

**MINUTES OF THE SEVENTY-THIRD MEETING OF THE BOARD OF DIRECTORS OF NALCOR ENERGY HELD IN THE BOARDROOM, SIXTH LEVEL, HYDRO PLACE, ST. JOHN'S, NEWFOUNDLAND AND LABRADOR ON FRIDAY, DECEMBER 18, 2013 AT 11:00 A.M.**

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**Present in Person:** T. Styles, Chair  
L. Abbass, Member  
E. Breen, Member  
T. Clift, Member  
A. Hawkins, Member  
E. Martin, Member  
G. Shortall, Member

**Absent:** K. Marshall, Member

**Present by Invitation:** Derrick Sturge, Vice-President  
Finance and Chief Financial Officer  
John MacIsaac, Vice-President,  
Project Execution and Technical  
Services  
Gilbert Bennett, Vice-President,  
Lower Churchill Project  
K. Legge, General Manager Finance &  
Corporate Services

**Secretary:** W. Chamberlain

**906. CONSTITUTION OF THE MEETING**

Notice for the meeting was sent on November 19, 2013. A quorum of Directors being present, the meeting was declared duly called and validly constituted for the transaction of business.

Messrs. Sturge, MacIsaac and Legge joined the meeting.

**907. SAFETY MOMENT**

Mr. MacIsaac circulated and provided a safety moment on holiday stress blasters.

Mr. MacIsaac left the meeting.

**908. VERIFICATION OF MINUTES**

A copy of the minutes of the Sixty-Eighth meeting of the Board of Directors held on September 27, 2013, were included in the meeting papers circulated prior to the meeting.

On motion duly made by Mr. Martin, seconded by Mr. Clift and unanimously carried, it was resolved:

**THAT** the minutes of the **SIXTY-EIGHTH** meeting of the Board of Directors of Nalcor Energy held on September 27, 2013 which minutes are currently before this meeting, be and they are hereby verified as being correct; and

**THAT** the Chairperson be and is hereby authorized to verify the minutes by signing the Minute Book.

**909. BUSINESS ARISING**

There was no business arising.

**910. COMMITTEE REPORTS****911. Audit Committee**

Mr. Shortall circulated at the meeting a copy of the Audit & Resource Plan, Internal Audit 2014-2018 (Plan). He reported that the Plan is a robust and sophisticated audit methodology using a risk based approach to select items to be included in the Audit Plan. There is a five year approach with a broad focus on governance, risk, control and compliance and includes the resources that will be required with consideration to using consultants where appropriate. He provided a high level overview of the three alternatives with respect to audit coverage resourcing requirements in the Plan and the Audit Committee reviewed and approved the details of Alternative 2 of the Plan. He noted that all of the alternative plans included a significant focus on the Lower Churchill Project and a breakdown of work hours and resourcing with respect to the legacy business and the Lower Churchill Project from 2014 to 2018.

Mr. Shortall advised that there are currently five employees in the Internal Audit Department and noted that the proposed Audit Plan will ensure that the base businesses are getting the appropriate coverage. It was noted that part of Mr. Bradbury's mandate is to recruit his successor.

Mr. Shortall stated that the Audit Committee reviewed the Financial Risk Management Strategy for Nalcor and its subsidiaries and recommends that the Board approve the Financial Risk Management Strategy. He reported that the external auditors, Deloitte & Touche, advised that there was an impact on the external audit fees as a result of additional work related to the Emera Agreements. He stated that the review is ongoing with respect to the NL Agreements which is estimated to be between [REDACTED] and that additional work is required with respect to the Lower Churchill Project financing agreements and the financing commitments related to the Muskrat Falls Project and they will scope out the work to determine the full extent of the work required. He stated that the Audit Committee approved an increase in fees within a range of [REDACTED] with respect to these matters.

He reported that from a financial reporting perspective, the Audit Committee was informed that a new IFRS accounting standard is expected to be issued in 2014, whereby the adoption of the IFRS will no longer be deferred and all companies will be required to adopt the standard. He also provided an overview of new issues that have arisen with respect to the NL agreements and financing, including capitalization of assets and the LIL lease.

912.

