.gov.nl.ca/releases/2017/exec/NLG171120.pdf>

As the Commissioner cannot amend or expand upon the Commission's Terms of Reference, submissions should only address the interpretation of the Terms of Reference as they currently exist.

Submissions must be in writing and should not exceed 20 pages of minimum 11-point font, double-spaced. Submissions can be made by email to [admin@muskratfallsinquiry.ca](mailto:admin@muskratfallsinquiry.ca) or delivered by hand or mail to the Commission's offices at:

5th Floor, Suite 502, Beothuck Building  
20 Crosbie Place  
St. John's, NL A1B 3Y8

Submissions must be received by no later than **February 15, 2018 at 5:00 pm.**

Persons or organizations of similar interest are encouraged to make joint submissions.

All submissions will be reviewed and considered by the Commissioner. Following his consideration he will issue a public decision with respect to the interpretation he will give to the Terms of Reference in carrying out the Inquiry. His decision will only be an interpretation of the wording concerned and will not be an explanation of the work to be undertaken by the Commission relevant to each Term of Reference or a determination of any matter to be inquired into.

The Commissioner's decision as to the interpretation of the Terms of Reference will be made public prior to applications being made for standing and/or funding.

Commission of Inquiry Respecting the Muskrat Falls Project  
5th Floor, Suite 502, Beothuck Building  
20 Crosbie Place  
St. John's, NL A1B 3Y8  
Website: [www.muskratfallsinquiry.ca](http://www.muskratfallsinquiry.ca)

Telephone Number: (709) 729-6076  
Toll-free Number: 1-833-235-7702  
Facsimile Number: (709) 729-6070

Email: [admin@muskratfallsinquiry.ca](mailto:admin@muskratfallsinquiry.ca)

## Terms of Reference

This Submission regards the following Terms of Reference dated November 20, 2017. Emphasis has been added to Terms 4 and 5 to identify key words.

<http://www.releases.gov.nl.ca/releases/2017/exec/NLG171120.pdf>

THE NEWFOUNDLAND  
AND LABRADOR GAZETTE  
EXTRAORDINARY  
PART II  
PUBLISHED BY AUTHORITY  
ST. JOHN'S, MONDAY, NOVEMBER 20, 2017  
NEWFOUNDLAND AND LABRADOR  
REGULATION  
NLR 101/17

**NEWFOUNDLAND AND LABRADOR  
REGULATION 101/17**

*Commission of Inquiry Respecting the Muskrat Falls Project Order*  
under the  
*Public Inquiries Act, 2006*  
(O.C. 2017 - 339)

*(Filed November 20, 2017)*

Under the authority of section 3 of the *Public Inquiries Act, 2006*, the Lieutenant-Governor in Council makes the following Order.

Dated at St. John's, November 20, 2017.

Ann Marie Hann  
Clerk of the Executive Council

**ORDER**  
*Analysis*

- |    |                                   |    |                                       |
|----|-----------------------------------|----|---------------------------------------|
| 1. | Short title                       | 6. | Findings and recommendations          |
| 2. | Definitions                       | 7. | Conclusion or recommendations limited |
| 3. | Commission of inquiry Established | 8. | Special expertise services            |
| 4. | Terms of reference                | 9. | Final report                          |
| 5. | Commission's considerations       |    |                                       |

*Short title*

1. This Order may be cited as the *Commission of Inquiry Respecting the Muskrat Falls Project Order*.

*Definitions*

2. In this Order

(a) "government" means the government of the province;

(b) "Isolated Island Option" means the isolated island option as defined in the June 17, 2011 reference question to the Board of Commissioners of Public Utilities;

(c) "Muskrat Falls Project" means the Muskrat Falls Project, as defined in subsection 2.1(1) of the *Energy Corporation Act*; and

(d) "Nalcor" means Nalcor Energy and its subsidiaries;

*Commission of inquiry established*

3. There is established a commission of inquiry respecting the Muskrat Falls Project and the Honourable Richard D. LeBlanc is appointed as the sole member of the commission.

*Terms of reference*

4. The commission of inquiry shall inquire into

(a) the consideration by Nalcor of **options** to address the electricity needs of Newfoundland and Labrador's Island interconnected system customers that informed Nalcor's decision to recommend that the government sanction the Muskrat Falls Project, including whether

(i) the **assumptions or forecasts** on which the analysis of options was based were reasonable,

(ii) Nalcor considered and reasonably dismissed **options other than** the Muskrat Falls Project and the Isolated Island Option, and

(iii) Nalcor's determination that the Muskrat Falls Project was the **least-cost option** for the supply of power to Newfoundland and Labrador Island interconnected system over the period 2011-2067 was reasonable with the knowledge available at that time;

