



February 3, 2018

Commission of Inquiry Respecting the Muskrat Falls Project

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Attention: Commissioner Richard LeBlanc

Dear Commissioner LeBlanc:

**Re: Engagement Agreement
Forensic Audit in Respect of the
Commission of Inquiry Respecting the Muskrat Falls Project**

We are writing to confirm our understanding of the arrangements made with the Commission on this date for the provision of forensic audit services.

Definitions

Throughout this Engagement Agreement, the following definitions apply:

"Audit" and "Audits" means the work to be conducted pursuant to the RFP and the Proposal;

"Audit and Financial Advisor" means David A. Howe, FCPA, FCA;

"Auditor" means Grant Thornton LLP, a limited liability partnership registered under the laws of the Province of Ontario with an office located at 15 International Place Suite 300 NL A1A 0L4;

"Commission" means the Commission of Inquiry Respecting the Muskrat Falls Project;

"Engagement Agreement" means this document informed by the RFP and the Proposal;

"Member Firm" means an entity (including a partnership) which may carry on business under the name which may include within its name "Grant Thornton" or be another member firm of the worldwide network of Grant Thornton International Ltd ("GTIL"). GTIL is a global organization of member firms in over one hundred ten (110) countries. Member firms are neither members of one international partnership nor otherwise legal partners with one another. There is no common ownership, control, governance, or agency relationship among member firms.

"Muskrat Falls Project", in accordance with Section 2.1(1) of the *Energy Corporations Act of Newfoundland and Labrador SNL 2007 c E11.01*, as amended, means:

2.1 (1) For the purpose of this Act, "Muskrat Falls Project" means a project by the corporation [Nalcor], a subsidiary of the corporation [Nalcor], Newfoundland and Labrador Hydro and Emera Inc., whether individually or by any combination of them, for

(a) the design, engineering, planning, construction, commissioning, ownership, operation, maintenance, management and control of equipment and facilities, to be comprised of

(i) the new hydroelectric plant to be constructed at Muskrat Falls on the Churchill River, and all associated facilities, including the intake structures, penstock, powerhouse, dams and spillways,

(ii) a new HVdc transmission line and all related components to be constructed between the Muskrat Falls hydroelectric plant on the Churchill River and Soldier's Pond, including

(A) foundations, underground services, subsea services, roads, buildings, erections and structures, whether temporary or permanent,

(B) all other facilities, fixtures, appurtenances and tangible personal property, including inventories, of any nature whatsoever contained on or attaching to the transmission line, and

(C) all mechanical, electrical and other systems and other technology installed under or upon anything referred to in clause (A) or (B),

(iii) new transmission facilities to be constructed between the Muskrat Falls hydroelectric plant on the Churchill River and the generating plant located at Churchill Falls,

(iv) new transmission facilities to be constructed by Emera Inc. between the island portion of Newfoundland and Labrador and Cape Breton, Nova Scotia including

(A) foundations, underground services, subsea services, roads, buildings, erections and structures, whether temporary or permanent,

(B) all other facilities, fixtures, appurtenances and tangible personal property, including inventories, of any nature whatsoever contained on or attaching to them, and

(C) all mechanical, electrical and other systems and other technology installed under or upon anything referred to in clause (A) or (B), and

(v) any associated upgrades to the bulk electrical system or related control facilities on the island portion of the province required as a result of subparagraphs (i) to (iv);

(b) the production, generation, storage, transmission, delivery or provision of electrical power and energy from the facilities in paragraph (a);

(c) the negotiation, conclusion, execution and performance of agreements for activities referred to in paragraphs (a) and (b), and in particular agreements respecting the

- (i) construction, operations, maintenance and administration,
- (ii) acquisition of easements, rights-of-way, permits, licences, certificates, consents and other authorizations,
- (iii) engineering and procurement,
- (iv) arrangements with aboriginal peoples,
- (v) demobilization and decommissioning, and
- (vi) any agreements, contracts or instruments necessary or incidental to any activity described in this paragraph; and

(d) raising and securing equity or debt financing and any related derivative contracts necessary to construct the facilities and otherwise engage in the activities referred to in paragraphs (a) to (c), including without limitation the negotiation, conclusion and execution of agreements and security documentation with a lender providing that financing or refinancing to the projects.

