



Access to Information Request Form 1

Personal information on this form is collected under the Newfoundland and Labrador Access to Information and Protection of Privacy (ATIPP) Act, 2015 and will be used to respond to your request. See page 2 for instructions on how to complete and submit this form.

Your Contact Details

Applicant Name:	David Vardy		
Date YYYY-MM-DD	2018-03-02		
Organization (optional):	None.		
Mailing Address (including postal code):	[REDACTED]		
Daytime Phone:	[REDACTED] 659	Fax:	None
E-mail:	david.vardy01@[REDACTED]		

Type of Request (please check one)



General Information



My own personal information (for another person's personal information, attach proof of authority)

To which public body are you making your request?

Public Utilities Board

Please specify the information or records you wish to obtain

ATIPPA Request on Political Interference with the PUB

On July 28, 2016 we wrote to seek clarification with respect to political interference by the Minister of Natural Resources in the Muskral Falls reference inquiry of 2011-12.

We asked: "Can you confirm that this meeting took place, who called it, the date of the meeting, what was discussed during the meeting and who attended it? Was there an attempt to influence the Board in its deliberations on the Muskral Falls reference?"

"Can you also advise us whether other Ministers or public officials also met with you, or called you, during the course of the Muskral Falls reference and if there were such meetings or calls, who initiated the meetings (or telephone calls), what was discussed and who attended them?"

In the response from the PUB dated November 9, 2016 we were told only that "the Chairman did engage in discussions in relation to the schedule and process of the review with various public officials."

This did not respond to our request which focused on improper political interference. We wrote again on December 2, 2016 seeking further clarity but the letter was lost. We repeated our request in a letter dated February 9, 2018 and were advised on March 3, 2018 that our request should be reformulated through an ATIPPA request.

Minister Jerome Kennedy admitted in a public event in Corner Brook that he had discussions with the Chair of the PUB relating to the substantive issues relating to Muskral Falls. The Board is a quasi-judicial body and should not be subject to improper pressure by public officials.

Attached please find the transcript provided to us by Gary Kean, Western Star reporter, on the meeting with the then Minister of Natural Resources, Jerome Kennedy. Can you confirm if this is an accurate representation of the conversation he had with the Chair? In particular, we note the following quote: "I questioned the chair of the Public Utilities Board and their lawyer at a meeting: how can you even consider Corner Brook Pulp and Paper closing down?" This quote came from an address by Minister Kennedy to the Greater Corner Brook Chamber of Commerce on February 10, 2012.

If the quote is accurate, it is far more than a discussion about the schedule or process. It is raising a substantive issue. We do not dispute the right of public officials to make representations to the Board so long as they are made in the same way as any other party to the Reference did - before the Board and the public, not behind closed doors.

Our questions are as follows:

1. Please advise if the Board Chair, Commissioners or staff met with Minister Kennedy and what was the subject of the discussions surrounding the Muskral Falls project. What matters other than "schedule and process of the review" were discussed?

2. Please list all meetings (or phone calls) by Board Chair, Commissioners and staff with Minister Kennedy and other Ministers and with other senior public officials of the province with respect to the Muskral Falls reference, along with the date, venue and the matters discussed.

David Vardy and Ron Penney

If possible, I wish to receive the requested records in the following format: Word

FOR PUBLIC BODY USE ONLY:

Date Received:

File Number:

Instructions

Please note that requests to government departments can be made online at: <http://www.atipp.gov.nl.ca/info/accessrequestform.html>.

Make only one request on each application form.

Describe the records or information you are seeking in as much detail as possible. Attach further information if more space is required.

Send this form to the ATIPP Coordinator of the public body most likely to have the records you are seeking (<http://www.atipp.gov.nl.ca/info/coordinators.html>).

Keep a copy of this request for your records.

Please note that under the authority of section 25 of the *Access to Information and Protection of Privacy Act (the Act)* you may be asked to pay certain additional costs for locating records, before gaining access to records.

Please note that as per section 12 of the *Act*, your identity will only be made known to the person processing your request, unless the request is for your own personal information or when the identity is required to respond to the request and you have consented.

Please note that if the public body does not respond within 20 business days of receipt of this application, you may ask for a review by the Information and Privacy Commissioner, under authority of section 42 of the *Act*, or you may appeal to the Supreme Court Trial Division under section 52 of the *Act*.

The *Act* may be viewed in its entirety at <http://assembly.nl.ca/Legislation/sr/statutes/a01-2.htm>

Please be advised that the current policy regarding the publication of government department access to information requests for general information is as follows:

- Responsive records will be published following a 72-hour period after the response is sent electronically to the applicant, or five days in the case where records are mailed to the applicant. It is the goal to have the responsive records posted to the Office of Public Engagement's website within one business day following the applicable period of time.
- Please note that requests for personal information will not be posted online.

Personal information collected on this form is protected by the *Access to Information and Protection of Privacy Act, 2015* and will be used only to respond to this request. Inquiries about the use and protection of this personal information should be directed to the Access and Privacy Coordinator of the public body to whom the application is sent.



NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES
120 Torbay Road, P.O. Box 21040, St. John's, Newfoundland and Labrador, Canada, A1A 5B2

E-Mail: david.vardy01 [REDACTED]

April 3, 2018

Mr. David Vardy
[REDACTED]

Dear Mr. Vardy:

Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act* [Our File #PB/183/2018]

This is to confirm that on March 2, 2018 the Board of Commissioners of Public Utilities (the "Board") received your request for access to the following records/information:

1. Please advise if the Board Chair, Commissioners or staff met with Minister Kennedy and what was the subject of the discussions surrounding the Muskrat Falls project. What matters other than "schedule and process of the review" were discussed?
2. Please list all meetings (or phone calls) by Board Chair, Commissioners and staff with Minister Kennedy and other Ministers and with other senior public officials of the province with respect to the Muskrat Falls reference, along with the date, venue and the matters discussed.

I am pleased to inform you that a decision has been made by the Chair and CEO for the Public Utilities Board to provide access to the requested information.

In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

With respect to Information Request #1 above, the Board confirms its response of November 9, 2016 to your letter of July 28, 2016 requesting information regarding a meeting between Board Chair and the Minister of Natural Resources (Jerome Kennedy), wherein we advised:

"In response to your correspondence of July 28, 2016 the Board can confirm that, during the Muskrat Falls reference, the Chairman of the Public Utilities Board, Mr. Andy Wells, did engage in discussions in relation to the scheduling and process of the review with various public officials."

A copy of our letter is attached. With respect to the second question in the same paragraph, "What matters other than "schedule and process of the review" were discussed?", the Board has no records responsive to this question.