(b) why there are significant differences between the estimated **costs** of the Muskrat Falls Project at the time of sanction and the costs by Nalcor during project execution, to the time of this inquiry together with reliable estimates of the costs to the conclusion of the project including whether

(i) Nalcor's conduct in retaining and subsequently dealing with **contractors and suppliers** of every kind was in accordance with best practice, and, if not, whether Nalcor's supervisory oversight and conduct contributed to project cost increases and project delays,

(ii) the terms of the **contractual arrangements** between Nalcor and the various contractors retained in relation to the Muskrat Falls Project contributed to delays and cost overruns, and whether or not these terms provided sufficient risk transfer from Nalcor to the contractors,

(iii) the overall **project management** structure Nalcor developed and followed was in accordance with best practice, and whether it contributed to cost increases and project delays,

(iv) the overall **procurement strategy** developed by Nalcor for the project to subdivide the Muskrat Falls Project into multiple construction packages followed industry best practices, and whether or not there was fair and competent consideration of risk transfer and retention in this strategy relative to other procurement models,

(v) any **risk assessments**, financial or otherwise, were conducted in respect of the Muskrat Falls Project, including any assessments prepared externally and whether

(A) the assessments were conducted in accordance with **best practice**,

(B) Nalcor took **possession** of the reports, including the method by which Nalcor took possession,

(C) Nalcor took appropriate measures to **mitigate** the risks identified, and

(D) Nalcor made the government **aware** of the reports and assessments, and

(vi) the **commercial arrangements** Nalcor negotiated were reasonable and competently negotiated;

(c) whether the determination that the Muskrat Falls Project should be exempt from oversight by the **Board of Commissioners of Public Utilities** was justified and reasonable and what was the effect of

this exemption, if any, on the development, costs and operation of the Muskrat Falls Project; and

(d) whether the government was fully **informed** and was made aware of any risks or problems anticipated with the Muskrat Falls Project, so that the government had sufficient and accurate information upon which to appropriately decide to sanction the project and whether the government employed appropriate measures to **oversee** the project particularly as it relates to the matters set out in paragraphs (a) to (c), focusing on governance arrangements and decision-making processes associated with the project.

*Commission's considerations*

**5.** The commission of inquiry, in carrying out the terms of reference referred to in section 4 shall consider

(a) participation in the inquiry by the established leadership of **Indigenous people**, whose settled or asserted Aboriginal or treaty rights to areas in Labrador may have been adversely affected by the Muskrat Falls Project;

(b) the need to provide consumers in the province with electricity at the **lowest possible cost** consistent with **reliable service**;

(c) the powers, duties and responsibilities of a **Crown Corporation**;

(d) the need to balance **commercial considerations** and **public accountability** and transparency in carrying out a large-scale publicly-funded project; and

(e) the need to balance the interests of **ratepayers** and the interests of **taxpayers** in carrying out a large-scale publicly-funded project.

*Findings and recommendations*

**6.** The commission of inquiry shall make findings and recommendations that it considers necessary and advisable related to section 4.

*Conclusion or recommendations limited*

**7.** The commission of inquiry shall not express any conclusion or recommendation regarding the civil or criminal responsibility of any person or organization.

*Special expertise services*

**8.** The commission of inquiry may engage the services of persons having special expertise or knowledge including those with financial, engineering and construction expertise.

*Final report*

**9.** The commission of inquiry shall terminate its work and deliver the final report to the Minister of Natural Resources, who shall be the minister responsible for the commission of inquiry, on or before December 31, 2019.

## Hansard excerpt – dated October 16, 2017

<http://www.assembly.nl.ca/HouseBusiness/Hansard/ga48session2/17-10-16.htm>

MR. SPEAKER: The hon. the Member for Ferryland.

MR. HUTCHINGS: Thank you, Mr. Speaker.

Mr. Speaker, the Premier has announced an **inquiry** into Muskrat Falls.

I ask the Premier: When do you expect to release the terms of the inquiry, and when is the anticipated start date?

MR. SPEAKER: The hon. the Premier.

SOME HON. MEMBERS: Hear, hear!

PREMIER BALL: Thank you, Mr. Speaker.

As I have been saying now for a few weeks, we will look forward to and will start the inquiry this fall. It is something that is long overdue. I think the people of this province have a right to know how we got in the situation that we're into with the Muskrat Falls Project. It means doubling of electricity rates. It means, Mr. Speaker, extreme costs. I refer to it often as the Tory tax on electricity. It's something that people realize today, that this will have a profound impact on many generations in our province.

The inquiry will be starting this fall. The people of Newfoundland and Labrador have a right to know how we got into this situation.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Ferryland.

MR. HUTCHINGS: Thank you, Mr. Speaker.

