

Date : 1/24/2007 3:12:40 PM
From : "Thompson, Robert"
To : "Kieley, Chris" , "emartin@nlh.nl.ca"
Subject : Energy Plan comments
Attachment : Energy Plan Comments.doc;
Chris:

Attached are my comments on the energy plan. As with any set of comments on a long document, my comments focus on specific questions, issues and concerns rather than pointing out the many strengths. The plan is filled with great new ideas and aggressive vision. Kudos to you, Ed and the whole team for bringing together a strong document that ties together these complex issues in a logical and understandable way.

You will note in the attachment that some numbered items do not have any comments. That is because I scratched numbers on the report as I read it the first time, but some of my questions were addressed as I read further along. I will send you my numbered report to track against the comments. And I have basic editorial suggestions and typos highlighted in it as well.

Let me know the steps from here.

Robert

Robert Thompson
Clerk of the Executive Council and Secretary to Cabinet
Government of Newfoundland and Labrador
709-729-2853 (ph)
709-729-5218 (fax)

2. n/a
3. p. 4 - Not sure what is meant by advantage. Perhaps might want to clarify that proximity provides a cost advantage for industries which locate in Labrador, which is balanced against other costs of operating in a location remote from the marketplace.
- 4.
5. p. 9 - Not sure if the concept of energy security is the core concept we should be seeking. Security is a term that is most often used in regard to basic access to supplies of energy. Our access to basic supplies at the world price, whether hydro or petroleum, is almost a given. And reliability is not really an issue – tankers delivering oil to Holyrood can be just as reliable as an infeed from Labrador. The real issue is competitiveness - whether we can establish a long-run competitive advantage (e.g., lower cost) using our vast supplies of renewable energy. Given the solid commitment to an infeed in the plan, I suggest this goal be changed to something like: “Achieve a long-run competitive advantage based on renewable energy.”
- 6.
- 7.
- 8.
9. 16-17 - The equity section emphasizes the role of government “at the table”, to ensure “every decision strikes the right balance” and to have “influence over the resource development.” The knowledge and information which comes with ownership is seen as supporting those ends. It reads as though the government wants to exercise equity ownership to intervene and manage the sector rather than to maximize value. We might want to consider editing this section to change some points of emphasis. This is important as well because government has a separate regulatory role (e.g., indirectly through CNLOPB and directly through fundamental decisions) which it should keep separated from its role as shareholder of a company which holds equity. (This is a point we are currently making in respect of the federal government and CHHC.) It might be better to emphasize that *equity through NLH is important as another instrument to maximize the value of the petroleum resources to the people of the province. The knowledge and information which accrues within NLH through equity ownership helps ensure better alignment between the provincial interest and the partners in various projects.* (By way of comparison, Norway has a regulatory structure within the Department and in its Petroleum Directorate which promotes a competitive industry, and three agencies which hold commercial stakes (Statoil, NorskHydro and Petoro) designed to maximize returns to the state.)

10. p. 17 – This paragraph says that the generic offshore and onshore royalty regimes were not flexible enough to meet the Province’s concerns, but it does not identify the province’s concerns. If the core concern is that the generic regime did not fairly capture a higher share of revenue for the province when prices are high, then we should say so. This perspective may not have been seen as likely when the regime was developed, but our outlook on price has certainly changed. At high price levels, the existing generic regime gives a disproportionate share of the revenue to the companies rather than the resource owners.
11. p. 18 – It is not clear whether the new petroleum Exploration Enhancement Program will be a direct financial incentive or some other type of program. Could be clearer on this. Have we thought about, instead of a financial incentive program, giving NLH an exploration fund to invest in the best exploration plans onshore and thereby take equity interests?
- 12.
13. p. 18 – to the list of types of benefits we should add procurement, training, research and development, and technology transfer.
14. p. 18 – while it’s understood that Bull Arm is owned by government, it looks like there is exclusive emphasis on this site to the exclusion of Marystown. Could be sensitive.
15. p. 19 – is it accurate legally to say “reserve the right to require...”?
16. p. 20 – this is already being done by the Skills task Force. May want to reference this initiative here.
- 17.
18. p. 20 – Secondary processing was not mentioned in the text, so a stand-alone recommendation on this topic seems too insubstantial. Also, by placing this item in the benefits section it implies that secondary processing will be a condition of development. If so, this certainly needs some additional explanation in the text. If not, this needs to be noted and the more general opportunity for secondary processing still needs some explanation in the text.
19. p. 20 – This section includes a good elaboration on NLH’s role as the manager of the equity interest. However, the text says that NLH’s participation is an opportunity to ensure that partner decisions balance the needs of the province and the oil companies. This statement means that NLH will carry government policy interests to the table, and not just the