With respect to Information Request # 2: *Please list all meetings (or phone calls) by Board Chair, Commissioners and staff with Minister Kennedy and other Ministers and with other senior public officials of the province with respect to the Muskrat Falls reference along with the date, venue and the matters discussed.*

The Board has no records responsive with respect to the request for a list of meetings or phone calls or date, venue and matters discussed. The Board is providing as attached, copies of all records responsive with respect to meetings, phone calls and correspondence between the Board Chair, Commissioners and staff with Minister Kennedy and other Ministers and other senior public officials.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the *Access to Information and Protection of Privacy Act* (the *Act*). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act*.

If you have any questions, please feel free to contact me by email at cblundon@pub.nf.ca or by telephone at 726-8600.

Sincerely,



Cheryl Blundon
ATIPP Coordinator

cb/file

Ronald Penney

David Vardy

July 28, 2016

Andy Wells
Chair, Public Utilities Board
120 Torbay Road
Prince Charles Building
Suite B-210
St. John's, Newfoundland and Labrador
A1A 2G8

Dear Mr. Wells:

On February 10th, 2012 the then Minister of Natural Resources, Jerome Kennedy, gave a speech to the Greater Corner Brook Board of Trade with respect to the Muskrat Falls Project.

In that speech he referred to a meeting with you and your lawyer about the reference to the possibility of Corner Brook closing down in the report to the Board from Manitoba Hydro. Manitoba Hydro was the consultant hired by the Board to provide advice on the Muskrat Falls reference to the Board.

The Minister said "I questioned the chair of the Public Utilities Board and their lawyer at a meeting: how can you even consider closing Corner Brook down?"

Can you confirm that this meeting took place, who called it, the date of the meeting, what was discussed during the meeting and who attended it? Was there an attempt to influence the Board in its deliberations on the Muskrat Falls reference?

Can you also advise us whether other Ministers or public officials also met with you, or called you, during the course of the Muskrat Falls reference and if there were such meetings or calls, who initiated the meetings (or telephone calls), what was discussed and who attended them?

Many thanks for your attention to this request.

Regards

David Vardy

Ron C. Penney

David Vardy and Ron Penney



NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES
120 Torbay Road, P.O. Box 21040, St. John's, Newfoundland and Labrador, Canada, A1A 5B2

2016-11-09

Mr. Ronald Penney
[REDACTED]

Mr. David Vardy
[REDACTED]

Dear Messrs Penney & Vardy:

Re: Your letter of July 28, 2016 requesting information regarding a meeting on February 10, 2012 between Board Chair and Minister of Natural Resources (Jerome Kennedy)

In response to your correspondence of July 28, 2016 the Board can confirm that, during the Muskrat Falls reference, the Chairman of the Public Utilities Board, Mr. Andy Wells, did engage in discussions in relation to the scheduling and process of the review with various public officials.

If you have any questions, please do not hesitate to contact the Board's Legal Counsel, Ms. Jacqui Glynn, by email, jglynn@pub.nl.ca or by telephone 709-726-6781.

Yours truly,


Cheryl Blundon
Board Secretary

[illegible]

[illegible]

Updated January 4, 2012

3/27/2018

FW:

Reply Reply All Forward

FW:

Maureen Greene [mgreene@pub.nl.ca]

To: Barbara Thistle

Attachments: Question.doc (2 MB) [Open as Web Page]

Thursday, May 26, 2011 7:46 AM

From: Bown, Charles W. [mailto:cbown@gov.nl.ca]**Sent:** Wednesday, May 25, 2011 6:04 PM**To:** mgreene@pub.nl.ca**Subject:**

Maureen;

We addressed the concern with the project definition, The remainder is unchanged. I will advise in the morning on the outcome of the discussion on confidentiality of information.

Charles

"This email and any attached files are intended for the sole use of the primary and copied addressee(s) and may contain privileged and/or confidential information. Any distribution, use or copying by any means of this information is strictly prohibited. If you received this email in error, please delete it immediately and notify the sender."

4/3/2018

PUB Draft NR

Reply Reply All Forward

PUB Draft NR

Maureen Greene [mgreene@pub.nl.ca]

To: Charles Bown (cbown@gov.nl.ca)

Friday, May 27, 2011 2:37 PM

I tried to reach you by phone with a question on the news release and I left a message. The first sentence says the Board is being asked to do a "supplemental review of the process" used to determine that Muskrat Falls is the least cost option. Our understanding of the Reference Question is that it covers much more than just the process followed by Nalcor and includes review of the conclusions reached and the inputs used in coming to their conclusions.

We wanted to clarify that the Reference Question is as we last saw it and as we discussed with you. The first sentence in the draft news release did raise these questions for us.

3/27/2018

Reference re Muskrat Falls

Reply Reply All Forward

Reference re Muskrat Falls

Maureen Greene [mgreene@pub.nl.ca]

To: Charles Bown (cbown@gov.nl.ca)

Friday, May 27, 2011 11:01 AM

I wanted to confirm our earlier discussions on confidentiality and the confidentiality section of the draft Reference Question.

The Board's general policy is that all material it receives in the course of carrying out its responsibilities is open to and available to the public. This reflects the Board's view that its proceedings should be open, transparent and accessible. The Board, however, does recognize that occasionally information required to be filed with the Board may be of a confidential nature and should be protected as such. It has, in past proceedings, ordered that certain information is confidential and not placed on the public record or available to parties, except on terms and conditions determined by the Board. The terms could include no access if it is determined not to be required for the party to present its case or limited availability such as viewing the information but not being provided with a paper or electronic copy. For example, in the 2010 proceeding on Nalcor's application seeking approval of the Water Management agreement, the Board did issue an order directing that certain documents were confidential and if a party wished to view them, they had to apply for approval to do so with terms and conditions to be determined by the Board.

The draft Terms of Reference contains specific direction to the Board on how to deal with certain "commercially sensitive" information given to it by Nalcor or Hydro for the purpose of the Review the Government has asked the Board to undertake. The Board will, in carrying out the Review, comply with this direction.

As we discussed, the Access to Information and Protection of Privacy Act applies to the Board. The Board may receive a request under that Act for access to information filed for the Review. The Board will have to deal with such a request in accordance with that Act. One of the exceptions to the requirement for disclosure in that Act is where the disclosure would be harmful to the business interests of a third party which would be relevant in considering any request for the disclosure of information considered confidential. A request to the Board to disclose any information not on the public record in the Review will have to be considered by the Board in light of the specific request and the provisions of the Act.

We look forward to receiving the final of the Reference Question.