I'm certainly glad to hear the Premier is getting ready to call the **inquiry** finally, but I do note to him that since March of 2016 there's been an additional \$1.5 billion accrued under his watch, I say to the Premier. So we're looking forward to it.

Mr. Speaker, will the Premier **commit to ensuring that the terms of reference is drafted by an individual or group that is independent of government?**

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker.

I think if you look at the schedule – I just want to address the preamble. If you look at the significant progress that's been made since we've made some changes on the Muskrat Falls Project with the new

CEO and new board, new Oversight Committee that includes independent people, Mr. Speaker, you will see in the last year there's been more work done than you've seen in any of the previous years before. Some 48 per cent in the first three years, now it's up to over 80 per cent. So there's been significant progress that's been made under the guidance and the leadership of this administration.

I will say this, when it comes to drafting the terms of reference, who will not be drafting the terms of reference and that is the group they called upon regularly, and that's Nalcor. Nalcor will not be involved in the drafting of the terms of reference.

SOME HON. MEMBERS: Hear, hear!

PREMIER BALL: **And, yes, we will get this out there independently. People that were part of the decision-making process will not be included in drafting of the terms of reference.**

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Ferryland.

MR. HUTCHINGS: Thank you, Mr. Speaker.

I'm glad to hear the Premier say that, but I point out to him that the current CEO kept all the team in place at Nalcor. He said he had confidence in their management skills and overseeing the project. So I'm glad to see that it will come out of Nalcor and there will be a terms of reference set up, no problem with that.

I also ask the Premier: At any time will the **terms of reference** or discussion come back here to the House of Assembly?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Mr. Speaker, there's one thing for sure that we know right now. The Members in the Opposition Party, clearly in the last few days, have articulated that they still support the project. They support a project that means more than doubling of electricity rates in our province. It's the single, biggest tax measure ever to be inflicted on the people of Newfoundland and Labrador.

I will guarantee you this, Mr. Speaker. We will not be putting the fox back in the hen yard with those terms of reference. We will not allow that to happen. **We will put in a terms of reference that is all encompassing. We will get to the details of what got us into this position.** It will not be determined by the Opposition, who actually got us in this position in the first place.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Ferryland.

MR. HUTCHINGS: Thank you, Mr. Speaker.

I should highlight for the hon. Premier, that there's a \$1.6 billion increase since they've taken power in regard to the project. So we're happy to see insight, a review of the project and what actually has transpired and taken place.

I'll ask the Premier: Will you commit to **ensuring that before a full-blown inquiry is done that a forensic audit of the project is completed, possibly by the Auditor General's office** that will look at the decision making that was done, procurement of contracts and all of those things that could feed into an inquiry?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Mr. Speaker, **we look forward to having a very intense, detailed, deep dive into how we got into this situation. That will include everything from a forensic audit. The commissioner and those people, they will have a broad width and they will use whatever resources they need to get the real answers that were hidden from the people of this province.**

The Member opposite just spoke of over a billion dollar increase, Mr. Speaker. These are numbers that were hidden from the people of Newfoundland and Labrador. They would not disclose them prior to 2015 because they were ashamed of it. They knew in June of 2015, the former premier knew this and hid it from the people of Newfoundland and Labrador.

Mr. Speaker, **our intention is to expose all of that and let the inquiry do the work. Whatever measures they need, they will have the resources to do it.**

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Ferryland.

MR. HUTCHINGS: Thank you, Mr. Speaker.

The numbers weren't hidden. The current CEO announced them several times in the past number of months. So they weren't hidden. Their own CEO announced the number.

I ask the Premier, the timeline for looking at this project, we know it will go back to – I think it has been referenced, a time when the decision was made to sanction it even before that. As well, **will the review take right up to date**, in terms of what decisions have been made to this date?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Mr. Speaker, if there's anything I look forward to is getting in front of that inquiry and laying out the things that we have had to clean up based on the work of the prior administration.

Mr. Speaker, what I would like to know, they had the ultimate opportunity to do their own inquiry. It was

called sanctioning, and they refused to do it. They kicked the PUB out. They rejected the joint review panel, Mr. Speaker. They had the opportunity to ask questions in the beginning and refused to do it, Mr. Speaker.

**We are going to get the answers that are required.** What I would like to know, knowing what we know now, do Members of the Opposition still support the Muskrat Falls Project? Stand up and let the people know: Do you still support the project?

SOME HON. MEMBERS: Hear, hear!

## Hansard excerpt – dated November 20, 2017

<http://www.assembly.nl.ca/HouseBusiness/Hansard/ga48session2/17-11-20.htm>

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

Mr. Speaker, I ask the Premier if he will commit here today to the Muskrat Falls inquiry being completed and a report made public before the next general election.

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker.