“Nalcor” means Nalcor Energy and its subsidiaries;

“Project” means the Muskrat Falls Project;

“Proposal” means the Proposal, dated January 22, 2018, submitted by the Auditor to the Commission in response to the RFP;

“RFP” means the Request for Proposals issued by the Commission on January 3, 2018, as amended; and

“shall” means a requirement that must be met by the Auditor.

Background

The Project is being undertaken by Nalcor and Emera Inc., a company based in Nova Scotia. The components of the Project being developed by Nalcor includes construction of:

- The Muskrat Falls generating facility, an 824 megawatt (MW) hydroelectric generating facility consisting of two dams and a powerhouse at Muskrat Falls.
- Labrador-Island transmission link, an 1,100 kilometre (km) High Voltage direct current (HVdc) transmission line from Muskrat Falls to Soldiers Pond on the Avalon Peninsula, including a 35 km subsea cable across the Strait of Belle Isle; and
- Labrador transmission assets, two 250 km High Voltage alternating current (HVac) transmission lines between Muskrat Falls and Churchill Falls.

The Commission is an independent commission established on November 20, 2017 by the Government of Newfoundland and Labrador through an Order-in-Council (O.C. 2017-339) pursuant to the *Public Inquiries Act, 2006*, SNL 2006 c P-38.1, as amended. The Commission has been established to inquire into, among other things, matters related to the sanctioning of the Project and its subsequent construction. The Terms of Reference of the Commission are attached as **Appendix A**.

Scope

We will perform forensic audit services and shall report on our Audits in two phases, as follows:

- I. Sanctioning Phase Audit Report; and
- II. Construction Phase Audit Report.

We will engage third party expert consultants to assist us in specialized areas such as project management, construction and engineering.

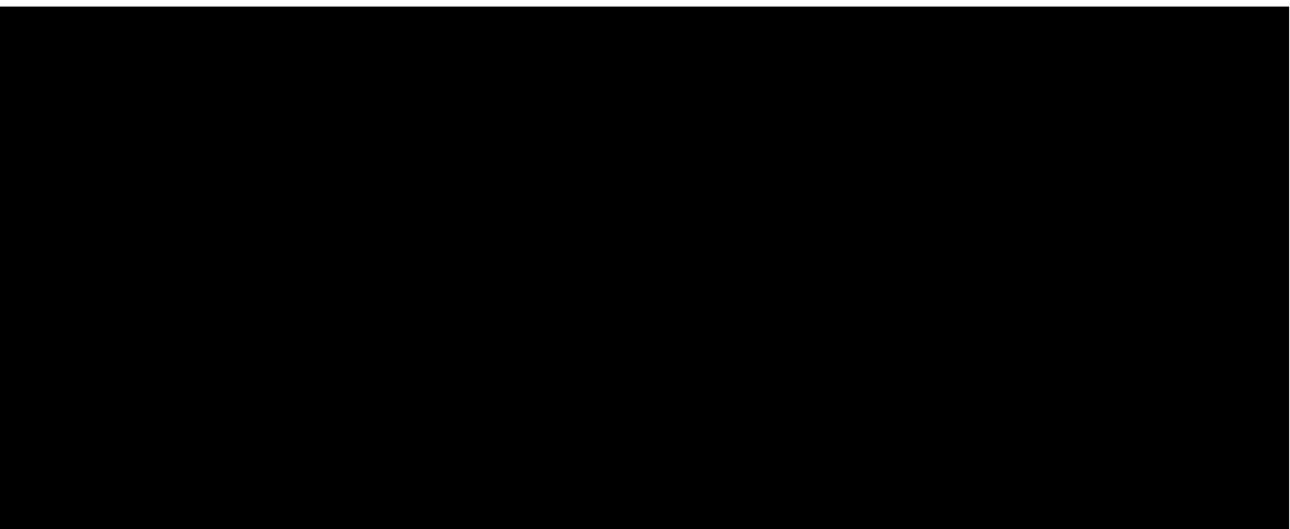
Scope of the Sanctioning Phase Audit

The forensic audit shall include only an investigation of the options that were considered by Nalcor to address the electricity needs of Newfoundland and Labrador's Island Interconnected customers. The forensic audit shall include an investigation of the assumptions or forecasts on which Nalcor's analysis of the options was based.