Wesley Hawe

From: Maureen Greene
Sent: Wednesday, June 8, 2011 8:51 AM
To: Andy Wells; Darlene Whalen; Dwanda Newman; James Oxford
Cc: Cheryl Blundon; Sam Banfield; Doreen Dray
Subject: Telephone Call to Charles Bown- Reference re Muskrat Falls

I just spoke with Charles to inquire about the status of the Muskrat Falls Reference. He said again, as he did last week, that there was a "system" delay (whatever that means!). He advised that, as far as he is aware, it is definitely proceeding and could be released at any time. To his knowledge there is no change contemplated in the Reference Question or the timing. We did discuss the issue of timing and how tight the schedule was and how we have lost 2 weeks essentially from what was originally thought when we first met. I expressed concern on the short time provided to do the Review and how critical it is that work actually start on the Reference if a report is expected by Dec.31st. He said he would let us know when he hears about the timing of the public release of the Reference.

3/27/2018

Muskrat Falls Review

[Reply](#) [Reply All](#) [Forward](#)

Muskrat Falls Review

Maureen Greene

To: Bown, Charles W. [cbown@gov.nl.ca]

Attachments: T. Johnson - Consumer Advo~1.pdf (114 KB) [Open as Web Page]

Friday, December 16, 2011 11:21 AM

Charles:

Further to our discussion of today's date, attached is correspondence from Mr. Thomas Johnson, the Consumer Advocate with regard to the above subject matter.

If you have any questions, please do not hesitate to contact me at 726-6781 or by e-mail: mgreene@pub.nl.ca.

Maureen P. Greene, Q.C.



December 15, 2011

Ms. G. Cheryl Blundon
Director of Corporate Services and Board Secretary
Board of Commissioners of Public Utilities
120 Torbay Road
P.O. Box 21040
St. John's, NL A1A 5B2

Ladies & Gentlemen:

Re: Muskrat Falls Review – Tentative Schedule

We write further to the Board's letter of December 14, 2011 which requests the Consumer Advocate's input on the tentative schedule referenced therein. We appreciate the opportunity to provide this input.

We note that the Board's letter states that the Board has reviewed the proposed schedule in light of the recent filings made by Nalcor including Nalcor's recent formal Submission of November 10, and its filing of outstanding responses to requests for information by November 24, 2011. We note that some of the replies filed on November 24th were in relation to information requests dated September 9, 2011. The Consumer Advocate has recently filed further requests for information and anticipates more will be filed to be answered by Nalcor. Indeed, the Consumer Advocate and his consultants have continued to receive copies of quite voluminous filings from Nalcor in the form of exhibits that are just now being screened and released. On December 7th, we received CE-11 (Public), CE 13 (Public), CE-18 (Public), and CE-22 (Public), and on December 8th, we received CE-12 Rev.1 (Public), CE-19 (Public), CE-20 Rev.1 (Public) and CE-23 (Public). On December 12th, we were copied on correspondence from Mr. Gilbert Bennett, Vice President, Lower Churchill Project enclosing three previously confidential exhibits {CE-52 Rev.1 (Public), CE-54, Rev.1 (Public) and CE-68 Rev.1 (Public)}. Mr. Bennett's letter stated that Nalcor has completed, as of that date, its screening of the confidential exhibits. However, there remain some 14 exhibits according to the letter that are subject to confidentiality that have not been released. We are in communications with Nalcor as regards that issue. Some of these are highly relevant documents.

This is all to underline the point that the Consumer Advocate, in light of the very recent filings and the filings yet to be made and hopefully disclosed by way of certain critical confidential exhibits, is quite concerned that there be reasonable timelines established that afford to the Consumer Advocate and his consultants an appropriate amount of time to receive and conclude a review of the evidence, ask appropriate questions, receive and review the responses (hopefully responses that are responsive to the question) and prepare a

report. If the report of Manitoba Hydro International (MHI) were to be filed by the end of January, 2012, it would be quite ambitious for our experts to file a report by the end of February, 2012, even supposing that there were no questions to be asked of MHI and further supposing that all answers to outstanding requests for information and requested confidential documents were also in hand by the end of January. Accordingly, we would potentially need some flexibility in that regard.

Beyond the issue of having appropriate time for the filing of expert reports, there is the need to ensure adequate time for not only the presentation of technical reports, which the Board's letter suggests in the end of March to early April timeframe, but also public consultations, and following that, formal submissions by interested parties/persons, which the Board's letter suggests be filed in the late April to early May, 2012 timeframe. Of course, from the Consumer Advocate's perspective, we too would be planning on having several public sessions around the province in order to receive customer input directly on the matters engaged in the review, as part of the Consumer Advocate's own consultation process. Accordingly, we would see formal submissions in early May as being potentially achievable, though again, a rigorous timeline.

As regards the Board's assessment that June 30, 2012 is the earliest possible date by which it can file its report, based on the foregoing considerations, we would have to agree that that is simply being realistic given the work left to do and the Board's need to have time to take the matters under careful consideration. In fact, we frankly believe that an earlier forecasted date for the Board's report would not be achievable having regard to the complexity and importance of the matter at hand and the need for not only a due process but due deliberation and that it may well be that despite the best efforts of all that there is a need to re-visit the intervals outlined in the Board's letter as the process unfolds.

We look forward to working with the Board and the parties as regards the establishment of a workable schedule for this review and appreciate the opportunity to provide this input.

Should you have any questions in relation to the foregoing, please do not hesitate to contact me.

Yours very truly,

O'DEA, EARLE



THOMAS JOHNSON

TJ/cel

3/27/2018

RE: Muskrat Falls Schedule

Reply Reply All Forward

RE: Muskrat Falls Schedule

Bown, Charles W. [cbown@gov.nl.ca]

To: Maureen Greene

Tuesday, January 24, 2012 4:00 PM

Tried to get you but cant get through. Please call me.

From: Maureen Greene [mailto:mgreene@pub.nl.ca]
Sent: Tuesday, January 24, 2012 3:02 PM
To: Bown, Charles W.
Subject: Muskrat Falls Schedule

I would like to discuss the draft schedule with you. The phones are not working right now bur hopefully will be soon. I have tried to reach you a few times today.

The Board has prepared a draft schedule and discussed it today with Nalcor and the Consumer Advocate. I would like to bring you up to date when it is convenient for you.