**Well, when you put together the terms of reference as something as broad and as far-reaching with such an impact as a terms of reference about the inquiry into the Muskrat Falls Project, Mr. Speaker, you speak with the Commissioner. Mr. Speaker, the Commissioner established a date, that being December 31, 2019. That was at the request of the Commissioner.**

Now, Mr. Speaker, we know that Members opposite, the PC Party, the leader and all the other MHAs over there with the PC Party, they are used to directing people that should have their say, people like the PUB when they kicked them out of this process in March of 2012. When they asked for simply 90 days, they kicked them out, they shut it down. Mr. Speaker, **we want to let the Commissioner have his say. The date was put in place by him.**

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

I ask the Premier, then: You're saying this was the decision of the Commissioner; **did you consult with anyone else about having the possibility of the inquiry and the report completed before the next provincial election?**

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Mr. Speaker, I take exception with the fact that he would question the advice of someone like Judge Richard LeBlanc. That is what he is saying there, Mr. Speaker. **We've given the judge the time that he asked for,** Mr. Speaker, for us to interfere in this established process.

Now, there's information that they might have, that they probably don't even need an inquiry about, so come on with it. I asked you for information on September 26, 2015; you weren't willing to come with it then. What is it that you were hiding then that you'd like to make public right now?

Mr. Speaker, we've waited two years for you to come clean on the Muskrat Falls Project and you haven't done it. **The inquiry is in place. We will get the answers as –**

MR. SPEAKER: Order, please!

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

This coming from the Premier of the province who hid oversight reports for 18 months.

SOME HON. MEMBERS: Hear, hear!

MR. P. DAVIS: Mr. Speaker, 18 months under his watch, he intentionally hid oversight reports from the Oversight Committee. He's delaying. The report will now be delayed until after the next general election.

Premier, I can tell you I have nothing to hide, and if you want the people to know what's happening, **make sure the inquiry happens and it's delivered before the next general election.**

Will you do that, Premier?

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker.

Well, you know what? **I have nothing to hide, that I can guarantee you.** I've been speaking out on this project when it wasn't popular to speak out on this project. When they were lining up like lemmings to lead people to doubling of electricity rates in this province.

Is that the legacy you still continue to stand behind? Are you now still saying that this is the best, that this is the legacy? This is the best project for Newfoundlanders and Labradorians, the doubling of electricity rates at a time when you said you were flush with cash? Did you put the money into the right project, Mr. Speaker, I ask the Member opposite? Is he still proud of the project that he sanctioned?

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thanks, Mr. Speaker.

Well, let's find out and get on with the inquiry.

SOME HON. MEMBERS: Hear, hear!

MR. P. DAVIS: In May of this year, we asked for a review done on the project. In June, the Premier

finally spoke to it and said we can't do this now because it's going to disturb the project. Now, all of a sudden, on the eve of a by-election, interestingly enough, he announces he's going to hold the inquiry not to start until 2018, Mr. Speaker.

Mr. Speaker, 18 months they hid information. **Why is it your inquiry does not include anything that's happened over the last two years?**

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker.

Well, I will tell you right now, **I for one will be glad to sit in front of the Commissioner and speak about my experience on the Muskrat Falls Project prior to becoming Premier and while being Premier, Mr. Speaker. So let's make that very clear.**

Now, I would say to the Member opposite, what he should do is **read the terms of reference of the inquiry. It goes back prior to 2012 and it goes on beyond that,** Mr. Speaker.

**I will comply. I will be more than willing to sit in front of the Commissioner and discuss my experience from the beginning to the end of this project. That you can guarantee.**

Mr. Speaker, what I'd like to know is the Cabinet confidences that may be required. Are they willing to put that information out there, Mr. Speaker, because they hide it in the past?

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

The Premier wants to talk about the terms of reference. I'm fine to discuss the terms of reference.

**Who developed the terms of reference,** Premier?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker.

It wasn't the Members opposite. They had all kinds of opportunity to have public input into the Muskrat Falls Project. Let's not forget, Mr. Speaker, this is the same crowd that kicked the PUB out. They told the people of the province: We have preplanning done, pre-engineering done, no worries about cost overruns, don't worry about scheduling. They said they had that all under control, Mr. Speaker.

Well, I tell you right now, the project speaks for itself. It's over schedule. It's over budget, and it's not on the backs of the men and women. Newfoundlanders and Labradorians are doing exactly what they've been asked to do. It's not about them.

This project is having an impact on both present and future generations, Mr. Speaker. We are pleased today to call this inquiry.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

The Premier either forgot or intentionally neglected to answer the question.

It was very simple: **Who developed the terms of reference** for the Muskrat Falls inquiry?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker.

