

NR 2007 – [REDACTED]

[REDACTED]

[REDACTED]

TITLE: Proposed Energy Corporation (Holdco) Act and Proposed Hydro Act - Legislation

ISSUE:

Whether to introduce the draft Energy Corporation (Holdco) Act and the draft Hydro Act in the House of Assembly.

RECOMMENDATIONS

It is recommended that:

1. The draft Energy Corporation (Holdco) Act and the draft amendments to the Hydro Act, be introduced in the House of Assembly in a form substantially similar to the attached.
2. The Energy Corporation (Holdco) Act be renamed before introduction in the House to reflect a corporate name to be approved by the Premier and Minister of Natural Resources.

BACKGROUND

When the Newfoundland and Labrador Hydroelectric Corporation (Hydro) was formed in 1975, it became the holder, on behalf of the Province, of shares bought by Government from Brinco in the Gull Island Power Corporation (100%) and Churchill Falls (Labrador) Corporation (65.8%). When the Lower Churchill Development Corporation was formed in 1978, Hydro also became the holder of the Province's 51% of shares in that Corporation.

In the 2003 election, the Conservative Party platform included the commitment that Hydro would be restructured with a new mandate to support the development of the province's energy sector, or a new "energy corporation" would be formed. In September, 2004, Premier Williams announced that Newfoundland and Labrador would be the platform for this development, with some of its key priorities being the development of the Lower Churchill, exploration of partnerships with the private sector concerning natural gas, wind energy, geothermal heat pump technology, and the possible acquisition of ownership interests in our offshore oil and gas resources.

In accordance with [REDACTED] the Hydro Corporation Act was amended by Bill 1 to enable Hydro to "...engage in activities related to the exploration for, development, production, refining, marketing and transportation of, hydrocarbons and products from hydrocarbons." The amendment also contains a provision that will allow for further expansion of this mandate as approved by the Lieutenant-Governor in Council. The Bill received Royal Assent on May 26, 2006.

Hydro has completed the internal reorganization of its operating departments, and the leadership team is now in place. A three-phase, long-term plan has been developed to fulfill the new mandate and meet the expectations of Government. The plan is outlined in Annex V. This proposed legislation is the first phase of that plan.

Hydro's business development opportunities are already under discussion, and a preliminary assessment of capital needs over the next ten years includes possible investments in the oil and gas sector, wind development and the Lower Churchill. Hydro has determined that to pursue these opportunities, it needs to ensure that the Hydro group has a corporate structure that will best provide the capability to meet the challenges ahead.

The Legislative Council, in consultation with Natural Resources, Justice and Hydro, has drafted a new Energy corporation Act (corporate name to be decided by Cabinet) which reflects the direction provided by Cabinet on May 7, 2007.

ALTERNATIVES

The following alternatives are offered for consideration:

1. Proceed with the introduction of the Energy Corporation (Holdco) Act and the Hydro Act. This is the recommended alternative.

Passage of such legislation would permit the fulfillment of what is currently Hydro's mandate, by facilitating the expansion of its corporate activities and business ventures. It would simultaneously provide regulatory clarity and improved isolation of regulated activities from business and financial risks associated with unregulated activities. It would allow Hydro and Holdco to capture synergies related to human and technical resources, and provide Holdco with access, in the first instance, to Hydro's available dividends, but it may raise questions about the separation of Hydro ownership from Government directly.


2. Take no action. This alternative is not recommended.

Hydro would continue to undertake both regulated and non-regulated activities (Lower Churchill, oil & gas, Labrador Wind) either in the existing entity or through existing and/or new subsidiaries of Hydro. This alternative is subject to a number of limitations, including continuing difficulties in separating regulated and non-regulated activities for the Public Utilities Board. In addition, the credit rating agencies have advised that Lower Churchill will need to be in a separate legal entity to obtain project financing, and that this entity should not be a subsidiary of the regulated business.

LEGAL/LEGISLATIVE CONSIDERATIONS

The proposed Energy Corporation (Holdco) Act and the amendments to the Hydro Act has been prepared by Legislative Council in consultation with Justice and Hydro.

FINANCIAL CONSIDERATIONS

The Department of Finance was consulted on NR2007-

INTERDEPARTMENTAL CONSIDERATIONS

The Departments of Finance, Justice and Labrador and Aboriginal Affairs were consulted on NR2007-017.

LABRADOR OR ABORIGINAL CONSIDERATIONS

The recommended action would result in the obligation to consult with aboriginal parties and to engage the Innu Nation on commercial matters being transferred from Hydro to Holdco. With appropriate communication, this should be acceptable to these parties.

INTERGOVERNMENTAL CONSIDERATIONS

In terms of the legislation, there are no intergovernmental considerations. However, some of the contemplated transfers of contracts and agreements from Hydro to Holdco may require the consent of Hydro Quebec, and thus the Quebec government.