Maureen

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INFORMATION/BRIEFING NOTE

Title: Reference by the Government of Newfoundland and Labrador on the Muskrat Falls Project -- Fourth Progress Report

☒ Action Required

☒ Information

☐ Other

Issue:

On June 13, 2011, the Board received a Reference (the Reference) from the Government of Newfoundland and Labrador, under section 5 of the *Electrical Power Control Act, 1994*, concerning the Muskrat Falls Project. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

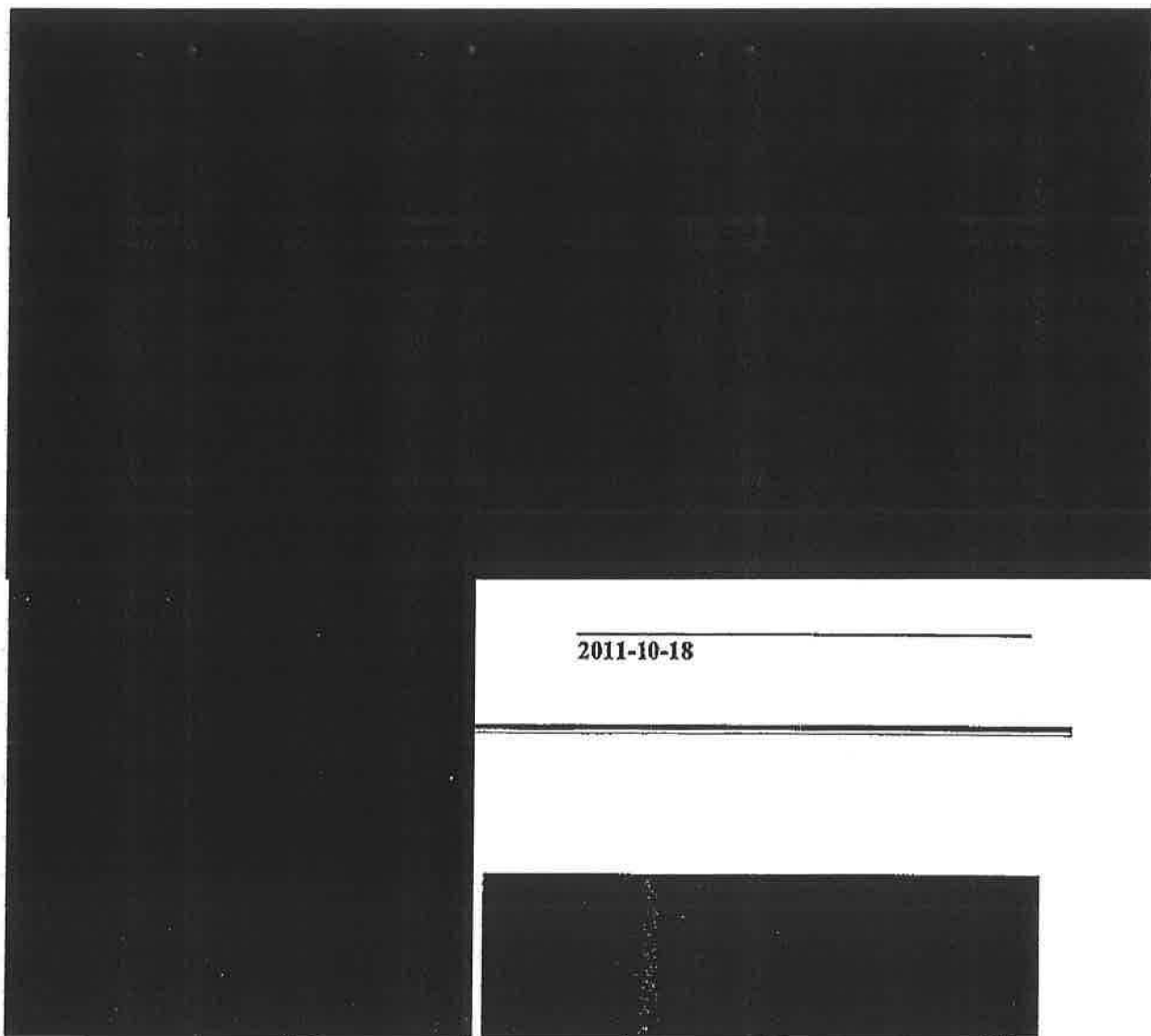
[REDACTED]

[REDACTED]

[REDACTED]

2

- On September 22, 2011 the Minister was advised that the Board would not be able to complete its report by December 30, 2011 and that a formal request for an extension of time would be made once the Board received the requested information from Nalcor.



2011-10-18



BRIEFING NOTE

Meeting Date: 2011-12-08

Agenda Item: PU 4(a)

Title: Reference by the Government of Newfoundland and Labrador on the Muskrat Falls Project – Fifth Progress Report

☒ Action Required

☐ Information

☐ Other

Issue:

On June 13, 2011, the Board received a Reference (the "Reference") from the Government of Newfoundland and Labrador, under section 5 of the *Electrical Power Control Act, 1994*, concerning the Muskrat Falls Project. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- The Terms of Reference stated that the Board's report was to be provided to the Minister of Natural Resources by December 30, 2011.

- Delay in receiving the required information from Nalcor has delayed the review and the Minister of Natural Resources was so advised.

- [REDACTED]

- [REDACTED]

Analysis:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- On September 22, 2011 the Minister was advised that the Board would not be able to complete its report by December 30, 2011 and that a formal request for an extension of time would be made once the Board received the required information from Nalcor. On October 25, the Minister was sent a copy of the letter to Nalcor of the same date which stated that information from Nalcor including its submission and responses to RFIs and the completion of the process on confidential information was required before the Board could be in a position to re-assess the schedule.
- [REDACTED]

3

[REDACTED]

[REDACTED]

[REDACTED]

- The June completion date was discussed with C. Bown, Associate Minister of Natural Resources [REDACTED] Government may be considering an earlier date (March 30) for the Board's report.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



RECEIVED BY HAND
BOARD OF COMMISSIONERS
OF PUBLIC UTILITIES

3B

JUN 20 2011
Government of Newfoundland and Labrador
Department of Natural Resources
367/2011 Office of the Minister
ST. JOHN'S, NL

June 13, 2011

Mr. Andy Wells
Chairman
Public Utilities Board
Suite E-210, 120 Torbay Road
St. John's, NL
A1A 5B2

Dear Mr. Wells:

As per OC2011-162, please find attached the Terms of Reference and Reference Question. Any questions that you may have can be addressed by Mr. Charles Bown, Associate Deputy Minister, at 729-2349.

Yours sincerely,

SHAWN SKINNER
Minister

Attach.

Terms of Reference and Reference Question

In the Energy Plan, 2007, Government committed to the development of the Lower Churchill hydro resource. It has been determined that the least-cost option for the supply of power to the Island interconnected system over the period of 2011-2067 is the development of the Muskrat Falls generation facility and the Labrador-Island Link transmission line, as outlined in Schedule "A" attached hereto (the "Projects"), as compared to the isolated Island development scenario, as outlined in Schedule "B" attached hereto (the "Isolated Island Option"), both of which shall be outlined further in a submission made by Nalcor Energy ("Nalcor") to the Board of Commissioners of Public Utilities (the "Board"). It is contemplated that Newfoundland and Labrador Hydro ("NLH") would enter into a long-term power purchase agreement and transmission services agreement with Nalcor, or its subsidiaries, the costs of which would be included in NLH's regulated cost of service with the full cost of the Projects being recovered from NLH's Island interconnected system customers (the "Island Interconnected Customers").