Well, **the terms of reference was put in place by Justice LaBlanc.** There were some discussions that were had with the Minister of Justice and Public Safety. So **these are the terms of reference that were put in place as a result of those meetings. As quickly as we could get those terms of reference out there, we did so.**

Now, I want to address going back a few questions. Mr. Speaker, in June of 2016, this project was 48 per cent complete. As of September 30, 2017, just 14 or 15 months later, the project is now 85 per cent complete. The transmission line is virtually complete. It is now in the position **to actually do this inquiry so we can get the information that people of this province deservedly need.**

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

In a briefing provided to the Opposition after we heard this announcement was taking place, we requested it. We just received it a short time before Question Period started today. Officials advise that **the Department of Natural Resources drafted the terms of reference for the inquiry.** The Premier is saying today it was Justice LeBlanc who drafted the terms.

Premier, can you clarify that? Was it the Justice who drafted it, or was it actually the Department of Natural Resources that provided direction on it?

MR. SPEAKER: The hon. the Minister of Justice and Public Safety.

MR. A. PARSONS: Thank you, Mr. Speaker.

I'm happy to stand here and speak to the terms of reference for the Muskrat Falls inquiry, something

that's been asked for by the people of this province.

I can say here in the House that there are a number of parties that had a say in this, including individuals within the Department of Natural Resources, the Department of Justice, all throughout government; **but, at the end of the day, Justice LeBlanc would have also been involved in this process when it comes to the terms of reference.**

What I can say, there were some exclusions. Nalcor was not consulted throughout this process and neither were the PC Party.

Thank you.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

Just to clarify: **Is the minister saying that the Department of Natural Resources did have input** and was part of the process of developing those terms of reference?

MR. SPEAKER: The hon. the Minister of Justice and Public Safety.

MR. A. PARSONS: Thank you, Mr. Speaker.

Yes, the Department of Natural Resources would have had some input into the terms of reference, as well as the other parties that I named.

Thank you.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: So, Mr. Speaker, we have input from the Department of Natural Resources, **the current minister has been a minister for two years. It's the same minister who has been identified in the terms of reference as the minister responsible for the inquiry and it's the same minister who has made significant policy decisions about Muskrat Falls over the last two years.**

I ask the Premier: Do you see a **possibility of a conflict** happening here? **Maybe your minister may become a witness in this inquiry.**

MR. SPEAKER: The hon. the Minister of Justice and Public Safety.

MR. A. PARSONS: Thank you, Mr. Speaker.

**Certainly, what we have here I think is a very broad terms of reference.**

I've said on numerous occasions, and the Premier said it today: **When it comes to an inquiry, we want the facts. What happened? The second part we want is to ensure that the recommendations throughout will help avoid a situation like this happening again in the future. That's what happens in an absolute inquiry.**

I can guarantee you, first of all, that the inquiry is independent. That's why it's not led by government; that's why it's led by a Justice. **The second part is that I can guarantee you, everybody on this side would be ready to appear if compelled and put any evidence there,** and I hope the Members on the other side would be prepared to do the same.

Thank you.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

So the minister has confirmed that the Minister of Natural Resources, who's been identified as the minister responsible for the inquiry, the same minister who has made significant policy decisions over Muskrat Falls, the same minister who led the department full of staff, who has had total involvement with Muskrat Falls since the very beginning, is also a minister who Member's opposite say will testify.

My question was: Do they not see a **conflict of interest?**

Couldn't a different minister, other than the one who has been so closely involved with this over the last two years, have been the minister responsible and also someone other than her having been who drafted the terms of reference?

MR. SPEAKER: The hon. the Minister of Justice and Public Safety.

MR. A. PARSONS: Thank you, Mr. Speaker.

Again, I appreciate the questions from the Members opposite. What I would point out, there's one significant factor that he forgot in the line of questioning: that the current Minister of Natural Resources was certainly not involved in the sanction of Muskrat Falls as opposed to the Members on the other side.

**At the end of the day, the Public Inquires Act allows for the justice of this independent inquiry to compel everybody – everybody – to appear, to give testimony, for the release of documents so that, at the end of the day, all the facts of this matter will be known. This will be an independent inquiry that's quite broad so that the people of this province get the full disclosure on what happened.**

Thank you.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

So the minister doesn't want to speak to it if it's a conflict of interest or potential conflict of interest or not, but I'll ask this because when I had the short period of time I had to look through the terms of reference once they were released this afternoon – and the Premier was heckling across here: **It does include the last two years.**

**Does the scope of the inquiry include management and leadership of the project over the last two years or does it not?**

MR. SPEAKER: The hon. the Minister of Justice and Public Safety.

MR. A. PARSONS: Thank you, Mr. Speaker.