**Governance Committee**

Mr. Clift provided a report on a recent meeting of the Governance Committee and stated that the annual work plans and the respective by-laws were reviewed to ensure they are clear and consistent and there were some issues with wording that is being reviewed. He advised that a board assessment review process was discussed and advised that the process was delayed with the appointment of

new members in 2012 and that it is recommended that a review process would commence with a self-assessment of the board collectively. The Governance Committee reviewed the board mandates and charters of the respective companies and noted some inconsistencies which are under review.

He reported that meetings were held with Management to review risk management and risk oversight by the Board across the whole organization and the development of a framework to determine the risks and strategic issues and assessment of risks that the Board should focus on with respect to its mandate.

**913.                    Safety, Health and Environment Committee**

Mr. Clift provided a report on a recent meeting of the Safety, Health and Environment (SHE) Committee and provided a brief overview of safety and health initiatives including injury prevention, contractor safety orientation initiatives and progress on completion of the corporate standard and operational controls in compliance with the international OHSAS 1800 standard.

He reported that a draft corporate compliance certificate relating to safety, health and environment with respect to statutory and regulatory requirements was approved and would be completed and provided to the SHE Committee annually. He advised that the SHE Committee reviewed the environmental audits and specific environmental issues that arose in 2013, including reportable spills, and there were no patterns requiring an additional focus. The Committee also reviewed its mandate in accordance with its annual work plan.

**914.                    FINANCIAL REPORT**

**915.                    Financial Summary**

Mr. Sturge reviewed the Financial Report as of October 31, 2013 which was included in the meeting papers. He advised that on a consolidated basis, forecast net income is \$12 million above budget and noted that all lines of business are ahead or close to their net income budget. He further noted that the forecast

does not include the \$5 billion Lower Churchill financing that was recently completed and therefore will look different at year end when included.

He reviewed the segment earnings and noted that NL Hydro and CF(L)Co are near budget, Energy Marketing is under budget primarily as a result of a lower pricing, Oil and Gas is above budget as a result of favourable pricing and foreign exchange impact and Bull Arm is above budget as a result of higher lease revenue, although it was noted that there is a dispute related to what work is included in the lease calculation.

Mr. Sturge reviewed the consolidated balance sheet noting the increase in assets and long term debt as a result of the Muskrat Falls Project and increase in equity resulting from an increase in earnings and contributions from the Province and Emera. He advised that the equity in the Labrador Island Link of Nalcor and Emera will be viewed as debt, since Emera is guaranteed a return. He referenced the consolidated cash flow statement and stated that the "non-controlling interest" was that of Emera. He also referenced the 2013 Forecast capital expenditures and confirmed that the Maritime Link is included as a capital asset on Nalcor's balance sheet, because it will be an asset at the end of the day.

**916.**

**2014 Financing Plan**

Mr. Sturge reviewed the Consolidated Financing Plan for 2014 which was circulated to the Board by email on December 13, 2013 and was also circulated at the meeting. He stated that the Lower Churchill Project financial information is not finalized, as the asset information needs to be updated with respect to capital expenditures, capital expenditure profile and the recent financings. He advised that Management will meet with the Board in early 2014 to review the Lower Churchill Financing Plan.

Mr. Sturge reported that in 2013 the Project was financed primarily with equity funding from the Province and going forward in 2014, the financing will now be primarily by means of debt financing and the equity funding requirement from the Province is being determined. He noted that NL Hydro is self sufficient and will be borrowing as existing long term debt is retired and CF(L)Co is self sufficient and has a significant capital program that will be financed internally. He stated that Oil and Gas has a capex of \$247.5 million in 2014 with internal cash generation of \$52 million, such that the balance of the capex costs will require an equity funding requirement of \$195 million from Nalcor, most of which will be funded from an equity investment from the Province.

**917. Approval of 2014 Operating and Capital Budgets**

Mr. Sturge reviewed the Nalcor Energy Consolidated Budget 2014, a copy of which was included in the meeting papers. He stated that the Lower Churchill budget will be provided to the Board in early 2014 and advised that the budgets are reported in accordance with Canadian GAAP. The internal financial reporting standard will be approved in 2014 with an option to implement IFRS in 2014.

