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Ed; the Premier is meeting with Flaherty and Charles has asked us to put together a FLG briefing note. Attached is a note that summarizes Current Focus Areas, Key Messages, and Outstanding Items. Would like you sign-off before releasing it to Charles.

Derrick



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**Nalcor-Canada FLG Negotiations
Update Note
August 30, 2012**

Current Focus Areas:

The current focus has been on Canada's due diligence related to Nalcor's DG3 capital costs which address points highlighted in the August 17th letter from the Deputy Minister of NR-Can:

1. Review of Capital Costs

- Nalcor provided Canada with a comprehensive presentation on DG3 capital costs in Ottawa on August 20th (Emera did the same on August 24th for Maritime Link)
- Follow-up meeting with Canada in St. John's on August 30th to respond to Canada's detailed queries and provide further detail on DG3 capital costs
- Canada's position is that it wants the Independent Engineer (see section 12 below) to review DG3 capital costs prior to going back to Cabinet to consider a revised negotiating mandate.
- Nalcor's position is that having the Independent Engineer conduct a detailed review of DG3 capital costs would take 8-10 weeks. Nalcor / NL have suggested Canada consider relying on the MHI report to gain comfort on DG3 capital costs in connection with obtaining a revised negotiating mandate from Cabinet.
- The Independent Engineer would continue to be available to fill the role originally contemplated in support of lenders and the guarantor leading up to financial close and post financial close.

2. Review of DG3 Financing Structure / Financial Models

- Canada has requested that Nalcor provide updated financial models incorporating the DG3 data.
- Nalcor is scheduled to present to Canada in Ottawa on September 6/7. This presentation will include the following:
 - DG3 Financing Structure
 - Structure of the FLG
 - Key Inputs, Assumptions and Financial Results
 - Detailed Review of DG3 Financial Models

Key Messages:

- Despite increase in capital costs estimates at DG3, the MF/LIL option remains the least cost solution to service NL future energy requirements
- The projects remain financially viable with all costs being recovered from Island electrical customers

Outstanding Issues:

During the June / July period the teams traded views based on two versions (June 13th and July 18th) of the Term Sheet provided by Canada. Nalcor continues to work on a revised version of the Term Sheet that could be presented to Canada when negotiations restart. The following is a summary of the outstanding issues:

1. Guaranteed Amount

Canada's Current Position: Based upon DG2 - \$4.1 billion plus IDC - max \$4.8 billion

Nalcor's Position: The amount of the guarantee was intended to be capped at financial close (agreeing to cap the amount of the guarantee based on DG3 capital costs with a commercially acceptable capital structure and adding financing costs at financial close may be an acceptable solution)

2. Term of the Guarantee / Amortization

Canada's Current Position: Construction of 5 years + 20 year post-construction (in high level discussions Canada has suggested that a term of 35 years might be possible).

Nalcor's Position: Construction and post-commissioning of up to 7 years + post-construction up to maximum of term of underlying commercial agreements (PPA, TFA) which is 50 years

3. FLG Implementation

- Nalcor has developed a potential structure which meets Canada's primary concerns of maintaining first ranking security over all of the project assets and contracts while only guaranteeing principal and interest payments (no accelerated debt)
- Nalcor will be discussing the FLG structure with Canada at the September 6/7 meeting to ensure alignment.

4. 1.40x Debt Service Coverage Ratio ("DSCR") as Event of Default

Canada's Current Position: The DSCR falling below 1.4x would constitute an event of default

Nalcor's Position: Does **not reflect market terms and conditions** – will use as trigger to provide information and test to allow additional debt

5. Additional Debt

Canada's Current Position: Unguaranteed, subordinated **and unsecured**

Nalcor's Position: Unguaranteed, subordinated but **secured** with clear subordination

6. Debt to Equity Ratios ("DER")

Canada's Current Position: Locked now at: MF/LTA – **60/40**; LIL – 75/25; ML – **62/38**

Nalcor's Position: Established at financial close: currently estimated MF/LTA – **65/35**; LIL – 75/25; ML – **70/30**

7. Financing Plan

Nalcor requires flexibility in finalizing the design of the appropriate financing structure. Canada appears willing to further discuss financing alternatives including up-front long-term bond.

8. Confirmation of Indicative Credit Ratings (without a FLG)

Canada's Current Position: must be investment grade, **and subject to Canada's satisfaction**

Nalcor's Position: must be investment grade

9. Cross Defaults between NL Projects

Canada's Current Position: cross defaults between (i) MF/LTA & (ii) LIL lending groups

Nalcor's Position: Nalcor's financial and legal advisors recommend that there should be no cross defaults between these 2 lending groups

10. Debt Drawdown Schedule after Financial Close

Canada's Current Position: removed 100% equity up-front; beginning at Financial Close debt and equity invested at apportionment rate to achieve target DER at COD

Nalcor's Position: beginning at Financial Close as all equity is currently invested, debt would then be invested until targeted DER achieved and then debt and equity invested at this DER

11. Other Events of Default

Further discussions required to ensure all commercially reasonable events of default are agreed.

12. Independent Engineer

- An Independent Engineer (IE) has been selected by Nalcor – Canada has been involved in the process and is agreeable to Nalcor's choice.
- IE has been advised and contract being finalized this week.

13. Inter-Governmental Indemnifications

Parties need to share language which Todd Stanley is drafting for NL

14. ML Sanctioning Delinking

Under discussions - not at the table

15. Canada Authority to Grant FLG

Under the implementation structure above (#3), Nalcor's external legal counsel has indicated comfort in Canada's approach for obtaining necessary approval for the FLG.

16. ML Completion Bond

Under discussion - not at the table