OTHER JURISDICTIONS

During 2006 Hydro engaged Deloitte to perform a comprehensive Jurisdictional Review that included a review of corporate structures used by other electric utilities. The review focused on utilities that undertake both regulated and non-regulated activities, including those that undertake activities in multiple businesses.

CONSULTATIONS

Hydro's consultations in regard to this proposal covered the following:

Departments of Natural Resources, Finance and Justice
Lead Managers of Hydro's Borrowing Syndicate
Credit Rating Agencies
Benchmarking of practices in other utilities

ENVIRONMENTAL CONSIDERATIONS

The Provincial Department of Environment and Conservation and the Federal Department of Fisheries and Oceans were consulted on NR2007-[REDACTED]

COMMUNICATIONS AND CONSULATION SYNOPSIS

See attached Appendix A.

KATHY DUNDERDALE, MHA
Minister

May 24, 2007

APPENDIX A**CREATION OF NEW CROWN CORPORATION**

Consulted With: Chris Kieley, DM, NR Ed Martin, CEO, NLH Charles Bown, ADM NR David Bazely, NR Derrick Sturge, CFO, NLH Mark Bradbury, NLH Todd Stanley, Justice Dawn Dalley, NLH	Date Drafted: May 4, 2007	Anticipated Announcement Date: To be determined
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Issue

Creation of a new Crown Corporation, provisionally named Holdco, to facilitate the conversion of Newfoundland and Labrador Hydro into an energy company in fulfillment of the new mandate provided in 2006.

Communications Analysis**Public Environment**

In the 2003 election platform document, government committed to expanding the mandate of Newfoundland and Labrador Hydro to enable the company to retain an equity in the province's oil and gas resources. The policy position at the time was to ensure that the province, through the expanded mandate of Hydro, would have the capacity and expertise to participate in and benefit from decisions regarding exploration, development, production and processing of oil and gas in the province. Hydro would also be mandated to work with the major oil companies to develop natural gas as a competitively priced alternative energy source for the province and for transportation to Canadian and U.S. markets.

Since being elected to the government in November 2003, the Premier and Minister of Natural Resources have reiterated the policy position of government to transform and broaden the mandate of Newfoundland and Labrador Hydro to have a more direct role in the development of petroleum resources and play an enhanced role in electricity. Government clearly stated that expanding the mandate of Hydro is not about privatization, rather it's about having Hydro play a greater role in the development of the province's energy resources.

In November 2005, government released a public discussion paper, entitled "Developing an Energy Plan for Newfoundland and Labrador" and embarked on an extensive consultation process to assist in the development of a comprehensive energy plan for the province. It included consultations with interest groups, industry and the public. Those consultations have been completed and the Energy Plan is in the final stages of development and will be released later this year. The stated policy objective of the government to expand the role of Newfoundland and

Labrador Hydro is to assist the province in getting the best possible returns from the development of our resources.

Overall, the public has been generally supportive of expanding the role of Hydro, in absence of the specific details as to how that would occur, to enable the province to get the best possible benefits in the development of its energy resources. The industry and business community has expressed concern over the lack of detail around the scope of Hydro's new role.

Hydro has now completed the internal reorganization of its operating departments and the leadership team is now in place. Business development opportunities are already under discussion and a preliminary assessment of its capital needs over the next five year includes possible investments in the oil and gas sector, wind development and the Lower Churchill. In preparing to pursue these opportunities, Hydro needs to ensure that it is structured for success, by considering the larger question of the Hydro Group's corporate and financial structures that will best ensure our success in meeting the challenges ahead and still protect the regulated utility that is the cornerstone of its success to date.

Strategic Considerations

- The oil and gas industry, specifically the Canadian Association of Petroleum Producers, will likely again question the benefit to industry of having Hydro involved in energy projects at this time. They will question the expertise within the company.
- Given the lack of detail of the new role for Hydro when it comes to partnering on projects, the business community has expressed concern as to whether Newfoundland and Labrador Hydro would compromise private companies. They may charge that Hydro is using taxpayers' dollars to compete with private industry.
- The Newfoundland Ocean Industries Association has expressed concern over the lack of detail on government's plan for Hydro. They may criticize the lack of transparency as to what government actually intends for Hydro to do.
- The Public Utilities Board, as well as Industrial customers and Newfoundland Power, will question the impact of any restructuring on the regulated operations from a financial and cost perspective. This will need to be communicated clearly by Hydro to these audiences.
- The changes will need to be considered and communicated to the Innu Nation and other Lower Churchill stakeholders, in the context of the IBA negotiations for the Lower Churchill.
- The Liberal Opposition will question government's motives for the legislative change and what protection exists for taxpayers. It will need to be made clear that government is enabling Hydro to carry out the stated policy objectives of government and that Hydro will still be publicly accountable to government and the mechanisms are in place to ensure this.
- NDP Leader Lorraine Michael is generally supportive of the concept of a greater role for Newfoundland and Labrador Hydro, although the party platform calls for the crown corporation to expand into areas of energy efficiency and conservation as well.
- The media and the Liberal Opposition will likely question the motive of government in relation to the Lower Churchill development and whether something is in the works that has not been made public. Government needs to be clear that this has been a stated policy objective of the government since November 2003, and that any deal that Hydro may explore in relation to the Lower Churchill would have to go back to Cabinet for approval.
- Other critics might charge that government is giving Holdco given blanket powers to enter into deals on behalf of the people of the province.