Pursuant to section 5 of the *Electrical Power Control Act, 1994* (the "EPCA"), Government hereby refers the following matter to the Board:

The Reference Question

The Board shall review and report to Government on whether the Projects represent the least-cost option for the supply of power to Island Interconnected Customers over the period of 2011-2067, as compared to the Isolated Island Option, this being the "Reference Question".

In answering the Reference Question, the Board:

- shall consider and evaluate factors it considers relevant including NLH's and Nalcor's forecasts and assumptions for the Island load, system planning assumptions, and the processes for developing and comparing the estimated costs for the supply of power to Island Interconnected Customers; and
- shall assume that any power from the Projects which is in excess of the needs of the Province is not monetized or utilized, and therefore the Board shall not include consideration of the options and decisions respecting the monetization of the excess power from the Muskrat Falls generation facility, including the Maritime Link project.

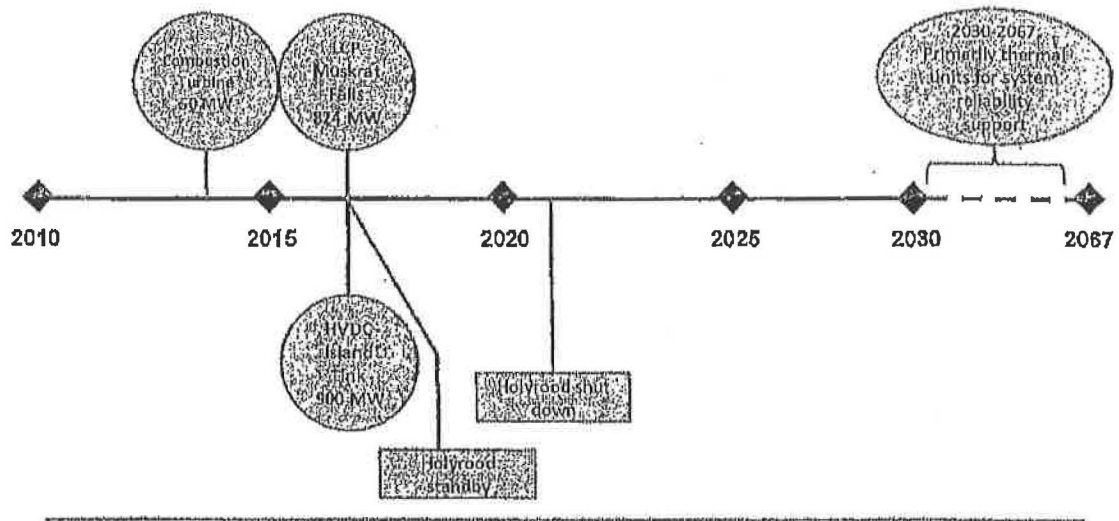
Where Nalcor or NLH determine that any information to be given to the Board for this review is commercially sensitive as defined in the *Energy Corporation Act*, it shall advise the Board, and the Board and its experts and consultants may use such information for this review but shall not release such information to any party.

For the purposes of this review, a consumer advocate shall be appointed pursuant to section 117 of the *Public Utilities Act*.

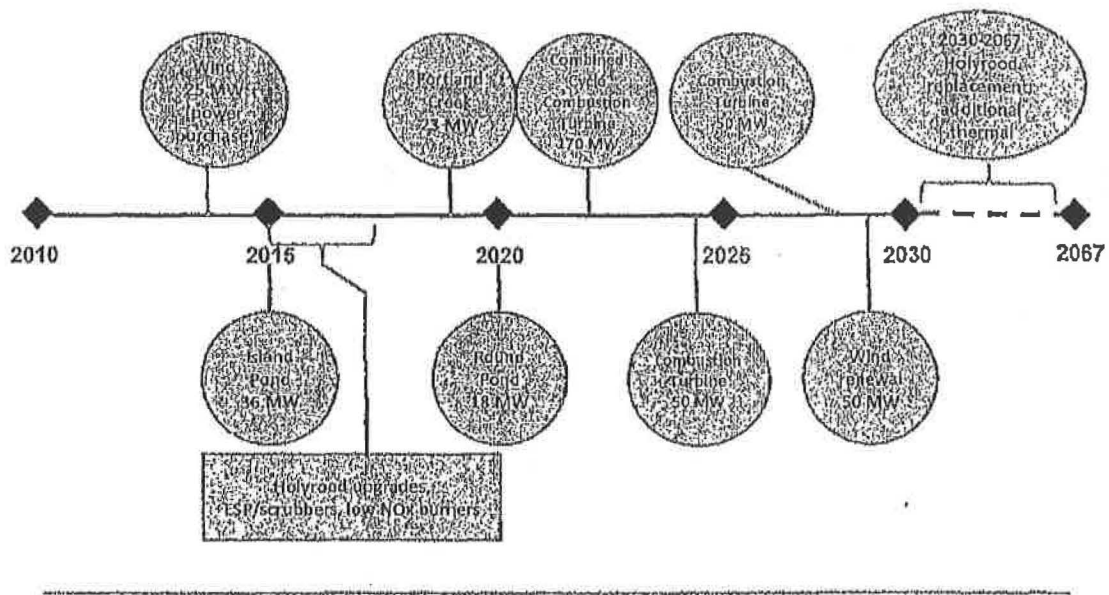
Any costs of the Board in respect of this review, including the costs of the consumer advocate, shall be paid by Nalcor.

The Board's report shall be provided to the Minister of Natural Resources by December 30, 2011. The Minister shall make this report public.

Schedule A – The Project



Schedule B - Isolated Island Option





COPY

NEWFOUNDLAND AND LABRADOR

BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

Prince Charles Building, 120 Torbay Road
P.O. Box 21040
St. John's, Newfoundland and Labrador
Canada
A1A 5B2

Andy Wells
Chairperson & Chief Executive Officer
Tel. No: (709) 726-1133
Fax. No: (709) 726-9604
Email: awells@pub.nl.ca

COURIER

2011 09 22

The Honourable Shawn Skinner
Minister
Department of Natural Resources
Government of Newfoundland and Labrador
7th Floor, Natural Resources Building
50 Elizabeth Avenue, St. John's, NL
A1B 4J6

Dear Minister:

The Board takes this occasion to update Government in relation to the ongoing review concerning the Muskrat Falls Project being carried out by the Board in accordance with OC 2011-162. It is now clear that the Board cannot meet the December 30, 2011 date for the completion of its report as required by the Terms of Reference. When the Terms of Reference was issued it was evident that completing a full review by the end of the year was an ambitious timeframe which would require significant organization and dedicated resources. While the Board has from the beginning worked toward this date and was initially well positioned to do so, it is now clear that it is not possible to complete the review by year end.