He reviewed the consolidated summary comparing 2013 budget and forecast to the 2014 budget with respect to net income, cash from operations, operating and capital expenditures and equity and stated that these amounts did not include the Lower Churchill Project. He then reviewed the highlights and segmented earnings of each of the lines of business, noting the increase in the Regulated Operations budget which assumes that new rates for NL Hydro will be implemented by January 1<sup>st</sup>. He also noted that earnings for CF(L)Co will be lower as a result of additional energy sales to Hydro-Quebec and also lower for Oil and Gas as a result of lower oil prices and an increase in depletion. He stated that Energy Marketing will be about the same and Bull Arm will be lower as a result of declining lease revenues in 2014.



On motion duly made by Mr. Hawkins, seconded by Mr. Clift and unanimously carried, it was resolved:

**THAT** the Nalcor Energy Operating and Capital Budgets for 2014 and the Financing Plan for 2014, as tabled and initialed by the Secretary for identification, be and they are hereby approved.

**918.           Approval of 2014 Financial Risk Management Strategy**

Mr. Sturge reviewed the 2014 Financial Risk Management Strategy that was circulated to the Board by email on December 13, 2013 and was also circulated at the meeting. He stated that the purpose of the strategy is to outline the significant financial risk exposures of each of the lines of business in 2014.

He provided an overview of the financial risk management with respect to each of the lines of business and advised that the approach is consistent with previous years and driven by the policy previously approved by the Board.



He also advised that with respect to the Lower Churchill Project, risk exposures are being mitigated and addressed through the contracting strategy and financing structure.

On motion duly made by Mr. Shortall, seconded by Mr. Clift and unanimously carried, it was resolved:

**THAT** the 2014 Financial Risk Management Strategy, as tabled and initialed by the Secretary for identification, be and it is hereby approved.

**919. COMPLIANCE CERTIFICATE**

Mr. Sturge referred to the Corporate Compliance Certificate for the period ended November 30, 2013, a copy of which was included in the meeting papers and there were no questions.

**920. PRESIDENT'S REPORT****921. 2013 Corporate Performance Review**

Mr. Martin reviewed the 2013 Nalcor Plan Performance Report, a copy of which was included in the meeting papers. He reviewed the corporate quilt in the Report and reported that overall the result is another successful year and noted that safety and GWAC could be yellow as a result of recent injuries and events in the last few months. He reviewed the rest of the quilt and provided an update with respect to challenges related to achievement of the asset management, generation contingency reserve adjustment and Labrador industrial activity related to achievement of commercial arrangements with respect to Twin Falls.

**922. 2014 Corporate Plan**

Mr. Martin reviewed the Planning for 2014: 2014 Nalcor Corporate Plan Highlights Report, a copy of which was included in the meeting papers. He stated that a performance management framework has been established that incorporates the vision, values and goals and it is clearly understood that safety and asset management are critical across all lines of business.

He advised that there is a five year planning framework and that at the commencement of each year, a sixth year is added to the plan and there may be some minor adjustments to the incoming year of the plan. He noted that budgets for the most part are adjusted for inflation unless there is a particular initiative and that there is not really anything new or substantive from what the Board has previously reviewed. He stated that the targets with an X will be established in early 2014.



**923. BUSINESS UNIT REPORTS****924. Newfoundland and Labrador Hydro**

The Chair confirmed that the Newfoundland and Labrador Hydro Report that was included in the meeting papers was reviewed at the the meeting of the Board of Directors of Newfoundland and Labrador Hydro that immediately preceded this meeting and that it was agreed that it was not necessary to review the report again at this meeting.

**925. CF(L)Co**

The Chair confirmed that the Nalcor Energy Churchill Falls Report that was included in the meeting papers was reviewed at the the meeting of the Board of Directors of Newfoundland and Labrador Hydro that immediately preceded this meeting and that it was agreed that it was not necessary to review the report again at this meeting.

Mr. Bennett joined the meeting.

**926. Lower Churchill**

Mr. Martin reviewed the Lower Churchill Report, a copy of which was included in the meeting papers. He stated that it has been an eventful year and have achieved additional certainty on several matters including the UARB and Labrador-Island Link EA approvals. The task ahead is successful execution with respect to safety, cost, schedule and quality and stated that the project team is focused on these issues and have the right balance. He reviewed the status with respect to costs and schedule and noted that approximately \$4 billion of the budget is committed which reduces the cost risks and that the remaining \$2.2 billion has some risk but continues to be managed.