The forensic audit shall include an investigation of Nalcor's financial analysis of the Project and of the Isolated Island option from which Nalcor determined that the Project was the least-cost option for the supply of power to Newfoundland and Labrador's Island interconnected system over the period 2011-2067.

The Audit shall be conducted in accordance with the *Standard Practices for Investigative and Forensic Accounting Engagements* of the Chartered Professional Accountants of Canada.

Scope of the Construction Phase Audit



Deliverables and Timelines

We shall meet the following reporting timelines:

Audit Phase	Provision of Audit Plan	Interim Briefing	Final Report Deadline
Sanctioning Phase Audit	February 21, 2018	May 31, 2018	June 30, 2018
Construction Phase Audit			

We hereby confirm that we shall meet the timelines outlined above and that our sub-contractors shall as well. We shall accept responsibility for the delivery of work performed by sub-contractors engaged by us in the appropriate time frames to permit us to meet the above reporting deadlines.

We shall notify the Commission as soon as possible of any unanticipated issues.

We shall present our Interim Briefings and Final Reports to the Commission in person if requested.

Audit Plans and Updates

We shall prepare detailed audit plans for review and approval of the Commission and these shall be delivered in accordance with the above-noted timelines. The audit plans shall contain an appropriate amount of detail and include timelines for the planned tasks.

The audit planning tasks and timelines shall be revised as necessary. Our audit leader(s) shall update the Commission's Audit and Financial Advisor on a weekly basis as to the Auditor's progress and any changes to the work plan and/or timelines. The updates may be through in-person meetings, teleconferences, written or a combination of all three as deemed appropriate. If after diligent effort and through no fault of the Auditor, the Auditor is unable to get access to requested information or access to relevant people for interviews, the Auditor will advise the Commission and the Commission will have a reasonable period of time to exercise its authority to gain the appropriate access. The Commission acknowledges that in the event of a significant delay gaining such information or access notwithstanding the foregoing efforts, it may result in a scope restriction in the report unless reasonable accommodations in the budget and/or timeline are approved by the Commission.

In the event that the Auditor becomes aware of suspected fraud, criminal intent or allegations of fraud, the Auditor will immediately advise the Commission and will also advise the Commission of options to investigate these matters further with at least one of these options to be within the scope and time budget outlined in the Engagement Agreement.

At the request of the Commission, we shall participate in any Audit-related discussions with the Commission.

It is understood that neither the Commission nor its Audit and Financial Advisor is responsible to direct the work of the Auditor. The Auditor must use its own professional judgment to determine the necessary tasks and appropriate order and timelines related to these tasks.

Independence and Conflicts

We confirm that we have advised the Commission of all known current business relationships between the Auditor, its subcontractors and any Member Firm, and Nalcor and between the Auditor, its subcontractors and any Member Firm, and the list of Nalcor key vendors as provided to us by the Commission in the Additional Audit RFP Information #2. These relationships are as outlined in our Proposal. You have advised that the Commission has reviewed these and has agreed to continue with our involvement.