The Board is not formally requesting an extension at this time because we cannot provide a realistic alternate date until we have a better idea as to when Nalcor will answer the outstanding information requests and file the Submission contemplated in the Terms of Reference further outlining the projects. The Board and its experts, Manitoba Hydro International Ltd., have now done everything possible in the absence of further information from Nalcor. Once this information is received the Board will formally request that Government extend the time for the filing of the Board's report, likely to sometime in the spring.

Sincerely,

Andy Wells
Chairperson & Chief Executive Officer



NEWFOUNDLAND AND LABRADOR

BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

Prince Charles Building, 120 Torbay Road
P.O. Box 21040
St. John's, Newfoundland and Labrador
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Andy Wells
Chairperson & Chief Executive Officer
Tel. No: (709) 726-1133
Fax. No: (709) 726-9604
Email: awells@pub.nl.ca

COURIER

2011 10 25

The Honourable Shawn Skinner
Minister
Department of Natural Resources
Government of Newfoundland and Labrador
7th Floor, Natural Resources Building
50 Elizabeth Avenue, St. John's, NL
A1B 4J6

Dear Minister:

I attach for your information and file a copy of correspondence which was forwarded to Nalcor Energy on today's date.

If you have any questions, please feel free to contact me at 726-1133 or by e-mail:
awells@pub.nl.ca.

Sincerely,

Andy Wells
Chairperson & Chief Executive Officer

/bt

Attachment



NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

ST. JOHN'S OFFICE

120 Torbay Road
P.O. Box 21040
St. John's, Newfoundland and Labrador
Canada, A1A 5B2
Fax: (709) 726-9604

GRAND FALLS-WINDSOR OFFICE

18 High Street
Grand Falls-Windsor
Newfoundland and Labrador
Canada, A2A 1C6
Fax: (866)-489-8879

E-mail: gyoung@nlh.nl.ca

2011 10 25

Mr. Geoffrey P. Young
Senior Legal Counsel
Nalcor Energy
P. O. Box 12800
Hydro Place, 500 Columbus Drive
St. John's, NL
A1B 4K7

Dear Mr. Young:

RE: Reference from the Lieutenant-Governor in Council on the Muskrat
Falls Project (the "Review")

This letter is in response to your letter of October 20, 2011.

The Board had asked for a response to our September 14th letter by September 16th for certain information and September 19th for other information. The Board notes that it took more than four weeks for your response.

Your letter contains a number of inaccuracies which must be corrected for the record as follows:

1. At a meeting on June 17th Nalcor stated its Submission would be filed by the end of July. This was confirmed in our letter of July 12th and at a meeting attended by a Nalcor representative on July 20th. We are therefore surprised to read in your letter that Nalcor "had not committed to that date".
2. The Board was not involved in any "collective decision" that the Submission would be delayed until the completion by Nalcor of requests for information from Manitoba Hydro International Ltd. ("MHI").

3. As confirmed at the meetings on July 20th and September 12th it was always contemplated that the MHI report would be finalized and filed after Nalcor's Submission.
4. Nalcor had not provided a list of confidential exhibits to the Consumer Advocate as stated on October 20th, the date of your letter. We understand that this list was provided late on October 21st, after it had been brought to your attention that such list had not been provided as stated.
5. The Review was initiated in mid-June, which is more than four months ago, not three as stated.
6. While the numbers are continually changing as new information is filed, Nalcor had, as of October 20th, (the date of your letter) filed answers to 166 requests for information and not 187 as stated.
7. There were responses to six requests for information (not five) outstanding for MHI as of October 20th.

Regarding the filing date for Nalcor's Submission, the Board did not initially request that Nalcor file its Submission in July. At a meeting with Board staff on June 17th, Nalcor advised that its Submission would not be ready until the end of July and the Board acquiesced to this date, although it would have preferred to have received it by the end of June along with other information requested in our letter of June 17th.

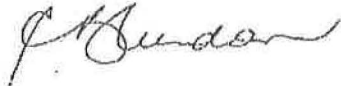
The Board has consistently communicated that it is critical to receive Nalcor's Submission as well as responses to MHI's requests for information and those of the Board prior to the MHI report being finalized. At a meeting attended by a Nalcor representative on July 20th, a written preliminary schedule was discussed which stated, based on Nalcor's previous advice, that the Submission would be filed by July 27th followed by the MHI report in September and then public consultations. On August 2nd Nalcor sent a status update to the Board on outstanding information requests which stated that the Submission was then "target mid to late August". By e-mail dated August 3rd, to Nalcor, Board staff stated that "We are very concerned that certain information will not be available until late August, including possibly your submission". On September 8th, a meeting was requested with Nalcor which occurred on September 12th to discuss the outstanding information, including the Submission, and its impact on the Review and the schedule, including finalization of the MHI report. If there were "a collective decision" by Nalcor and Board staff to delay the Submission until after responses to MHI requests for information or issuance of MHI's report, there would have been no need for the August 3rd e-mail or the discussion at the September meeting on the Submission date or the letter of September 14th.

Both Nalcor's Submission and replies to requests for information are required and should be addressed in parallel by Nalcor. The Board reiterates that all requests for information must be answered prior to the finalization of MHI's report. The issue of confidential information, including the screening process, referred to in our letter of September 14th must also be dealt with to ensure that the Consumer Advocate and other participants have access to appropriate information to allow effective participation.

3

Once the Board receives all the information requested in our letter of September 14th, in particular a firm date that the responses to all MHI and the Board's information requests will be available and the time and process for screening confidential information, it will be in a position to re-assess the schedule for the Review and to request an extension from Government to complete the review and its report.

Yours truly,



Cheryl Blundon
Board Secretary

CB/bt

c.c. Thomas Johnson, Consumer Advocate – E-mail: tjohnson@odeacarle.nf.ca
Randell Earle, Q.C., – E-mail: rearle@odeacarle.nf.ca



RECEIVED BY HAND
BOARD OF COMMISSIONERS
OF PUBLIC UTILITIES

DEC 13 2011

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

ST. JOHN'S, NL December 12, 2011

Mr. Andy Wells
Chairperson and Chief Executive Officer
Board of Commissioners of Public Utilities
Prince Charles Building, 120 Torbay Road
P.O. Box 21040
St. John's, NL
A1A 5B2

Muskrat Falls - Distribution

- ☒ Original Copy
- ☒ Commissioners (4)
- ☒ Fred Martin
- ☒ S. Banfield/M. Greene
- ☒ Staff Copy

Dear Mr. Wells:

I am writing in reply to your letter of September 22, 2011, in which you stated that the Board cannot meet the December 30, 2011 deadline for its review of the Muskrat Falls Project, in accordance with OC2011-162.

