

**Private Members Motion
November 28, 2012
Minister Marshall**

Good afternoon.

Mr. Speaker, it is my pleasure to stand in this Honourable House this afternoon to speak on the Muskrat Falls Project.

I am going to speak today on concerns that continue to be raised on the need to bring this Project before the PUB.

Mr. Speaker, the PUB is an independent, quasi-judicial regulatory body appointed by the Lieutenant Governor in Council. It was first established in 1949 and reports to the Minister of Justice administratively and submits an annual report to the Minister. The PUB is funded by assessments upon the industries it regulates and therefore is excluded from the general budget of Government.

The mandate of the PUB is to be the regulator of the electric utilities in the province and is responsible for ensuring that the electricity rates charged to residential and industrial consumers are just and reasonable, and that the electrical service provided is safe and reliable.

As part of its mandate, the PUB is also responsible for reviewing and approving each utility's annual capital budget.

The PUB's jurisdiction over electric utilities in the province is defined primarily by the following pieces of legislation:

- a) The *Public Utilities Act, R.S.N 1990*, defines the general powers of the PUB as relates to its oversight of provincial public utilities including setting rates, approving capital plans and ensuring compliance with the law. The public utilities currently regulated by the PUB include Newfoundland Power, Newfoundland and Labrador Hydro, and Deer Lake Power Company Limited.
- b) The *Electrical Power Control Act 1994* sets out the power policy of the province and gives authority to the PUB to implement the policy. The Lieutenant-Governor in Council retains the right to direct the PUB on rates policy and refer matters to the PUB relating to rates and other issues.

In June 2011, the PUB was instructed to examine whether the development of the Muskrat Falls, or the Interconnected Island option was the least-cost approach to meet

anticipated demand as compared to the Holyrood Isolated Island option. At this time, consumer advocate Tom Johnson was also appointed to represent consumer interests during the review.

Following a nine months review process and \$2 million plus dollars later, the conclusion of the PUB was essentially that they could not come to a conclusion.

This despite the fact that Manitoba Hydro, the experts hired by the PUB themselves, and the consumer advocate, who himself had hired expert Knight Pieshold, were both able to come to a conclusion using the same information the PUB had at its disposal. These conclusions both supported Muskrat Falls as the least-cost option.

The argument made by the PUB was that they could not make a decision because they did not have Decision Gate 3 information. However, this concern was never clearly communicated by the PUB. Early communications between the PUB and Nalcor, as early as July 17, 2012, includes no reference to Decision Gate 3 data and the requirement to have this information in order to make a determination. The assumption would have been to receive all data contained in existing studies, which at that point would have been Decision Gate 2.

Subsequent concerns on schedule and ability to file a report to government did not reference Decision Gate 3 information. In letters from the PUB to the Minister of Natural Resources, Nalcor to the PUB and from MHI to the PUB the requirement for DG3 info not referenced, Specific references to DG2 data were always implied and the information to be provided to the Pub was always clearly identified as DG2 information.

The Decision Gate Process being followed by Nalcor and the information obtained during this process had helped to provide government with up-to-date, critical information to minimize risk and help contribute to an informed decision on whether to proceed with Muskrat Falls.

The gated process that Nalcor has identified is consistent with other major resource projects underway in the electricity industry in other jurisdictions.

Nalcor made a dedicated effort to provide data and information to support the PUB's work relating to the Reference Question on Muskrat Falls.

The sheer volume of information requested by the Board was significant and in some cases, spanned decades.

Nalcor submitted 180 exhibits of information to the Board. Nalcor received a total of 440 RFIs from the Board, MHI and the Consumer Advocate, with the latter filing 51 RFIs on January 4.

The initial RFI request was received on July 19 and additional RFIs were submitted to Nalcor on the following dates: July 25, 27; August 1, 2, 18; September 1, 7, 9, 30; October 7, 21; November 2, 7; December 7, 14, 16; and, January 4.

Nalcor had over 20 face to face meetings between various subject matter experts and MHI to help expedite the process and provide any information or context they required.

Nalcor provided the Board with in the order of 15,000 pages of documentation to inform the Board's assessment of the reference question and when asked for further information, or when something was not clear, Nalcor has diligently endeavoured to satisfy the requests coming from the Board, MHI and the Consumer Advocate.

Nalcor was strongly committed to the review process and respectful of the Board's mandate. Their approach was to view all questions and suggestions as opportunity to ensure the quality of the project in the best interest of Newfoundland and Labrador.

We are confident in the Decision Gate 3 information and cost estimate and believe this will help us make an informed decision on whether the time is right to proceed with Muskrat Falls. This data includes an updated load forecast, fuel price forecast, defined capital costs and system integrated studies, and is based on upwards of 50% of engineering being completed.

Without a decision from the PUB, our government made the decision to engage internationally respected advisors to conduct independent external assessment of the Decision Gate 3 information and in fact contracted Manitoba Hydro International– the PUB's own independent expert to conduct the analysis.

MHI has validated the Muskrat Falls Project as the least-cost option and our government has had numerous independent reports completed that supports the Muskrat Falls project.

Questions have been raised as to why we have exempted the Project from further regulatory oversight. However, this ability to exempt projects from regulatory review was introduced by previous administrations and is not the first time this has happened.

Hydro projects in the province have not typically gone through a PUB process. These include the following:

Labrador Hydro Project – In 2000, NLH exempt from the Electrical Power Control Act, 1994 and the Public Utilities Act for all aspects of its activities pertaining to the Labrador Hydro Project.

Granite Canal – NLH exempt from the Electrical Power Control Act, 1994 and the Public Utilities Act for all aspects of its activities pertaining to the Granite Canal Hydroelectric Project. (Note that regulation indicates 2000, not 2003).

Abitibi-Consolidated Inc. and Abitibi Partner Exemption Order- In 2002, Abitibi, an Abitibi partner and any lender providing financing to the projects are exempt from all of the application of the Electrical Power Control Act, 1994 and the Public Utilities Act.

Star Lake (1998) – exempted under the Public Utilities Act under a provision which exempts you if the only entity you sell to is a public utility (in this case NLH).

Rattle Brook (1998) – exempted under the Public Utilities Act under a provision which exempts you if the only entity you sell to is a public utility (in this case NLH).

Hydro has built the following hydro and thermal generation projects without a requirement for PUB approval: 1967 Bay d'Espoir 607 MW, 1969 Holyrood 490 MW, 1980 Roddickton 0.4 MW, 1980 Hinds Lake 75 MW, 1983 Upper Salmon 84 MW, 1985 Cat Arm 127 MW, 1989 Paradise River 8 MW, 2003 Granite Canal 41 MW.

Hydro was not regulated by the PUB at this time for the approval of these capital projects. In 1996, Hydro came under the full regulation of the PUB, including the requirement to have its capital projects approved.

It has built only one significant generating project since that time, Granite Canal. That project was made exempt from the requirement to have it approved under the Public Utilities Act and the Electrical Power Control Act, 1994 through an exemption order made under those Act in 2000.

Mr. Speaker, I thank you for the opportunity to speak today, despite assertions by the critics and Opposition, we have been to the PUB. They were unable to do their job and they could not give us a conclusion on the Project.

Thank you Mr. Speaker.