In addition to section 600.04 and .05 of the *Standard Practices for Investigative and Forensic Accounting Engagements* of the Chartered Professional Accountants of Canada, the Commission has drawn our attention to paragraph 32 of the Supreme Court of Canada's decision in *White Burgess Langille Inman v. Abbott and Haliburton Co.*, 2015 SCC 23:

"Underlying the various formulations of the duty are three related concepts: impartiality, independence and absence of bias. The expert's opinion must be impartial in the sense that it reflects an objective assessment of the questions at hand. It must be independent in the sense that it is the product of the expert's independent judgment, uninfluenced by who has retained him or her or the outcome of the litigation. It must be unbiased in the sense that it does not unfairly favour one party's position over another. The acid test is whether the expert's opinion would not change regardless of which party retained him or her: P. Michell and R. Mandhane, "The Uncertain Duty of the Expert Witness" (2005), 42 Alta. L. Rev. 635, at pp. 638-39. These concepts, of course, must be applied to the realities of adversary litigation. Experts are generally retained, instructed and paid by one of the adversaries. These facts alone do not undermine the expert's independence, impartiality and freedom from bias."

We agree to immediately notify the Commission in writing of any threats to independence or conflicts of interest that arise respecting the Audits.

Until the Commission has terminated its work and delivered a final report to the Minister of Natural Resources, the Auditor covenants and agrees that neither it nor its subcontractors or any Member Firm will accept any engagements from or perform any work for the Newfoundland and Labrador

Board of Commissioners of Public Utilities, or any other party that pertains to or is in any way related, to the Project.

Fees and Disbursements

Our fees for the completion of the audits are as outlined in **Appendix C**.

We acknowledge that the total fees and total disbursements outlined in **Appendix C** are maximum fees and maximum disbursements to be billed for the completion of the Audit and where actual fees and disbursement are less than those outlined in **Appendix C** the lesser amounts shall be billed.

All fees and other charges payable to the Auditor set out in **Appendix C** do not include any applicable federal, provincial, or other goods and services tax or sales tax, or any other taxes or duties whether presently in force or imposed in the future.

The Commission will reimburse the Auditor for all reasonable out-of-pocket expenses incurred by it in entering into and performing the Audit, including but not limited to, travel, fees and disbursements of other professional advisers, and other disbursements customary in engagements of this nature, subject to the maximum disbursements amount outlined in **Appendix C**. Out-of-pocket expenses shall be charged at cost as incurred by the Auditor.

As outlined in the RFP, we may request, in advance of incurrence, permission to bill for additional fees and/or disbursements up to a 10% excess over budget. While we shall be required to demonstrate to the Commission the reason for the additional fees and/or disbursements, the Commission will not unreasonably withhold its approval.

We shall invoice the Commission for the actual Audit fees and disbursements monthly on the last of each month. Amounts billed shall be according to the actual time charges and hourly rates plus actual disbursements. Our invoices will be payable upon receipt. Accounts outstanding after 90 days will be subject to an interest charge of 1.5% per month (18% per annum).

For each Audit team member, the invoices shall present the hours being billed for the month, the cumulative hours billed to date and the remaining hours in the budget. It is understood that we may reallocate budgeted hours to other team members as deemed appropriate by us in accordance with our work plan.

While the time budget outlined in **Appendix C** does not include time for testimony or related preparation, the hourly rates for our partners and staff and the hourly rates for our sub-contractors shall apply to actual hours for testimony and related preparation and to any additional work performed by the Auditor outside of the scope of the Audit as requested in writing by the Commission.

Audit Resources

We shall notify the Commission of any significant or key staffing changes proposed from the Auditor's audit team staffing plans.

We shall not, without the prior written approval of the Commission:

- (a) Engage professionals other than those employed by the Auditor;
- (b) Assign, either directly or indirectly, our Engagement Agreement or any of our rights under this Engagement Agreement; or
- (c) Sub-contract any of our obligations under this Engagement Agreement except Grant Thornton LLP (US), the United States GTIL Member Firm ("Grant Thornton US"), and the third party expert consultants named in our Proposal, being Grant Thornton LLP (US) ("Grant Thornton US"), R.W. Block Consulting, Inc. and Williams Engineering Canada.

Testimony

We understand that one or more of our Audit team and one or more of our sub-contractors will likely be required to testify at Commission hearings. We commit to making the appropriate individuals available for this testimony, that they shall be qualified to do so and shall have the necessary knowledge of the completed audit work to do so.