- As proposed, Holdco will be allowed to borrow up to \$600 million, but none of that money can be drawn down without cabinet approval.
- Hydro contracted Deloitte to review and compare how other jurisdictions structure their energy crown corporations where there are energy investments and regulated activities. The proposed Holdco structure is in line with the identified best practices.

Target Audiences

- Board of Trade
- Chambers of Commerce
- Newfoundland Ocean Industries Association
- Canadian Association of Petroleum Producers
- Oil and Gas companies
- Public Utilities Board
- Caucus
- Debt Rating Agencies/Financial Stakeholders
- Industrial Customers
- Newfoundland Power
- Innu Nation
- Taxpayers
- Electricity Customers
- Opposition Parties
- MPs
- Media

Consultations

- The Department of Natural Resources released a discussion paper in November 2005 on the development of an energy plan, which formed the basis of industry and public consultations on the development of an energy plan for the province.
- The Province has also consulted with the credit rating agencies and members of Hydro's borrowing syndicate regarding the proposed restructuring and an independent review has been conducted of other energy/utility structures

Communications Objectives

- To communicate that government is changing legislation to allow Newfoundland and Labrador Hydro to restructure so the company can explore possible business opportunities in the energy sector.
- To reiterate that the expanded mandate of Newfoundland and Labrador Hydro enables the Crown Corporation to carry out government's stated policy objectives.
- To show that the new structure will not affect electricity rates.
- To show that government will continue to have full control of Hydro and its new holding company, Holdco.
- To ensure the business community understands government continues to welcome private investment in energy in partnership with the province.

Messages

- The legislative changes will enable Newfoundland and Labrador Hydro to comply with the direction of government to pursue broader opportunities in the energy sector in relation to the expanded role and mandate of Hydro and in alignment with province's energy plan.
- Government, as part of its election platform, saw an opportunity to have Newfoundland and Labrador Hydro do more in the development of our energy sector. We are moving to enable Hydro to explore broader opportunities for development in the best interest of the province.
- Part of the restructuring involves clearly separating the core regulated utility business from the new business hydro will be pursuing to facilitate business development, control risk and promote efficient rate regulation. By separating regulated activities from non-regulated activities, government is ensuring that energy investments will not affect electricity rates.
- We are not privatizing Newfoundland and Labrador Hydro. This is about enabling Hydro to play a greater role in the development of our energy resources. Full control will remain with the Government of Newfoundland and Labrador, as the shareholder of Newfoundland and Labrador Hydro.
- This province will continue to retain ownership over Newfoundland and Labrador Hydro. It is a valuable asset to the people of Newfoundland and Labrador.
- Holdco will have to seek cabinet approval before investing in projects or drawing down any of its \$600 maximum allowable debt.
- The structure of Holdco follows the standard practices of crown corporations in other jurisdictions where the corporation is engaged in regulated and unregulated energy markets. This is based on a detailed analysis by Deloitte.

Interdepartmental Coordination

The Department of Natural Resources is coordinating the restructuring with Newfoundland and Labrador Hydro and the Departments of Finance and Justice, in consultation with the Premier's Office.

The Announcement

- The Minister will speak to the legislation in the House of Assembly.
- A news release will be issued once the legislation is introduced in the House outlining government's intention.
- Hydro will offer the media a technical briefing.

Minister's Involvement

Minister Dunderdale will be the lead for the government on the announcement, while Newfoundland and Labrador Hydro will speak to technical details about its organization that may arise as a result of the announcement.

Materials

A detailed Q&A will be prepared for the Minister for use in the House of Assembly and interviews to address the above strategic considerations and other issues that may arise.

Follow-Up

The media will be monitored for reaction of the public, interest groups and other interested people. The Minister will respond accordingly.

Drafted by:

Tracy Barron, Communications Director

Corey Snook, Communications and Marketing Manager

Approved by:

Pierre Tobin, Assoc. DM

Charles Bown, ADM

Potential Questions and Answers

Operations

1. Exploration is extremely risky and expensive. How will Holdco and government mitigate these risks?

Hydro has formed a new business evaluation department whose responsibility it is to assess the risks associated with new investment opportunities and to determine appropriate level of return commensurate with those risks. In addition, Hydro will avail of expert advice in the consideration of investment opportunities. Close collaboration between Government and Hydro will be the norm as new opportunities are considered.