Mr. Bennett circulated a Project Update Report at the meeting and advised that the information in this update is confidential and commercially sensitive. He reviewed the background information, noting that the engineering is 90%

complete, two-thirds of the procurement contracts have been either awarded or ready to award and that certain construction milestones and expectations have been achieved. He stated that the supply chain with respect to the Project is global in nature and reviewed the critical construction milestones and achievements to date.

Ms. Breen left the meeting.

Mr. Bennett provided an overview of the progress and successes to date with respect to safety, quality, labour, aboriginal benefits and commitments and Provincial and Canadian benefits. He reviewed the components of project value being revenue, cost, quality and reliability and schedule and the key changes from DG3 and then examined the three categories of cost growth, being design enhancements, market conditions and construction productivity and performance enhancement measures.

**927. Oil and Gas**

Mr. Martin referred to the Oil and Gas Report, a copy of which was included in the meeting papers. He briefly reviewed the 2013 Oil and Gas Plan highlights, noting that all but the growth target was achieved and a good year overall.

**928. Bull Arm**

Mr. Martin referred to the Bull Arm Fabrication Report, a copy of which was included in the meeting papers. He briefly reviewed the 2013 Bull Arm Fabrication Plan highlights and advised that all targets were achieved or exceeded.

**929. Energy Marketing**

Mr. Martin referred to the Bull Arm Fabrication Report, a copy of which was included in the meeting papers. He briefly reviewed the 2013 Energy Marketing

Plan highlights, noting that all but the financial targets were lower as a result of lower IOC revenue and a decrease in export market prices.

**930. RATIFICATION OF RESOLUTIONS**

On motion duly made by Mr. Shortall, seconded by Mr. Martin and unanimously carried, it was resolved:

**THAT** the email approval of the Board of the incorporation/ appointment of Directors of the Lower Churchill Project Subsidiaries dated November 12, 2013, be and it is hereby ratified.

The resolution ratified by the preceding resolution is as follows:

**WHEREAS** the Lieutenant-Governor in Council has authorized the incorporation of Muskrat Falls Corporation, Labrador-Island Link Operating Corporation, Lower Churchill Management Corporation and Labrador Transmission Corporation as wholly owned subsidiaries of Nalcor Energy;

**THEREFORE BE IT RESOLVED THAT** the incorporation of each of Muskrat Falls Corporation, Labrador-Island Link Operating Corporation, Lower Churchill Management Corporation and Labrador Transmission Corporation, as wholly owned subsidiaries of Nalcor Energy, be and it is hereby approved;

**AND BE IT FURTHER RESOLVED THAT** the individuals listed below shall be the directors of the aforementioned subsidiaries of Nalcor Energy:

Muskrat Falls Corporation:

- Ed Martin
- Gerry Shortall
- Ken Marshall
- John Quaicoe
- Rick Daw

Labrador-Island Link Operating Corporation:

- Ed Martin
- Gerry Shortall

73<sup>rd</sup> Nalcor Energy Board Meeting  
December 18, 2013  
Page 12 of 17

- Allan Hawkins
- Chris Loomis
- Desmond Whalen

Lower Churchill Management Corporation:

- Ed Martin
- Gilbert Bennett
- Gerard McDonald
- Derrick Sturge
- Donna Stone
- June Perry

Labrador Transmission Corporation:

- Ed Martin
- Gilbert Bennett
- Derrick Sturge
- Paul Humphries
- Ann Marie Hann
- Chris Woodford

On motion duly made by Mr. Shortall, seconded by Mr. Martin and unanimously carried, it was resolved:

**THAT** the email approval of the Board of the Borrowing of Subsidiaries in connection with the Lower Churchill Project Phase 1 Financings dated November 26, 2013, be and it is hereby ratified.