We acknowledge that all parties have been diligently working towards meeting that deadline. Government is committed to facilitating the Board's comparison and review of the Project and the isolated island options in a manner that is both thorough and timely. In her October interview with David Cochrane of CBC, Premier Dunderdale stated: "There's a lively debate as there ought to be on a project of this size and we would never go to sanction without bringing the House of Assembly together, giving the people of the province a chance to hear the debate on the floor of the House of Assembly."

The House of Assembly is scheduled to open on March 5, 2012. During its sitting, the House will be busy with a throne speech, budget, and regular legislation. Therefore, it is imperative that we receive the report by March 31, 2012 to ensure that Members of the House of Assembly are not constrained in their ability to examine and debate the report.

Also, at the outset, government provided seven months to complete the Review. While we acknowledge that the formal submission has only recently been submitted, it was preceded by a considerable amount of project information that has allowed the Board and Manitoba Hydro International to advance their assessment. In this context, we feel that the extension would be commensurate with the scope of the remaining task necessary to complete the Review Terms of Reference.

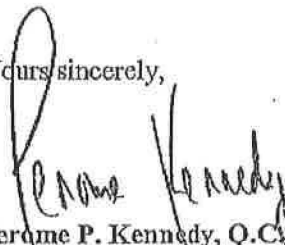
Rest assured that government is committed to assisting the Board in meeting the March 31, 2011 deadline, and would welcome the Board's advice as to what, if anything, is needed in order to meet this objective. For example, at your request government is willing to provide the

- 2 -

means to enable the Board to adjust its processes and hearing schedule for other matters currently on its plate.

We look forward to discussing these options with you, and to receiving the report of the Board on this matter of fundamental importance to the Province.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Jerome Kennedy". The signature is written in a cursive, flowing style with a large initial "J".

Jerome P. Kennedy, Q.C.
MHA, Carbonear-Harbour Grace
Minister of Natural Resources



NEWFOUNDLAND AND LABRADOR

BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

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Andy Wells
Chairperson & Chief Executive Officer
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COURIER

2011 12 16

The Honourable Jerome P. Kennedy, Q.C.
Minister
Department of Natural Resources
Government of Newfoundland and Labrador
7th Floor, Natural Resources Building
50 Elizabeth Avenue, St. John's, NL
A1B 4J6

Dear Minister:

Re: Muskrat Falls Review

This is in reply to your letter of December 12, 2011 and OC2011-381 which extends the date for the filing of the Board's report in relation to the Muskrat Falls Review to March 31, 2012. I am writing to formally request an extension of the date for the filing of the Board's report to June 30, 2012.

The reason this extension is necessary is Nalcor's failure to provide the required information in a timely fashion. This review began in June but as of late November Nalcor was still filing significant new information. Between November 10 and November 24, 2011 Nalcor filed its submission as required by the Terms of Reference, a detailed study in relation to reliability, responses to 115 requests for information and 12 additional exhibits. This new information is now being reviewed and assessed and additional requests for information will be issued so that Manitoba Hydro International Ltd. ("MHI") can finalize its report and we can begin the public consultation process.

Given Government's desire to have this review completed in March we have reconsidered the work that remains to be done to see if there are opportunities to make up for the time lost as a result of the late filings by Nalcor. Unfortunately, I must advise that it is not possible for this review to be completed any earlier than the end of June 2012. The full and fair participation of the Consumer Advocate as well as the public hearing required by section 5 of the *Electrical Power Control Act*, 1994, SNL 1994, c. E-5.1 will dictate the schedule until late spring and it is only then that the Board

2

can begin to write its report. For your information a tentative schedule is set out below:

January 27, 2012	MIHI files its report
January 30, 2012	Notice of Public Consultation
February 1-15, 2012	Requests for Information
February 29, 2012	Technical Reports
March 1-15, 2012	Requests for Information
March 26-30, 2012	Technical Conference
April 2-13, 2012	Public Consultations
April 30, 2012	Submissions
June 29, 2012	Board report

On December 15, 2011 the Consumer Advocate wrote the Board to say that a date earlier than June 30, 2011 "*...would not be achievable having regard to the complexity and importance of the matter at hand and the need for not only a due process but due deliberation.*" He expressed his concern that there be reasonable timelines established to receive and conclude a review of the evidence, ask appropriate questions, receive and review the responses and prepare a report.

As you note in your letter, this matter is of fundamental importance to the Province. Given the magnitude of the capital costs, the complex technical nature of the information to be considered, and the significance of the matter for the Island Interconnected electrical system and the Province in general, the Board must ensure a full and comprehensive review with full opportunity to the Consumer Advocate and other interested persons to participate.

I look forward to your reply.

Sincerely,



Andy Wells
Chairperson & Chief Executive Officer



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

December 23, 2011

Mr. Andy Wells
Chairperson & Chief Executive Officer
Board of Commissioners of Public Utilities
P.O. Box 21040
St. John's, Newfoundland and Labrador
A1A 5B2

Dear Mr. Wells:

RE: Muskrat Falls Review

I acknowledge receipt of your correspondence of December 16, 2011 requesting a further extension of time for the Board to submit its report on the Reference Question. The Board will no doubt appreciate Government's announced intention to have the Board's report tabled during the Spring session of the House of Assembly. It is therefore of critical importance that the Board's report be received not later than March 31, 2012 so as to allow Government to meet its commitment to the people of the Province.

Government feels confident that the Board will be able to adjust its schedule so as to accommodate those processes that need to be taken so as to complete the review by the deadline. In an effort to streamline the process, Government has issued new guidelines to the Consumer Advocate to ensure that his focus is only on those areas which will avoid any duplication of the Board's mandate. In addition, as I advised in my letter of December 12, 2011, Government is committed to assisting the Board in meeting the March deadline and is willing to provide whatever additional resources are reasonably necessary to enable the Board to adjust its processes and hearing schedule on other matters if necessary.

It is acknowledged that the process referenced in your letter of December 16, 2011 adopts the process that the Board followed in 2005 when it was asked to complete a review of automobile insurance rates pursuant to Section 3.1 of the *Insurance Companies Act*, a far reaching activity which involved matters of public policy and an investigation of competing insurers proprietary information and loss experiences. That activity was not burdened by the same time sensitivities as the current review. Given that the Terms of Reference are confined to a review of whether Nalcor's proposal represents the least-cost option for the supply of power to island connected

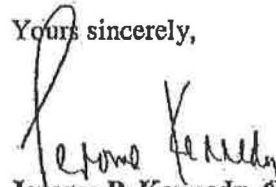
- 2 -

customers, Government queries whether all of the processes employed by the Board in the Insurance review are necessary in the Board's review of the Reference Question.