2. How will creating this company assist the province in getting a better return from its energy resources?

The new energy company, Holdco will be distinct from the regulated electrical generation, transmission and distribution activities of Hydro. This will allow Holdco to develop the necessary expertise and concentrate its focus on obtaining a better return on our resources by ensuring we are an active participant in the process and the business of resource development.

3. Why should government risk taxpayers' money when the private sector is already doing good exploration and development work?

Although the private sector has been very successful in discovering and developing oil resources, Government believes the people of Newfoundland and Labrador should receive greater economic benefits from future developments.

Government is launching this initiative to honour its Blue Book commitment to maximize benefits from our geological inheritance in order to increase our financial independence from Ottawa. The Blue Book committed to restructuring Hydro with a new mandate to support the development of the province's energy sector or to forming a new "energy corporation" to meet this objective.

4. How will Holdco develop the kind of expertise necessary to succeed in exploring for and developing oil and gas projects?

This will be obtained through various means. For example, direct involvement in an oil and gas development opportunity as an equity investor and partner, even if in a minor role, will provide an opportunity for knowledge transfer. In other words, by being a more active participant through an equity position, the province will develop the knowledge that is essential to maximize returns from oil and gas resources. Another way to develop expertise is through availing of expert assistance and training. In addition, Hydro has already hired individuals with significant oil and gas experience.

5. What are some examples of the types of projects Holdco might sanction?

Projects that are currently under review include the Lower Churchill developments, oil and gas investments, wind projects and research and development opportunities.

6. Why not leave the corporate structure alone and let Hydro take on this mandate?

Hydro's development of business opportunities in non-regulated areas must not impact on the provision of services to its regulated customers in the Province. The proposed arrangement is common in other regulated jurisdictions in Canada. Hydro's benchmarking of best practices in other jurisdictions revealed that:

- A parent company usually holds the investments in individual subsidiaries.
- There is usually a separation of regulated and non-regulated activities into separate legal entities.
- Regulated entities rarely have non-regulated subsidiaries.
- For all the selected companies, there was a separation of electric utility and other businesses.

As another consideration, having Hydro as the subsidiary protects its financial results from the impact of an unfavorable performance by a non-regulated entity in the Group.

7. When will Holdco begin operating?

It is intended that Holdco's operations would commence January 1, 2008.

Control**8. Who will control Holdco?**

The Provincial Government will retain full control over Hydro and Holdco.

Private Investment and Competition**9. What role will there be for private investment in energy?**

There is already considerable investment in the energy sector in NL and this will continue, in many cases through partnership with Holdco.

10. How will government create a level playing field in the energy sector?

In the electricity sector, Hydro is the principal agent for generation and transmission in the province. This will not change. In the oil and gas sector, there is already considerable investment by the private sector and this also will not change.

11. Deleted

Financial Implications**12. What are Holdco's immediate financing needs?**

The only immediate borrowing needs will be for working capital and to purchase Hydro's unregulated assets.

13. How much taxpayer money will go into this new company?

Upon its initial formation, Holdco will have a relatively small amount of debt outstanding. The only immediate borrowing needs will be to purchase Hydro's unregulated assets (recommended to be at net book value) and working capital. Earnings from recall power sales and CF(L)Co are expected to partially fund non-regulated activities in the short-term. Neither of these earnings sources are "taxpayer" based, but rather represent internally generated funds. It is expected that this will continue to be the case and that a large part of the equity investment required for future project development will come from internally generated sources. While direct equity investment is anticipated should large development projects proceed, such investment will only be made in the context of and in accordance with sound business evaluation principles.

14. How will the combined consolidated balance sheet change?

There will be no net change to the consolidated balance sheet. The assets of the new consolidated companies will mirror the current Hydro.

15. How much debt will Holdco take on?

Government will set Holdco's maximum debt levels equal to those of Hydro at \$600 million. Total consolidated debt outstanding for the Group upon the commencement of Holdco operations on January 1, is estimated to be approximately \$1.4 billion. This is comparable to the total actual consolidated balance as at December 31, 2006. Holdco will have to seek cabinet approval in order to issue long-term debt against the \$600 million limit.

16. How will \$600 million in additional debt affect the province's credit rating?

It is not anticipated that the Province's credit rating will be adversely impacted by \$600 million in additional guaranteed debt under Holdco. This is because it is the intention and strategy that Hydro's debt be viewed as self-supporting by the credit rating agencies. This will involve the development and adherence to predetermined financial hurdles as outlined by the rating agencies. Holdco's operations and development activities will be premised on this basis. Hydro's preliminary analysis indicates that such adherence will be possible through a combination of earnings reinvestment and the prudent pursuit of valid business development opportunities.