Commission's Responsibilities

We understand that the Commission will assist the Auditor with the collection of information and documents. The Commission confirms that it has the legal authority to provide us with access to the information that is the subject of the Audit. In the event that the Commission is aware or becomes aware of any information that would indicate that there has been fraud or other financial irregularities that relate to the Project it will provide the Auditor with such information on a timely basis.

Indemnification and Liability

We confirm that the Commission shall not indemnify the Auditor, its employees or its sub-contractors.

Subject to the Limitation of Liability paragraphs set out below, the Auditor agrees that it shall remain responsible and liable for, and be the guarantor of, the performance by its subcontractors and any Member Firm and shall cause its subcontractors and any Member Firm to comply with the provisions of this Engagement Agreement in connection with such performance. For greater certainty, the Auditor is fully liable for any action, claim, loss or damage, be it tort, contract or otherwise, arising out of or in connection with this Engagement Agreement which may be brought against its subcontractors and any Member Firm.

Limitation of liability

With the exception of the Auditor's responsibility and liability for the performance of its subcontractors and any Member Firm as described in the preceding paragraph, in any action, claim, loss or damage arising out of the engagement, you agree that our liability will be several and not joint and several and you may only claim payment from us of our proportionate share of the total liability based on degree of fault as finally determined. The total liability assumed by us for any action, claim, loss or damage arising out of or in connection with the engagement, regardless of the form of action, claim, loss or damage, be it tort, contract or otherwise, shall in no event exceed \$10,000,000. In addition, we shall not under any circumstances, be liable for any special, indirect, punitive or consequential damages including, without limitation, loss of profit or revenue, failure to realize expected cost reductions or savings or similar losses of any kind.

Subject to the terms of the foregoing paragraphs under the heading Limitation of Liability, we shall indemnify and save harmless the Commission, its employees and agents from and against all claims, demands, losses, damages, costs and expenses made against or incurred, suffered or sustained by the Commission at any time or times (either before or after the expiration or sooner termination of this Engagement Agreement) where the same or any of them are based upon or arise out of or from, any gross negligence or wilful misconduct of the Auditor or by any servant, employee, officer, director or sub-contractor of the Auditor in providing the services pursuant to this Engagement Agreement excepting always liability arising out of the independent acts of the Commission.

Neither the Auditor nor the Commission will be liable for any failure or delay to perform that party's obligations resulting from any cause beyond that party's reasonable control, including but not limited to fires, explosions, floods, strikes, work stoppages or slow-downs or other industrial disputes, accidents, riots or civil disturbances, acts of civil or military authorities, inability to obtain any license or consent necessary in respect of use with any telecommunications facilities, or delays caused by carriers, suppliers or material shortages.

Restriction on Use

Any written reports or documentation provided by the Auditor are provided solely for the purposes of the Commission in carrying out its mandate in accordance with its Terms of Reference and they are not intended to be, and should not be, used by any third parties. We understand that the reports or other deliverables prepared for and delivered to the Commission may be released to the public through the Commission's website or other means and may be presented at a public hearing of the Commission. The Auditor understands that its working papers may need to be produced to parties in the hearing upon the Commission's request and in such circumstances the contents may be disclosed publicly on the Commission's website if they become a public exhibit within the Commission proceedings.

The information contained in reports or deliverables prepared by us in the course of providing services under the terms of this Agreement is for the sole use of the Commission in accordance with the purpose of this Agreement. The reports or deliverables are not for a third party's benefit

or reliance, and we disclaim any contractual or other responsibility or duty of care to others based upon the services, work product or deliverables of this engagement.

Confidentiality of Information

The Auditor shall, except as may be required to be disclosed by law or professional standards, keep strictly confidential, and shall ensure that its employees and other representatives shall keep strictly confidential, all information concerning the Commission acquired through activities related to this Engagement Agreement. The Auditor and all team members, including its sub-contractors, shall sign the Confidentiality Undertaking in the form contained in Appendix B.