It is Government's understanding that, for some considerable time preceding the actual filing of Nalcor's formal submission on November 10, 2011, Nalcor had been working with the Board's experts, Manitoba Hydro Inc. ("MHI"), and, as a result, an extensive amount of technical information respecting this project has already been supplied. Has the Board considered whether this activity might permit it to economize on the time it proposes to allot for receipt of the MHI Report as well as the necessity for allotting additional time during the month of March for the receipt of technical reports and the attendant holding of a technical conference?

Government feels confident that with additional resources being made available to the Board, the March 31 deadline can be met so that its report can be tabled in the House of Assembly as Government has publicly committed to do. I or any of my officials are available to discuss the supply of additional resources to the Board.

Yours sincerely,



Jerome P. Kennedy, Q.C.
MHA, Carleton Place-Harbour Grace
Minister of Natural Resources



NEWFOUNDLAND AND LABRADOR

BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

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Andy Wells
Chairperson & Chief Executive Officer
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Email: awells@pub.nl.ca

COURIER

2012 01 06

The Honourable Jerome P. Kennedy, Q.C.
Minister
Department of Natural Resources
Government of Newfoundland and Labrador
7th Floor, Natural Resources Building
50 Elizabeth Avenue, St. John's, NL
A1B 4J6

Dear Minister:

Re: Muskrat Falls Review

Attached is a copy of the preliminary schedule, dated July 19, 2011, which you requested at our meeting yesterday.

This schedule outlines the key activities the Board had considered including in the process for the Muskrat Falls Review. This schedule was provided to Mr. Thomas Johnson, Consumer Advocate and Mr. Geoffrey Young, Legal Counsel for Nalcor, at a meeting on July 20, 2011. Unfortunately, given the delay in receiving the necessary information from Nalcor, the process, as originally contemplated, will have to be significantly altered to meet the new deadline for the Board's report of March 30, 2012.

Sincerely,

A handwritten signature in dark ink, appearing to read "Andy Wells".

Andy Wells
Chairperson & Chief Executive Officer

Attachment

DRAFT SCHEDULE**Review and Report****Two Generation Expansion Alternatives****Island of Newfoundland Interconnected****Electrical System – Muskrat Falls Review****SCHEDULE OF KEY ACTIVITIES**

Activity	Date
Reference from Government – Made Public	June 17, 2011
Press Release on Receipt of Reference	June 17, 2011
Initial Information Request to Nalcor	June 17, 2011
Meet with Nalcor to confirm Document Requirements, Availability and Schedule for Receipt	June 17, 2011
Award Engineering Consulting Contract to MHI	July 4, 2011
Receive Documentation from Nalcor	June 30, 2011 - Ongoing
Nalcor presentation for Board Staff, MHI and Consumer Advocate	July 18, 2011
Press Release Re: Website etc.	July 22, 2011
Nalcor Overall Submission Filed	July 27, 2011
Public Notice Requesting Notice of Participation	July 30, 2011 or August 6, 2011
Notices of Intention to Participate Filed	?
Receive Report from Consultant	September 15, 2011
Public Notice/Media Advisory	September 15, 2011
Written Requests for Information to Nalcor and Board's Experts on Submissions and Reports – Preliminary Round	September 22, 2011
Request to File Technical Evidence - Scope of Participation Identified	September 22, 2011

DRAFT SCHEDULE**Review and Report****Two Generation Expansion Alternatives****Island of Newfoundland Interconnected****Electrical System – Muskrat Falls Review**

Responses by Nalcor and Board Experts to Preliminary Round of Questions	September 29, 2011
Announce date and schedule for Technical Conference and Public Consultations	September 29, 2011
Deadline for written Technical Submissions	October 7, 2011
Filing of written Requests for Information on Technical Submissions	October 12, 2011
Responses to written requests on Technical Submissions	October 20, 2011
Media Release regarding Public Consultations	October 23, 2011 (Wk of)
Technical Conference	October 24 – 28, 2011
Public Consultations	October 31 – November 5, 2011
Deadline for Requests for Information on issues arising from the Technical Conference	November 2, 2011
Responses to Requests from Technical Conference	November 7, 2011
Last Filing Day for Public Comments and Submissions	November 15, 2011
Issue Board's Report to Government	December 30, 2011



NEWFOUNDLAND AND LABRADOR

BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

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COURIER

2012 01 06

The Honourable Jerome P. Kennedy, Q.C.
Minister
Department of Natural Resources
Government of Newfoundland and Labrador
7th Floor, Natural Resources Building
50 Elizabeth Avenue, St. John's, NL
A1B 4J6

Dear Minister:

Re: Muskrat Falls Review

I am writing in reply to your letter dated December 23, 2011 advising that it is of critical importance that the Board's report be received by March 31, 2012.

As indicated to you in my letter dated December 16, 2011 the Board believes that the earliest possible date for the completion of the Muskrat Falls review is June 29, 2012. However, as this review is at the direction of Government pursuant to section 5.1 of the *EPCA*, the Board is mandated to meet the requirements set out by Government. The Board will endeavour to do so.

The March 31, 2012 completion date will not permit the review to proceed as originally planned. To meet the March 31, 2012 deadline the Board has had to revise its planned activities to abridge the process. Specifically time may not allow for information requests in relation to the MHI report, the filing of technical evidence by other parties, or for the contemplated technical conference. I should also note that the March 31, 2012 date allows limited time for public hearings, so compromises will have to be made in this regard to ensure that interested parties are accommodated in the most efficient way possible. This will mean that the presentations will be held only in St. John's and, depending on the level of interest, may be time limited.

The Board has no records responsive with respect to the request for a list of meetings or phone calls or date, venue and matters discussed. The Board is providing as attached, copies of all records responsive with respect to meetings, phone calls and correspondence between the Board Chair, Commissioners and staff with Minister Kennedy and other Ministers and other senior public officials.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the *Access to Information and Protection of Privacy Act* (the *Act*). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Str. A
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act*.

If you have any questions, please feel free to contact me by email at cblundon@pub.nl.ca or by telephone at 726-8600.

Sincerely,



Cheryl Blundon
ATIPP Coordinator

cb/file



NEWFOUNDLAND AND LABRADOR

BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

Prince Charles Building, 120 Torbay Road
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Andy Wells
Chairperson & Chief Executive Officer
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Email: awells@pub.nl.ca

COURIER

2012 01 31

The Honourable Jerome P. Kennedy, Q.C.
Minister
Department of Natural Resources
Government of Newfoundland and Labrador
7th Floor, Natural Resources Building
50 Elizabeth Avenue, St. John's, NL
A1B 4J6

Dear Minister:

Re: Reference from the Lieutenant Governor in Council on the Muskrat Falls Project

Attached are two copies of the report completed by the Board's independent engineering consultant, Manitoba Hydro International Ltd., in relation to the above subject matter.

We ask you to please hold these reports in confidence until the report is released publically.

Sincerely,

Andy Wells
Chairperson & Chief Executive Officer

Attachments