goal of maximizing value creation. In this context, it is possible that periodically government's policy interests will not be consistent with maximizing value creation. Do we want to leave that interpretation of NLH's role in the Plan?

- 20. p. 21 – There is no rationale provided for suggesting 10%, or up to 20%. This is an important policy parameter which is linked to risk and to public financial investment, so there should be some explanation.
- 21.
- 22. p. 21 - The petroleum companies will ask whether the policy to acquire equity is a de facto condition of approval on all future developments. We need to be prepared for this question and have an answer that is legally sound. (More generally, I suggest some more discussion around whether a royalty reduction should be an option in the acquisition of equity. NLH will be the entity which acquires and manages the equity interest, so the flow of capital into the partnership should occur on NLH's books. That way the risks and rewards are more tightly focused in one enterprise. As well, the decisions on royalties are subject to huge risk, and might result in a patchwork of royalty regimes. It would be good to obtain Finance's view on this from a tax policy perspective.)
- 23.
- 24. p. 22 – Not sure that “promote” is the right word. We either require it or we do not.
- 25. Do we have fallow field regulations in our onshore area. If not, should we move to put them in place right away?
- 26.
- 27. p. 24 - Should review the text again which argues for provincial regulatory control. It may actually be the same rationale for unifying the regulatory structure in all of Atlantic Canada (to eliminate the duplication among regulatory agencies).

Action (a) needs to be edited because we already control the fiscal regime, we control Newfoundland and Labrador benefits substantially when we negotiate them in advance of CNLOPB decisions, and we can control equity by making it a de facto condition of approval. What we lack is the ability to “back-in” to an equity position which we lost after the Supreme Court decision.

28. p. 24 – there is no rationale provided for doing a complete review of the PNG Act.
- 29.
30. p. 34 - Have you checked whether we can explicitly say that “first priority” will be given to Labrador residents for jobs, given our commitments under the Internal Trade Agreement?
- 31.
32. Was there a conscious decision to downplay the narrative on the Upper Churchill? I expected to see more text on such issues as the inequity of the contract, the belief that changes to the contract should still be pursued, and some of the thinking about integrating the power in 2041 into the industrial development of the province or the export distribution system. The omission of any statement about the inequity of the contract, by itself, is a departure from the stance taken by the province in the past.
33. p. 36 – Do we currently have a moratorium on small-scale hydro? Is this Action “lifting” a moratorium? If so, the explanation in the text is slight and might need to be expanded.
34. pp. 37-38 – Action (a) deals with wind projects on crown land, and action (b) deals with wind projects on leased crown land. A few questions occur here. 1) Leased crown land is still crown land with the lease rights given away, so does action (a) apply to leased crown land as well. 2) Is the inference of action (a) that crown land will not be leased in the future if the intended purpose is for wind development, unless it is part of a sanctioned NLH initiative? 3) Will any guidelines be applicable on private land? 4) More generally, have we examined whether we need new legislation to provide authority to the province to regulate wind energy development, especially the requirement that NLH maintain a significant majority ownership in export oriented projects?
35. p. 35 – The statement that the infed protects consumers in the long-run is the key justification for proceeding with this project. However, we have not provided any evidence in this paper to allow readers to understand this point. We should summarize the analysis and assumptions of the business case or long-run financial analysis, in the plan.
- 36.
37. p. 41 – The idea of extending island general service rates to isolated communities is justified in the text only for resource-based businesses. However the action (d) is worded in a more ambiguous manner, implying