17. How will Holdco finance its activities in the short, medium and long terms?

Traditionally Hydro has issued debt guaranteed by Government in order to finance its operations. While in the shorter term this is expected to continue, the longer-term plan contemplates large

infrastructure projects that could significantly increase the amount of debt guaranteed by Government unless alternate sources of financing that are non-recourse to the Province are found. In the case of large projects, this usually entails project finance vehicles whereby the lender security is limited to the cash flows and assets of the project, with no recourse beyond that, to either the assets of other entities in the corporate group, or to the shareholder via a guarantee. Holdco will need the flexibility to be able to create corporate and financing structures that avoid, to the extent possible, encumbering the borrowing capacity of the Province as a whole.

Holdco's financing needs will include payment to Hydro for the net assets and liabilities transferred. Holdco will also have additional financing needs for its non-regulated activities going forward. Hydro proposes that Holdco's funding requirements be satisfied initially by earnings reinvestment. The decision to issue debt in the capital markets carrying the guarantee of the Province will be driven by the need to obtain additional funding for projects approved in consultation with the shareholder, bearing in mind the targeted financial parameters set for the company. Direct equity infusion by Government may become necessary as potential projects ramp up.

Preliminary projections for Holdco's balance sheet in the first two to three years indicate low levels of debt in the capital structure and levels that are well within those that would generally render the debt as being self-supporting. No direct equity investment by the Province during this time frame appears necessary, other than the reinvestment of earnings which will consist largely of earnings from recall and the investment in CF(L)Co.

18. How will accumulating debt and operating losses in Holdco affect the province's credit rating?

It is not anticipated that there will be either accumulating debt or losses in Holdco. Holdco would fund development activities, only up to the time that these projects are deemed to have reached a stage in their maturity that supports the issuance of project specific debt instruments in the capital and possibly private debt markets. Development assets incurred by Holdco to that point would then be transferred to the new entity and related Holdco debt reduced via refinancing by the new entity.

Losses are not anticipated since all predevelopment costs would be capitalized until transfer to the new project entity. Incidental operating expenses would be more than offset by income from the sale of recalled power from the Upper Churchill and from the investment in CF(L)Co, which at the current time results in combined income of over \$60 million per annum.

19. How will Holdco spend its money?

Holdco would fund new development activities, only up to the time that these projects are deemed to have reached a stage in their maturity that supports the issuance of project specific debt instruments in the capital and possibly private debt markets. Development assets incurred by Holdco to that point would then be transferred to the new entity and related Holdco debt reduced via refinancing by the new entity. Going forward, Holdco would then receive a return on its equity investment in these subsidiaries, which would be used to fund other development activities, service its other debt obligations and to provide a reasonable return to the shareholder.

20. How will losses in Holdco affect regulated electricity rates?

As noted in our answer to # 18 above, it is not anticipated that Holdco will incur operating losses, but in the unlikely event that this did occur, it would not impact on regulated electricity rates, since Hydro's regulated cost of service would not be impacted.

21. What will Holdco do with its profits?

Holdco's profits belong to the Province. Whether they are reinvested in new development opportunities, or paid out as dividends, or a combination of both, is really dependant upon the shareholder's objective to maximize the value of its investment in Holdco to the benefit of the Province, without detrimental impact to Hydro's rate payers. Maximization of value may entail a further suspension of dividends in order to pursue favorable investment opportunities.

A supportive dividend policy does not mean that no dividends will be paid. A supportive dividend policy should be viewed in the context of what is necessary for Holdco's debt to be viewed as self-supporting. Hence, dividends can be paid as long as Holdco maintains a sound financial position whilst in the pursuit of the new mandate. A supportive dividend policy is one which recognizes these objectives and sets clear financial parameters for the company's financial position that must be adhered to, prior to dividends being paid.

Upper Churchill (CFLCO)**22. How will the new structure of Holdco and Hydro affect CFLCO and the Upper Churchill operation?**

There should be no impact on the Upper Churchill operation as a result of this change.

23. What sign off do we need from Hydro Quebec?

We may need to receive the consent of HQ (as a shareholder of CF) to transfer Hydro's shares in CF(L)Co to Holdco. In addition, it is the intention to transfer Hydro's interest in the current agreement with Hydro Quebec on the purchase and sale of recall power to Holdco.

24. Can Hydro Quebec withhold its approval for this change?

This question is currently under review. In any case, the restructuring would continue. The principle benefit of the restructuring relates to our ability going forward to anticipate and execute on business investment opportunities consistent with Hydro's new mandate. While it would be beneficial for all of Hydro's current non-regulated activities to be transferred to the new company, the fact that some of them might not, would not outweigh the benefits of this proposal.