We shall not advertise our relationship with the Commission or use the Commission's name or any contents of this Engagement Agreement in any advertising, mailing list or publication, written or verbal, except where the Auditor has been given written approval by the Commission.

Termination

This Engagement Agreement may be cancelled by the Commission by written notice at any time and with no notice period. In the event of cancellation, the Commission will be responsible to pay the Auditor for work and disbursements incurred only as at the time of the cancellation.

The Auditor shall have no right to terminate this Engagement Agreement except that the Commission acknowledges that the Auditor will not be required to act in violation of laws or professional standards applicable to Chartered Professional Accountants.

Severability

Each provision of this Engagement Agreement is severable and if any provision (in whole or in part) is or becomes invalid or unenforceable or contravenes any applicable regulations or laws, the remaining provisions and the remainder of the affected provision (if any) will not be affected.

Other Terms of this Engagement Agreement

We confirm that:

- (a) We shall perform the audits in accordance with the audit plan, as approved by the Commission, in a thorough, timely and professional manner.
- (b) We shall maintain Comprehensive Commercial General Liability and Professional Liability insurance in a minimum amount of not less than \$10,000,000 per occurrence for the duration of the Engagement Agreement.
- (c) When using the Commission's or Nalcor's premises, we shall comply, and shall take all reasonable steps to ensure that their staff and sub-contractors comply with all safety and security requirements in effect for those premises which the Commission or Nalcor has brought to our attention.
- (d) We are aware that the Project is ongoing and we shall conduct our work in a manner that minimizes disruption to Nalcor and its employees without compromising the thoroughness of the Audit.
- (e) This Engagement Agreement will be governed by, and construed according to, the laws of the Province of Newfoundland and Labrador.
- (f) Unless otherwise stipulated within the Engagement, this Engagement is with the Auditor. In the course of providing the services, we may in accordance with the terms of this engagement letter, draw upon the resources of or subcontract a portion of the services to another Member Firm and other subcontractors identified elsewhere in this agreement. Unless a Member Firm is directly contracted by you to provide any of the services which are subject to this Engagement Agreement, the provision of those services remain the responsibility of the Auditor and the Commission agrees that it will not bring any claim, whether in contract, tort (including negligence) or otherwise against any Member Firm in respect of this engagement or the services defined herein. In these circumstances, any Member Firm that deals with you for the purpose of completing the services does so on behalf of the Auditor. The provisions of this clause have been stipulated for the benefit of Member Firms. Member Firms will have the right to rely on this clause as if they were parties to the engagement and will have the right (subject to the discretion of the courts) to a stay in proceedings if you bring any claim against any Member Firms in breach of this clause.

We trust that the foregoing provides you with the terms of our Engagement Agreement and that these terms are acceptable to you.

Thank you for retaining us to assist you with this matter. Please contact us at your convenience should you have any questions or require further clarification regarding any of the above.

If you agree with the terms of the Engagement Agreement, please sign and return a copy of this Engagement Agreement to us.

This Engagement Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same Engagement Agreement. Signatures delivered by facsimile or other electronic means shall be treated as originals.

Yours very truly,

GRANT THORNTON LLP

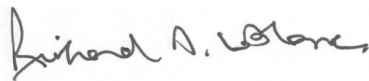


Steve Power, CPA, CA
Partner

The services and terms as set forth in this Engagement Agreement are acknowledged and agreed to.

Commission of Inquiry Respecting the Muskrat Falls Project

By:



Commissioner Richard LeBlanc

2018-02-04

Date

Appendix A



**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

Commission of Inquiry Respecting the Muskrat Falls Project

101/17

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

*Commission of Inquiry Respecting the Muskrat Falls
Project*

101/17

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

Commission of Inquiry Respecting the Muskrat Falls Project

101/17

- (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.

*Commission of Inquiry Respecting the Muskrat Falls
Project*

101/17

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.

