

MINUTES OF THE NINETY-SECOND 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, FEBRUARY 26, 2016 AT 11:15 A.M.

Present in Person: T. Clift, Member

Present by Telephone: K. Marshall, Chair
L. Abbass, Member
E. Martin, Member
G. Shortall, Member

Present by Invitation: T. Pennell, Legal Counsel

Secretary: P. Hickman

1214. CONSTITUTION OF THE MEETING

Notice of the meeting was sent to all Directors on February 25, 2016. A quorum of Directors being present, the Chairperson declared the meeting duly called and validly constituted for the transaction of business.

1215. RESPONSE TO ACCESS TO INFORMATION REQUEST

Mr. Hickman explained to the Board that an Access to Information and Protection of Privacy Act (ATIPPA) request had been received by Nalcor for information relating to Nalcor's contract with Astaldi for the construction of the Powerhouse at Muskrat Falls. He stated that Nalcor had reviewed the information that had been requested and had decided which of the information would be released to the applicant and which would be redacted. Under the provisions of ATIPPA, a third party whose information is being requested can be consulted as to whether or not they agree to the release of the information that Nalcor intends to release. Nalcor contacted Astaldi in this regard and they have disagreed with the release of some

of the information which Nalcor proposes to release. Astaldi filed a complaint with the Information and Privacy Commissioner, who agrees with the position taken by Nalcor with respect to what information should be released. Nalcor is relying upon provisions of the Energy Corporation Act (ECA) with respect to withholding some of the information. Under the provisions of the ECA, in a situation such as this the CEO must certify that he agrees with the release/withholding of the information. This is to be followed by a confirmation by the Board of Directors of the CEO's certification.

Ms. Pennell outlined for the Board the process that was undertaken internally in Nalcor to review the information that was the subject of the request. This process involved a review by both her and senior personnel with the Lower Churchill Project. She stated that both she and a representative of the Lower Churchill Project met with a representative of the Information and Privacy Commissioner to review Nalcor's position. As noted above, that individual agrees with the position taken by Nalcor with respect to the information requested.

Ms. Pennell explained that most of the information which Nalcor proposes to release is already in the public domain. That which is not in the public domain are "boiler plate" clauses in the contract.

Ms. Pennell stated that there was no written legal opinion outlining which information should be released and which should be redacted. However, as noted previously, she was heavily involved in the decision as to which information should be released. She stated that the external counsel involved with Nalcor in ongoing discussions with Astaldi was also involved in the review of the information and agreed with the position of Nalcor with respect to the release/redaction of information.

In response to an inquiry, Mr. Martin stated that he is fully supportive of the approach being put forward by Nalcor and has certified it in accordance with the

Energy Corporation Act. He stated that he had reviewed the information previously, but had reconsidered it when asked to provide the certification. He stated that he could not support withholding the information which Nalcor is proposing to release.

The Board discussed what they should rely on when confirming the decision. Mr. Hickman stated that they need to be satisfied that the appropriate process was followed internally in the review of the information. As well, that they can rely on the recommendations of both internal and external legal counsel, as well as the CEO, with respect to the release/redaction of the information.

Ms. Pennell noted that a detailed written submission had been provided to the Information and Privacy Commissioner. When she and the LCP representative met with the representative of the Commissioner's office, they discussed it with him and he questioned certain aspects of their decision. In the end he was satisfied with the approach proposed by Nalcor. She informed the Board that the decision of the Commissioner to allow Nalcor to release some of the information can be appealed by Astaldi to the Supreme Court Trial Division.

On motion duly made by G. Shortall, seconded by L. Abbass and unanimously carried, it was resolved:

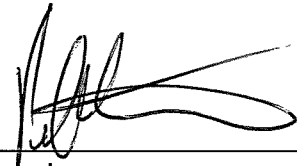
THAT as the Board is satisfied with the process undertaken by the Access to Information Coordinator, legal counsel and the Chief Executive Officer with respect to the review of the information subject to the *Access to Information and Protection of Privacy Act* request, as well as with Management's consultation with the representative of the Office of the Information and Privacy Commissioner with respect to the request, the certification of the Chief Executive Officer pursuant to Section 5.4 of the *Energy Corporation Act* is hereby confirmed.

1216.

TERMINATION

There being no further business, the meeting was terminated.


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Secretary

Adopted at a meeting held on

June 14, 2016



Chairperson