The resolution ratified by the preceding resolution is as follows:

**WHEREAS** Nalcor Energy (the "**Corporation**") was established pursuant to the Energy Corporation Act (Newfoundland and Labrador) with the object to invest in, engage in and carry out activities in all areas of the energy sector in Newfoundland and Labrador and elsewhere;

**AND WHEREAS** the Corporation has approved a financing plan and structure designed to finance a new hydro-electric generation plant to be constructed on the Churchill River in the vicinity of Muskrat Falls (the "**MF Plant**");

**AND WHEREAS** the Corporation has approved a financing plan and structure designed to finance the transmission facilities to be constructed between the MF Plant and the generating plant located at Churchill Falls, Newfoundland and Labrador (the "**Labrador Transmission Assets**" or the "**LTA**");

**AND WHEREAS** the Corporation has approved a financing plan and structure designed to finance the transmission facilities to be constructed from central Labrador to Soldiers Pond, Newfoundland and Labrador (the "**Labrador-Island Link**" or the "**LIL**");

**AND WHEREAS** the Corporation and its subsidiaries: Muskrat Falls Corporation, Labrador Transmission Corporation, Labrador-Island Link Holding Corporation, Labrador-Island Link General Partner Corporation, Labrador-Island Link Operating Corporation and Lower Churchill Management Corporation (the "**Subsidiaries**"), have, in connection with resolutions of the directors of the Corporation and the Subsidiaries dated November 15, 2013 (except for Lower Churchill Management Corporation whose board of directors meeting was held on November 22, 2013), resolved to negotiate, execute and deliver various agreements for undertakings and financings, as disclosed therein (the "**Authorized Agreements**");

**AND WHEREAS** pursuant to Section 14.1(3) of the Energy Corporation Act (Newfoundland and Labrador), the Corporation is required to approve all undertakings and borrowing of each of the Subsidiaries which would have been required to have been approved by the Lieutenant-Governor in Council if engaged in by the Corporation;

**NOW THEREFORE BE IT RESOLVED THAT:**

The Corporation does hereby authorize, all business, undertakings and financing to be engaged in by the Subsidiaries in connection with the MF Plant, LTA, LIL or the Authorized Agreements, including without limitation, that each Subsidiary is authorized to do any of the following:

- a. Borrow money for purposes related to the MF Plant, LTA, LIL or the Authorized Agreements;
- b. Secure the repayment of money borrowed;
- c. Issue bonds, debentures, or other securities of the Subsidiaries;
- d. Execute and deliver mortgages, assignments, conveyances, charges or other encumbrances of and

over the property of every nature and kind, both present and future, title to which is vested in any of the Subsidiaries; and

- e. Enter into, execute and deliver a trust deed, trust indenture or an agreement with a lender, a trustee acting for the holders of bonds and debentures or other persons.

**931. NALCOR BOARD ANNUAL WORK PLAN**

The Chair referred to the memorandum from Peter Hickman dated December 9, 2013 and Work Plan, a copy of which was included in the meeting papers and there were no comments.

**932. 2014 MEETING SCHEDULE**

The Chair referred to the 2014 Board meeting schedule and there were no comments.

**933. PRE-PAID RENT**

Mr. Sturge referred to the Memorandum dated December 17, 2013 on 2013 Prepaid Rent that was circulated to the Board by email on December 17, 2013 and was also circulated at the meeting. He stated that the prepaid rent structure is a tax planning issue that has been reviewed internally with the legal advice and input from Fasken Martineau and McInnes Cooper.

Mr. Legge explained that the Labrador Island Link Partnership (Partnership) agreement stipulates that the general partner shall take all reasonable steps as are necessary to ensure that the taxable income allocated to each limited partner in a year shall not be less than \$1.00. He stated that the purpose of the prepayment of rent is to allow the Partnership to earn income to offset any deduction it has available in computing its income, such that the taxable income for a given year is not less than \$1.00 and noted that pre-paid rent is contemplated in the Emera agreements to be paid by LIL Operating Corporation to the Partnership.



He advised that during the construction phase of a project, and particularly in 2013 given the significant level of financing expenses, in each of these years the projected expenses (before pre-paid rent) will be in excess of the income earned in that year. He further explained that, in order to fund pre-paid rent, Nalcor will subscribe for the additional shares of the share capital of LIL Operating Corporation. Subsequently, upon approval by the directors of LIL Operating Corporation, the Partnership will be notified and the payment of prepaid rent will be made prior to the end of the applicable year.