25. How is Hydro's balance sheet currently structure (e.g. debt to equity, etc.)

Prepared by Corey Snook, Communications and Marketing Manager

Date: May 24, 2007



Government of Newfoundland and Labrador
Department of Natural Resources
Office of the Deputy Minister

Cabinet Secretariat RECEIVED	
Date:	8-11-08
Doc #	
File #	
Action(s):	

November 4, 2008

Mr. Gary Norris
Clerk of the Executive Council

RE: Order in Council arising from the passage of legislation to create the Energy Corporation of Newfoundland and Labrador

I am writing to request the issuance of Orders in Council necessary for the operation of the Energy Corporation of Newfoundland and Labrador ("ECNL") and which are pursuant to direction previously provided by Cabinet. [REDACTED] which referred to ECNL as "Holdco" and Newfoundland and Labrador Hydro as "Hydro", authorized Hydro, *inter alia*, to transfer all of its assets and liabilities pertaining to activities not subject to the purview of the Public Utilities Board to Holdco at a value equal to their net book value at the time of transfer.

Both Hydro's transfer of its shares in its subsidiaries to ECNL and ECNL's acquisition of those shares requires an Order in Council under their respective originating statutes. I therefore request that you issue an Order in Council stating that the Lieutenant-Governor in Council in accordance with subsection 14(3) of the *Hydro Corporation Act, 2007*, and subsection 14.1(1) of the *Energy Corporation Act*, approves Hydro's transfer to, and ECNL's acceptance of, all of Hydro's shares of Churchill Falls (Labrador) Corporation Limited, Gull Island Power Corporation Limited and Lower Churchill Development Corporation Limited effective on a date to be agreed upon by Hydro and ECNL and at a value equal to Hydro's share of the net book value of the assets and liabilities of the respective companies at the time of transfer.

Yours sincerely,

CHRIS KIELEY, C.A.
Deputy Minister

Email Message

From: Newhook, Vanessa [EX:/O=PSNL/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=VNEWHOOK]
To: Mandville, Mary J. [EX:/O=PSNL/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=MARYM]
Cc: Hawley, Kim [EX:/O=PSNL/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=KIMHAWLE], Tucker, Ian J. [EX:/O=PSNL/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=IANTUCKER]
Sent: 2/23/2011 at 10:44 AM
Received: 2/23/2011 at 10:44 AM
Subject: Re: Section 35(2) amendment

Mary,

My apologies. I thought I had indicated we were satisfied. We are and the latest document was provided to Aisling Gogan last week in advance of the letter from Dick to Robert. If anything else is required from me or DNR please let me know.

Vanessa

ADM, Royalties and Benefits
 Natural Resources

Sent Via BlackBerry

From: Mandville, Mary J.
 To: Newhook, Vanessa
 Cc: Hawley, Kim; Tucker, Ian J.
 Sent: Wed Feb 23 11:25:29 2011
 Subject: RE: Section 35(2) amendment

I am assuming they are final but we actually haven't had final sign-off from the Dept. Can you confirm that the last draft sent was in order.
 Mary

This email is confidential and privileged. Any unauthorized distribution or disclosure is prohibited. Disclosure to anyone other than the intended recipient does not constitute a waiver of privilege. If you have received this email in error, please notify me and delete all versions of same.

Mary J. McCarthy Mandville
 Legislative Counsel and Registrar of
 Subordinate Legislation
 Department of Justice
 (709) 729-4559
 (709) 729-2129 (fax)
 marym@gov.nl.ca

From: Hawley, Kim
 Sent: Wednesday, February 23, 2011 11:09 AM

To: Tucker, Ian J.
Cc: Mandville, Mary J.; Newhook, Vanessa
Subject: RE: Section 35(2) amendment
Importance: High

I understand that is the case, yes. Mary and Vanessa can confirm.

From: Tucker, Ian J.
Sent: Wednesday, February 23, 2011 11:07 AM
To: Hawley, Kim
Subject: Re: Section 35(2) amendment

Are the regs finalized yet?

Sent Via BlackBerry

From: Hawley, Kim
To: Tucker, Ian J.
Sent: Wed Feb 23 11:05:29 2011
Subject: FW: Section 35(2) amendment

FYI
Let me know if you have any trouble accessing.

From: Janson, Margie
Sent: Tuesday, February 15, 2011 11:40 AM
To: Mandville, Mary J.; Newhook, Vanessa
Cc: Hawley, Kim; Martin, Craig; Pelletier, Randy; Gogan, Aisling
Subject: RE: Section 35(2) amendment

The file has been placed in Natural Resources secure directory. A copy may be obtained from Anne Buttland. A copy has also been placed in the Cabinet Secretariat Secure Directory for Aisling.

Please note that Draft Legislation is considered Cabinet material and cannot be emailed.