I would say to the Member opposite that the good news is that we have Question Period again tomorrow and the day after, so we'll be happy to take questions on this absolutely every day because that's what the people of the province demand. It's too bad that they weren't more forthcoming with answers when they were sitting on this side of the House.

**What I would point out, though, is that under the terms of reference, it talks about the fact that everything will come out, including reliable estimates of the cost to the conclusion of the project – to the conclusion of the project. We're talking about the beginning right to the end; everything needs to come out into the light of day.**

Thank you.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

Reliable estimates to the conclusion of the project apparently **involve the decision and policy decisions made by that government since they've been in power or by Nalcor since they've been in power.** Let's not forget, Mr. Speaker, earlier this year their Premier's handpicked CEO, the new CEO of Nalcor, announced no more surprises and, three months later, had an additional billion dollars added on to the cost.

**Will that be part of the scope of the project?**

MR. SPEAKER: The hon. the Minister of Justice and Public Safety.

MR. A. PARSONS: Thank you, Mr. Speaker.

**Again, let me make this extremely clear to the Member of the opposite side, as well as to all the people of the province. This inquiry and its terms of reference, which will be led independently by Justice LeBlanc, will have the power to compel anybody and everybody, to compel all of the evidence. We want absolutely every shred of information from the time that this was thought up until the time it's completed to come into the light of day under the watch of Justice Richard LeBlanc.**

**I say to the Member opposite, Nalcor, this government, your government, everything should be scrutinized.**

Thank you.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

I ask the minister if the Commissioner is able to add to the scope of the inquiry, if the Commissioner sees fit to do so.

MR. SPEAKER: The hon. the Minister of Justice and Public Safety.

MR. A. PARSONS: Thank you, Mr. Speaker.

As I stated earlier in my questioning, **the Commissioner of this inquiry, Justice Richard LeBlanc, was actually consulted upon these terms of reference. These would not have gone forward unless he felt that this was all encompassing, whether it was broad enough to take in all the factors**, as well as the date – this was not a date that was picked by this government; it's a date in which the Commissioner feels comfortable that they can get all the information done and to get this inquiry done in a full fashion.

So what I would suggest to the Member opposite, again, **this is a very broad terms of reference for a very broad project and, at the end of the day, there will be independence so that he can get all of the information and all the answers that he and the people of this province need.**

Thank you.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

It's too bad the government didn't move on this back in May when it was first asked for and there would

have been no trouble to have it completed before the next general election, if that was the case, Mr. Speaker.

**So my question was if the Commissioner can add to the scope of the inquiry.** That was the question that I asked, if he's able to do that, because there are times when something will come up during the inquiry which may lead the Commissioner down a road that wasn't previously seen or anticipated. If that were to happen, **can the Commissioner add to the scope of the inquiry?** That's the question, Mr. Speaker.

MR. SPEAKER: The hon. the Minister of Justice and Public Safety.

MR. A. PARSONS: Thank you, Mr. Speaker.

**The terms of reference, there was consultation with Justice LeBlanc. This will be done independently; this will be done to allow the justice to get all the information that they need.**

**Again, the terms were specifically drafted to be broad enough to allow for all concerns to be brought forward.** What I would say is it's awfully low that the Member on the other side, his only concern is that this be done before the next election. It's too bad that they didn't think about the people of this province and not their own election prospects.

Thank you very much, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

I don't know, the minister is trying to say my only concern – we have a lot more concerns than what he's pointing out there. The Premier himself identified this as attached to politics in the very beginning, so I can't help but wonder. They announced it on the eve of a by-election when it's not going to start until 2018. The Commissioner wasn't available to attend their announcement today and they're not going to have it finished until after the next general election, so we can't help but wonder – especially when he raised it in his own press conference, Mr. Speaker.

**My understanding is the Commissioner can add to the scope of a public inquiry, but he would have to go through Cabinet to ask for that. My question is: If the Commissioner asked to broaden the scope of the inquiry, will the government commit to making sure the public is aware of that request?**

MR. SPEAKER: The hon. the Minister of Justice and Public Safety.

MR. A. PARSONS: Thank you, Mr. Speaker.

It is unfortunate that Justice LeBlanc couldn't be here today. Unfortunately, he is actually down handling

court matters and we didn't want to take away from that.

This is something that we've been working diligently on to go out there for the people of this province. They've been asking a lot of questions and up until two years ago, they certainly weren't getting any answers.

**We want all the facts out there. We want all the information out there. We're willing to do what we can on this end to get that information out there because what's the point of doing an inquiry that doesn't answer the questions that the people have?**

The question I have for the Member opposite: Is he willing to make sure that he puts all the information that he knows about in front of the Commissioner?

Thank you.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please!

First and final warning, I remind all hon. Members I will not tolerate interruptions when I've identified a Member to speak, please.