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ST. JOHN'S, MONDAY, NOVEMBER 20, 2017

Extraordinary Gazette Index

**Title of Act and
Subordinate Legislation
made thereunder**

**CNLR or
NL Reg.**

Amendment

**NL Gazette
Date & Page No.**

Public Inquiries Act, 2006

Commission of Inquiry
Respecting the Muskrat
Falls Project Order

NLR 101/17

New

Nov 20/17 p. 3



**COMMISSION OF INQUIRY RESPECTING THE MUSKRAT FALLS PROJECT
CONFIDENTIALITY UNDERTAKING
AUDITOR**

I undertake to the Commission of Inquiry Respecting the Muskrat Falls Project (the "Commission") to keep confidential any and all documents or information that are not in the public domain and to which I may become privy during the course of my work with the Commission. I understand that keeping documents or information confidential means that I cannot disclose any such documents or information to anyone other than the Commissioner, other Commission staff, my own staff who are under a duty of confidentiality, or third parties to whom the Commissioner has explicitly instructed me to disclose, except as may be required to be disclosed by law or professional standards.

I undertake not to use these documents or information for any purpose other than my work for the Commission. I understand that confidential information includes both written materials as well as information conveyed through discussion in the course of the Commission's daily business.

At the end of my work with the Commission, I will only keep such documents as I deem necessary to meet my regulatory and professional obligations and for such a period as I deem necessary to meet these obligations. Such documents will be kept confidential and will be stored in a secure location.

I confirm that I have had all staff and consultants who may have access to documents or information related to my work with the Commission sign a similar Confidentiality Undertaking.

Name: _____

Signature: _____ Date: _____

Witness: _____

Signature: _____ Date: _____

Fees and disbursements

- (a) Hourly rates for each level of staff proposed including rates for preparation for testimony and testimony at the hearings.
- (b) An audit engagement time budget for each level of staff, including support staff, including time budgets for preparation for testimony and testimony at the hearings.
- (c) Costs of the Auditor's experts in specialized areas such as project management, construction and engineering.

Name	Position	Discounted Hourly Rate CDN\$	Budgeted Hours Total	Sanction Phase Hours	Construction Phase Hours	Total Fees
Steve Power	Partner, Assurance, Team Leader – Public Utilities					
Scott Shaffer	Managing Director, Construction Advisory Services Practice Leader					
David Malamed	Partner, Advisory Services, Team Leader – Forensic					
Kerri Riddle	Senior Manager, Advisory					
Barry Griffiths	Senior Manager, Assurance and Advisory					
Seth Snyder	Experienced Manager, Construction and Forensics					
Adam Lippa	Senior Manager, Advisory					
Angie Brown	Experienced Manager, Advisory					
Derek Hennessey	Managing Director, R.W. Block Consulting					
Naseem Bashir	President & CEO, Williams Engineering Canada					
Senior Analysts	Senior Analysts					
Junior Analysts	Junior Analysts					
Junior Engineers	Junior Engineers, R.W. Block Consulting					
Junior Engineers	Junior Engineers, Williams Engineering Canada					
Admin. Staff	Admin. Staff Support					
Blended Hourly Rate, Total Hours, and Budgeted Fee						
Travel						
Total Budgeted Fee with Travel						

Budgeted Fees by Grant Thornton and Third Party Experts	Budgeted Hours Total	Sanction Phase Hours	Construction Phase Hours	Total Fees
Grant Thornton combined effort				
Third party experts effort				
Total Budgeted Fee before travel				

Budgeted Fees by Phase	Budgeted Hours Total	Total Fees
Sanction Phase		
Construction Phase		
Total Budgeted Fees before Travel		

Discounted Hourly Rates – Preparation for Testimony and Testimony		
David Malamed	Partner, Advisory Services, Team Leader – Forensic	
Scott Shaffer	Managing Director, Construction Advisory Services Practice Leader	
Steve Power	Partner, Assurance, Team Leader – Public Utilities	
Kerri Riddle	Senior Manager, Advisory	
Barry Griffiths	Senior Manager, Assurance and Advisory	
Seth Snyder	Experienced Manager, Construction and Forensics	
Adam Lippa	Senior Manager, Advisory	
Angie Brown	Experienced Manager, Advisory	