With respect to 2013, now that financial close has occurred, Management and advisors are working on establishing a reasonable amount for the pre-paid rent for this year.

Mr. Sturge confirmed that this must be implemented before the end of the year.

On motion duly made by Mr. Shortall, seconded by Mr. Martin and unanimously carried, it was resolved:

**WHEREAS** pursuant to the LIL Assets Agreement and the LIL Lease, Labrador-Island Link Operating Corporation ("LIL Opco") has, at its sole discretion and option, the right to prepay to the Labrador-Island Link Limited Partnership all or any portion of the rent due and payable under the LIL Lease for a future or future operating year(s);

**AND WHEREAS** the Corporation has determined it is in its best interests to facilitate the pre-payment by LIL Opco of rent in relation to the operating year 2020;

**WHEREAS** the Corporation has determined that in relation to the above, it is in its best interests to subscribe for 100 common shares in the capital of Labrador-Island Link Operating Corporation pursuant to the terms of a subscription agreement (the "**Subscription Agreement**"), a draft copy of which has been presented to the directors;

**AND WHEREAS** the directors consider it to be in the best interests of the Corporation to enter into the Subscription Agreement;

**NOW THEREFORE BE IT RESOLVED THAT:**

1. The subscription by the Corporation for 100 common shares in the capital of Labrador-Island Link Operating Corporation be and it is hereby approved;
2. The Corporation is hereby authorized, empowered and instructed to execute and deliver the Subscription Agreement, together with all documents and instruments considered necessary or desirable in connection with the Subscription Agreement in such form as any two directors or officers of the Corporation may approve (such documents and instruments are collectively referred to as the "**Documents**"), the whole upon the terms and subject to the conditions set out in the draft Subscription Agreement which has been submitted to the directors and which is hereby approved, such approval to be conclusively evidenced by the execution thereof by any two directors or officers of the Corporation;
3. Any two of the directors or officers of the Corporation be and are hereby authorized, empowered and instructed, acting for, in the name of and on behalf of the Corporation, to execute or to cause to be executed, under the seal of the Corporation or otherwise, and to deliver or cause to be delivered, the Subscription Agreement, in or substantially in the same form and terms as the draft thereof submitted to the directors, and the Documents, and to do or cause to be done all such other acts and things as any two directors or officers of the Corporation consider necessary or desirable in connection with the Corporation performing its obligations under the Subscription Agreement and the Documents or in order to fulfill the intent of the foregoing paragraphs of this resolution; and
4. All acts and things heretofore done by any of the officers and directors of the Corporation in respect of the matters aforesaid be and the same are hereby ratified, confirmed and approved.

934.

**OTHER BUSINESS**

Mr. Bennett circulated a presentation on the Lower Churchill Project DG3 estimate compared to the current final forecast cost and advised that the information in the presentation was confidential and commercially sensitive. He noted that project management escalated slightly, environmental costs held their own, contingency was reduced by transferring work from smaller contracts to larger contracts where there was greater certainty to gain efficiencies and cost savings but expect that the contingency will be fully used upon completion of the project.

935.

**NEXT MEETING**

The next regular meeting of the Board is scheduled for Friday, March 7, 2014 but there will likely be another meeting scheduled in early 2014 to review the Lower Churchill budget and financial report.

Messrs. Martin, Sturge, Bennett, Legge and Chamberlain left the meeting for the in camera meeting of the Board.

936.

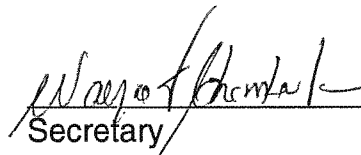
**IN CAMERA**

The Chair stated that there were no comments from the in camera meeting.

937.

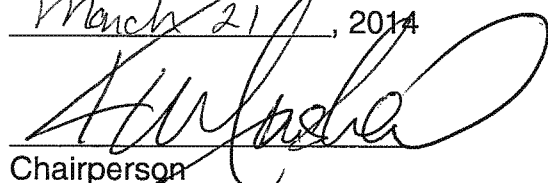
**TERMINATION**

There being no further business, the meeting was terminated.

  
Secretary

Verified at a meeting held on

March 21, 2014

  
Chairperson