The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

My questions are about the scope of the inquiry. In my first review of this today, and we will have more time to review it in the coming days, later today and in the coming days, was about advancing the scope of the inquiry if the Commissioner so desires. Members opposite are not asking that.

The inquiry regulations do not lay out clearly that they'll review all the decisions and policy decisions made over the last two years.

I ask the Premier of the province: **Will you make sure a full review of all decisions made over the last two years is included as part of your inquiry?**

MR. SPEAKER: The hon. the Minister of Justice and Public Safety.

MR. A. PARSONS: Thank you, Mr. Speaker.

I'm certainly happy to have someone of the calibre of Justice LeBlanc handling this because anybody that knows him knows of **his thoroughness**, knows how **he is going to want all the information out there.**

What I can say in case there's any – I thought there was some clarity over the last number of answers that the Premier and I have given. **We're going to put absolutely everything we are asked and**

**more in front of the Commissioner from the last two years. We have nothing to hide.** I'm

wondering if politicians on the other side and from previous will make sure that they do the same.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Mr. Speaker, **I can assure you Members on this side of the House, current and previous, will do everything we can to support and assist this inquiry and all the work that it does. I can assure you of that.**

SOME HON. MEMBERS: Hear, hear!

MR. P. DAVIS: As I've said many, many times, **I have nothing to hide.** I asked for this inquiry back in May when the Premier was dodging it. It's not until five months later they finally call an inquiry, and interestingly enough the results are not going to be back until a couple months past the next general election, Mr. Speaker, so I can't help but ask about it.

**The terms of reference don't clearly outline decisions made over the last two years. Why is that, Premier?**

MR. SPEAKER: The hon. the Minister of Justice and Public Safety.

MR. A. PARSONS: Thank you, Mr. Speaker.

Again, I'm hearing an echo because it's the same question that was just asked and I'm pretty confident that we gave an answer.

**The terms of reference are sufficiently broad to ensure that everything that needs to be in front of the Commissioner, in front of the people of this province, will be out there.** This is not something that's going to be, as with the previous administration, done under the cloak of darkness. This is going to be done out there and televised right out in the public eye.

**We are certainly happy to release Cabinet confidence as it relates to this process to ensure that this administration's decisions are put out there in the clear.** I hope that the Members on the opposite, including those that were around for sanction and before, will ensure that all that information is put in front of the Commissioner, too.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

## Hansard excerpt – dated November 21, 2017

<http://www.assembly.nl.ca/HouseBusiness/Hansard/ga48session2/17-11-21.htm>

MR. SPEAKER: The hon. the Leader of the Official Opposition.

SOME HON. MEMBERS: Hear, hear!

MR. P. DAVIS: Thank you, Mr. Speaker.

Mr. Speaker, there's been some significant policy decisions regarding the development of Muskrat Falls since the Liberals formed government two years ago.

I ask the Premier: **Will all decisions made on Muskrat Falls in the past two years be included as part of the inquiry? A simple question Premier: yes or no?**

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker.

Well, first of all, I was very pleased yesterday to be able to announce the inquiry. What's unfortunate about all of this is we're now going to enter into a time of public debate, a public debate that many people across our province were expecting prior to sanctioning. We were pleased yesterday as a government to put the terms of reference in place to call the inquiry.

As I said yesterday when we introduced this, when we announced this, **we will be compliant**, Mr. Speaker. **Any Cabinet documents that are required and compelled by the commission, we will put them forth.**

What I didn't hear yesterday when I asked the question, from the Leader of the Opposition who was part of this decision: Are they prepared to put out all the information that they had access to in their Cabinet deliberations?

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

Mr. Speaker, I realize we asked questions in this regard yesterday, but the same as yesterday, we don't get an answer to the question. So I'll be more specific.

I'll ask the Premier **if the management of the project, procurement and oversight activities over the last two years will be included in the terms of reference for the inquiry**. Yes or no?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: **We certainly, on this side of the House, intend to comply with any of the**

**questions that are asked by the Commissioner. So, yes, we'll be making that information available.**

For the third time now – and I realize that we do not get a chance to answer questions to the Opposition, Mr. Speaker, but I'd be very curious to know, we've answered the question, but for the third time the Leader of the Opposition has not been forthcoming and has not said publicly that they are willing to make sure that the commission will have access to the Cabinet information that they used to sanction the project.

**We intend, on this side of the House, to be fully compliant and make that information available.**

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

I was quite clear on that yesterday. I provided an answer to the minister or to the government yesterday and spoke very clearly on it.

My question is about what's going to be included over the last two years. That's what's important here. That's what we're asking the government about today.