Margie Janson

Office of the Legislative Counsel

Department of Justice

Government of Newfoundland and Labrador

4th Floor, East Block, Confederation Building

P.O. Box 8700, St. John's, NL A1B 4J6

709 729-1162 (t) | 709 729-2129 (f) | margiej@gov.nl.ca
<blocked::blocked::mailto:richardedwards@gov.nl.ca>

www.assembly.nl.ca/legislation/ <blocked::http://www.assembly.nl.ca/legislation/>

From: Mandville, Mary J.
Sent: Tuesday, February 15, 2011 11:28 AM
To: Newhook, Vanessa
Cc: Hawley, Kim; Martin, Craig; Pelletier, Randy; Gogan, Aisling; Janson, Margie
Subject: RE: Section 35(2) amendment

Sure Vanessa. The Nov draft has been updated to reflect the new year and the new Clerk. Let me know if all is in order.
Thanks,
Mary

This email is confidential and privileged. Any unauthorized distribution or disclosure is prohibited. Disclosure to anyone other than the intended recipient does not constitute a waiver of privilege. If you have received this email in error, please notify me and delete all versions of same.
Mary J. McCarthy Mandville
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marym@gov.nl.ca

From: Newhook, Vanessa
Sent: Tuesday, February 15, 2011 11:21 AM
To: Mandville, Mary J.
Cc: Hawley, Kim; Martin, Craig; Pelletier, Randy; Gogan, Aisling
Subject: Section 35(2) amendment

Mary,

We are now working on an additional amendment to the Royalty Regulations and intend to Gazette the Section 35(2) amendment at the same time. Could you have the final version dropped into the secure directory for Cabinet Secretariat review to obtain sign-off?

If you have any questions or concerns, please advise.

Vanessa





Vanessa Newhook

ADM, Royalties and Benefits

Department of Natural Resources


Government of Newfoundland and Labrador

t 709.729.1644

Attach To: NR2007-

Title: **Proposed Energy Corporation (Holdco) Act and Proposed Amendments to the Hydro Act - Legislation**

**Branch
Comment:**

- The Communications Branch notes that the communications plan attached to this submission addresses the broader issue of the creation of a new crown corporation (reference: ) but includes consideration of, and messaging related to, the proposed legislative changes.
- The branch supports the approach outlined in the communications plan attached to this submission.

Date: May 24, 2007

Prepared by: Glenda Power

Attach to: NR2007-

Title **Proposed Energy Corporation (Holdco) Act and Proposed Amendments to the Hydro Act - Legislation**

Summary of Proposal

The Submission seeks approval for: (i) the draft Energy Corporation (Holdco) Act and the draft amendments to the Hydro Act, be introduced in the House of Assembly in a form substantially similar to the attached; and (ii) the Energy Corporation (Holdco) Act be renamed before introduction in the House to reflect a corporate name to be approved by the Premier and Minister of Natural Resources.

Secretariat Comment

1. Cabinet directed (MC being drafted - May 10, 2007 meeting) that a new Crown corporation (Holdco) be created that will implement Government's intended activities in the energy sector and hold the shares of Newfoundland and Labrador Hydroelectric Corporation (Hydro), which will continue to provide regulated electricity services to provincial customers, and Hydro's existing subsidiaries. With respect to legislation it directed that:
 - a. Holdco have substantially the same powers and objects as those currently stated for Hydro and be subject to legislative provisions similar to all of the provisions of Hydro with the exception of those proposed in Annex 1;
 - b. Hydro's objects be amended to limit its activities to those of a regulated electrical utility, primarily the production and delivery of power for use by customers in the Province;
 - c. Notwithstanding the *Corporations Act*, provision be made that Government be able to issue specific direction to the Board of Directors of Hydro, despite not being the legal shareholder, provided that the Board of Directors of Holdco is appropriately informed, and that such direction would relieve the boards of both companies from relevant fiduciary duty;
 - d. The legislation incorporating Holdco specify that its activities will not be subject to the *Public Utilities Act*. This will ensure that Holdco has the flexibility to pursue its objectives on the basis of commercial and economic development considerations. The *Electrical Power Control Act* will apply to Holdco;
 - e. Holdco's total borrowing be limited to \$600 million. This amount is additional to Hydro's current incremental borrowing limit of \$600 million as outlined in Section 38 of the *Hydro Corporation Act*;
 - f. For Holdco and each of its subsidiaries, the maximum number of directors be 14 (the Board of Directors of Hydro is currently limited to no more than 10);
 - g. The appointment of the Chief Executive Officer of both Holdco and Hydro be done by the LGIC and not the shareholder
 - h. Both former employees of Hydro, and new employees of Holdco as appropriate, be included in the Public Service Pension Plan; and
 - i. Other legislative provisions flowing from Hydro's ongoing review of the *Corporations Act*.

2. Department of Finance advises it has not reviewed the draft legislation due to time limitations.

**Budget Division
Consultation**

**Secretariat
Recommendation**

Cabinet Secretariat recommends approval of the Submission

EOR/BP
May 25, 2007

2007/05/25

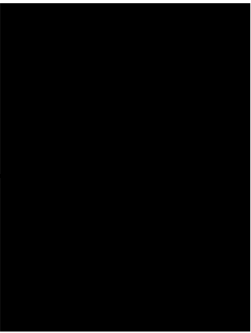

NR/DM
E. Martin
C. Lake
L. Galway
AG
Deputy Clerk
File


The Submission of the Minister of Natural Resources respecting New Hydro Act and New Energy Corporation Act was considered.