it might be for the whole community. This should be made as clear as the text

38. p. 43 – same comment as #35.
39. p. 45 – The use of the phrase “at this time” raises the specter that we have undisclosed plans for Newfoundland Power. Can we be more definitive?
40. p. 45 – The point being made in this section is not clear. I think it is stating that as NLH positions itself to export energy into the North American market, changes may be needed in the regulatory structure to facilitate this objective. 1) It is not clear what is meant by regulatory structure. If it means simply “regulations”, this would be clearer. 2) If this section is only meant to address regulations related to the export of power, such as non-discriminatory access to distribution systems, perhaps it should say so. Otherwise, it might leave the impression that regulations which protect consumers within the province might be changed to facilitate the export of power.
41. p. 46 – Action (a) is fine if the clarification is made that it refers to power exports. However, if the study also refers to power delivery to consumers in the province, perhaps the reference to NLH should be deleted.
42. p. 46 – Action (c) – there is no question that NLH is the primary entity to implement government’s goals in the electricity sector. However, the Action statement can be interpreted as displacing the role of the Minister and the Department for long-term planning. Perhaps the right balance would be to say, “Within the policy framework and goals of the provincial government, NLH will carry out long term planning for the electricity sector.”
43. p. 47 – The statement that the rate of return must be reviewed is not followed later by an Action statement. Should it have been? On a general point, is the problem the Electrical Power Control Act (which says *“...should provide sufficient revenue to the producer or retailer of the power to enable it to earn a just and reasonable return as construed under the Public Utilities Act so that it is able to achieve and maintain a sound credit rating in the financial markets of the world)*), or is it the way the PUB interprets the Act?
44. Section 3.4.4.2 is about Labrador Industrial rates. The second paragraph implies that all existing and new industrial customers will receive a blended rate according to the three principles. However the fourth paragraph says that existing and new industrial customers will only get a blended rate if the load requirements result in a significant benefit to the province. A suggestion: edit this section to address the setting of a

standard industrial rate for Labrador, and move the concept of a preferential rate to section 3.5 wherein it would be government's responsibility to decide, with advice from NLH, on whether any industrial projects should qualify for a preferential rate, with such decision being based on an assessment of the "net economic benefit to the economy."

45.

46. pp 60-70. There is a lot of good stuff in the Innovation section, but the organization of the section should be revisited and some duplication removed. Two examples: 1) In section 5.3 we have a six point strategy, or strategic approach; at the end of section 5.4 we have four strategic directions; and in section 5.5 we have a four part innovation roadmap. Admittedly they are all slightly different, but I think it's a confusing backdrop and needs to be simplified in this document, especially because we will have a Task Force to try and develop a "long term strategic plan." 2) On page 65 there are a bunch of innovation opportunities identified across the energy spectrum, yet on pp. 67-70 there is another, somewhat different, elaboration of technology opportunities. Again, there is nothing wrong with the pieces, but it would be a good idea to re-write the section to make it a better flow, possibly merging some of the overlap.

47.

48. p. 65 – wondering why CNG is not on the list given the capability that has been established at MUN in this area.

49. p. 65 – Not sure how electric hybrid vehicles can be an area of high strategic fit. Are we doing work on this?

50. p. 65 – is uranium extraction a mining issue rather than an energy plan issue?

51. p. 65 – how about deep-water drilling technology/processes as an area of strategic fit.

52. p. 79 – seems to me that a lot of these actions will steal the thunder of the skills task force. Some of them are not even specifically related to energy (h,i,j,k). Is the Department of education supporting the inclusion of these items in the Energy Plan?

53.

54.

55. p. 83. The preface to section 7 says it will explain “in detail” how government will implement this plan. The next two pages do not really provide a lot of detail, so it may be worthwhile to edit the preface or add more detail.