He just said, again, if they're asked by the Commissioner. Now, it's not part of the terms of reference, Mr. Speaker, is my point here – it's not part of the terms of reference. The minister answered yesterday and tried to say it was.

So I'll ask the Premier this: **Will the Astaldi contract renewal be included as part of the inquiry work?** Yes or no?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Mr. Speaker, I didn't hear the answer yesterday from the Member opposite. So if he would like to clarify his position in making all the information that they had available to make that, to reinforce that and reiterate and repeat what he said yesterday.

Mr. Speaker, **as I said, the Astaldi contract, the contracts that were put in place, I think the Commissioner would really like to see that. Mr. Speaker, they need to see that. That information will be provided.**

On this side of the House, **we intend to be fully compliant in any decisions that we had made. Whatever the Commissioner needs, I can guarantee you we'll be co-operating with the Commissioner,** Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Mr. Speaker, it says whatever the Commissioner needs, but it's not part of the terms of reference. So therefore the terms of the inquiry, if they're not included in those aspects, then the Commissioner won't need it.

I don't know why the Premier is so specific on the matter previous to two years ago, but not after they took office. It's not a difficult concept to understand, Mr. Speaker.

So I'll ask the Premier this: **Will all the circumstances and details related to process in Labrador, especially respecting the methylmercury, be included in the inquiry?** Yes or no?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Mr. Speaker, **it may be a very simple argument or answer to all of this is just to say yes.**

Now, maybe the Leader of the Opposition will just simply say that, yes, they are willing to provide all of the Cabinet documents to the Commissioner. Mr. Speaker, just simply answer that, yes or no.

**We are prepared to do all of this. The Commissioner has a right to compel all of this information, Mr. Speaker. We want to lay out publicly all of the information that we have used, the decisions that we have made on behalf of the Muskrat Falls Project,** Mr. Speaker. I will tell you that this project is in a much better position today than it was when we took office in 2015.

Will you put out the information that you had access to?

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

I was quite clear yesterday and I'll be quite clear again today. I'll use an answer in a form that the Premier likes to use. I'll provide whatever the Commissioner requires, Mr. Speaker, I'll assure you that. We will provide everything that's required.

SOME HON. MEMBERS: Hear, hear!

MR. P. DAVIS: Mr. Speaker, when I asked the Premier about the last two years, he continues to dodge the question and he won't provide a clear answer without it being weighed down with rhetoric.

The previous federal Conservative Government of Canada and the current federal Liberal Government of Canada both provided **loan guarantees** to the Muskrat Falls Project.

Will their assessments and their review leading up to endorsing the project and providing those loan guarantees be part of the inquiry?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Mr. Speaker, **absolutely, we will be very pleased.** As a matter of fact, I'll have that discussion if you want to talk about the enhanced loan guarantee, the COREA. We had to renegotiate the cost overruns, that account. We had to extend the date, Mr. Speaker, because they said there'd be no loss of schedule, which indeed that was not the case. There were a number of things that we have been doing.

I think the Members opposite – why don't they want to talk about 48 per cent complete in June of 2016, 85 per cent complete now in just over 15 months, Mr. Speaker? That is the progress that we have made since we have taken over government.

**All the information should be out there. The Commissioner needs to see this. I am looking forward to getting this inquiry started.** Unfortunately, we're having (inaudible) –

MR. SPEAKER: Order, please!

PREMIER BALL: – but we will get it started.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please!

The hon. the Leader of the Official Opposition.

MR. P. DAVIS: Thank you, Mr. Speaker.

We're very interested to know how it went; an additional billion dollars in three months, right after the new CEO, hand-picked and appointed by the Premier, said no more surprises. No more increases, no more surprises, and within three months a billion dollars extra. So we look forward to seeing all the details on that.

Yesterday, when we asked the government if Justice LeBlanc wanted to expand the terms of inquiry, I asked if the government would approve that and will he allow him to expand the scope as requested by the justice and will people know about it.

We couldn't get an answer yesterday, so I'll ask again today. **Will it be made public if Justice LeBlanc wishes to expand the scope of the inquiry and will the government approve it?**

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker.

Well, the Leader of the Opposition likes to take the opportunity in preambles to plant seeds of doubt and rhetoric to the people of this province.

I want to make it very clear that when the budget changed by the current CEO, he was being very upfront with the people of this province. What that billion dollars was about was legacy costs. What legacy costs means these are risks that were associated with contracts that they put in place, that they were not forthcoming with, Mr. Speaker.

He laid out what would be the requirement, simply via a contingency fund, Mr. Speaker. Laying out that the contracts they put in place were not accurate, needed changes.

In June of 2015, prior to the election, the Leader of the Opposition knew that and did not share it with the people of the province. This government put it out there.

SOME HON. MEMBERS: Hear, hear!