The following direction was provided:


- 1) Approval was given for the draft Energy Corporation (Holdco) Act and the draft amendments to the Hydro Act, to be introduced in the House of Assembly in a form substantially similar to the bills attached to the Minister's Submission;
- 2) The Energy Corporation (Holdco) Act is to be renamed before introduction in the House to reflect a corporate name to be approved by the Premier and Minister of Natural Resources; and
- 3) Approval was given for the Clerk of the Executive Council, when required, following the passage of the legislation in the House of Assembly, to issue any necessary Orders in Council arising from the direction in the current Submission and in NR2007-

Deputy Clerk of the Executive Council



2009/04/07


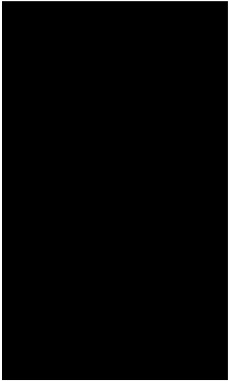



NR/DM
FIN/DM
JUS/DM
J. Chippett
E. Martin
J. Ottenheimer
AG
Deputy Clerk
File



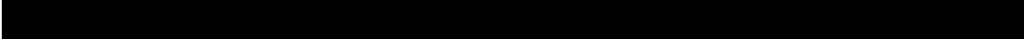
Under the authority of section 14(3) of the Hydro Corporation Act, 2007 and section 14.1(1) of the Energy Corporation Act, the Lieutenant Governor in Council is pleased to authorize Newfoundland and Labrador Hydro's transfer to Nalcor Energy, and Nalcor Energy's acquisition of, all of Newfoundland and Labrador Hydro's shares of Churchill Falls (Labrador) Corporation Limited and Gull Island Power Corporation Limited, effective on a date to be agreed upon by Newfoundland and Labrador Hydro and Nalcor Energy, with the value of the shares of each corporation to be based upon their net book value at the time of transfer. The boards of Newfoundland and Labrador Hydro and Nalcor Energy are requested to inform the Clerk of the Executive Council on the closing of the transactions.

Clerk of the Executive Council


2009/04/07



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J. Chippett
E. Martin
J. Ottenheimer
AG
Deputy Clerk
File



Under the authority of sections 2(2) and 9(2) of the Principal Agreement attached as Schedule A of the Lower Churchill Development Corporation Act, section 14(3) of the Hydro Corporation Act, 2007 and section 14.1(1) of the Energy Corporation Act, the Lieutenant Governor in Council hereby authorizes the transfer from Newfoundland and Labrador Hydro to the Province of the shares that Newfoundland and Labrador Hydro holds on behalf of the Province in the Lower Churchill Development Corporation; and the Lieutenant Governor in Council subsequently designates Nalcor Energy as the agent of the Government to perform the obligations of the Province under the Principal Agreement and authorizes the Minister of Natural Resources to transfer to Nalcor Energy the shares of the Province in the Lower Churchill Development Corporation.

Clerk of the Executive Council

From:Constantine, Robert [EX:/O=PSNL/OU=FIRST ADMINISTRATIVE
GROUP/CN=RECIPIENTS/CN=RCONSTANTINE]
To:O'Reilly, Ed [EX:/O=PSNL/OU=FIRST ADMINISTRATIVE
GROUP/CN=RECIPIENTS/CN=Edoreilly]
Received-Date:2007/05/25
Received-Time:10:39:37 AM
Sent-Date:2007/05/25
Sent-Time:10:39:37 AM
Subject:Re: Proposed Energy Corporation Act

OK from me.

>>> Ed O'Reilly 24/05/2007 7:46:26 pm >>>
I will be noting that "Department of Finance advises it has not reviewed
the draft legislation due to time limitations". Ok?

Ed

>>> Robert Constantine 2007/05/24 4:15 PM >>>
No. I didn't. I had indicated to Charles that I couldn't meet the
Timeline of Tues at close of business, and i haven't had the opportunity
to review it since. i also referred it to Donna for consideration. She
has not had the opportunity to review it either. Donna notes that she has
not seen an MC on the submission, and was not aware that it was approved.

In my very quck perusal, I did not ee anything that jumped out at me.
Because of other commitments, this is not a priority for me.

There are issues related to debt and pensions which are in Donna's
bailiwick. Consequently, any comments that she can provide would be all
of the Departmnet of Finance comments

>>> Ed O'Reilly 24/05/2007 3:28:12 pm >>>
Hi Bob:

I understand the proposed legislation was provided to you and Terry for
review. Did you have a chance to review?

Thank you

Ed