

Date : 12/22/2011 6:22:40 PM
From : "Thompson, Robert"
To : "Taylor, Brian W."
Subject : Fw: PUB Letters

B

Fyl. I will delay till the morning in case you have edits.

RT

Sent Via BlackBerry

From: KMD
To: Thompson, Robert
Sent: Thu Dec 22 18:18:57 2011
Subject: Re: PUB Letters

Good to go Robert.
K

Sent Via BlackBerry

From: Thompson, Robert
To: KMD; Taylor, Brian W.
Sent: Thu Dec 22 17:07:55 2011
Subject: PUB Letters

Further to my previous message, here are the two revised drafts.

December 22, 2011

Mr. Andy Wells

RE: Muskrat Falls Review

I acknowledge receipt of your correspondence of December 16, 2011 requesting a further extension of time for the Board to submit its report on the Reference Question. The Board will no doubt appreciate Government's announced intention to have the Board's report tabled during the Spring session of the House of Assembly. It is therefore of critical importance that the Board's report be received not later than March 31, 2012 so as to allow Government to meet its commitment to the people of the Province.

Government feels confident that the Board will be able to adjust its schedule so as to accommodate those processes that need to be taken so as to complete the review by the deadline. In an effort to streamline the process, Government has issued new guidelines to the Consumer Advocate to ensure that his focus is only on those areas which will avoid any duplication of the Board's mandate. In addition, as I advised in my letter of December 12, 2011, Government is committed to assisting the Board in meeting the March deadline and is willing to provide whatever additional resources are reasonably necessary to enable the Board to adjust its processes and hearing schedule on other matters if necessary.

It is acknowledged that the process referenced in your letter of December 16, 2011 adopts the process that the Board followed in 2005 when it was asked to complete a review of automobile insurance rates pursuant to Section 3.1 of the *Insurance Companies Act*, a far reaching activity which involved matters of public policy and an investigation of competing insurers proprietary information and loss experiences. That activity was not burdened by the same time sensitivities as the current review. Given that the Terms of Reference are confined to a review of whether Nalcor's proposal represents the least-cost option for the supply of power to island connected customers, Government queries whether all of the processes employed by the Board in the Insurance review are necessary in the Board's review of the Reference Question.

It is Government's understanding that, for some considerable time preceding the actual filing of Nalcor's formal submission on November 10, 2011, Nalcor had been working with the Board's experts, Manitoba Hydro Inc. ("MHI"), and, as a result, an extensive amount of technical information respecting this project has already been supplied. Has the Board considered whether this activity might permit it to economize on the time it proposes to allot for receipt of the MHI Report as well as the necessity for allotting additional time during the month of March for the receipt of technical reports and the attendant holding of a technical conference?

Government feels confident that with additional resources being made available to the Board, the March 31 deadline can be met so that its report can be tabled in the House of Assembly as Government has publicly committed to do. I or any of my officials are available to discuss the supply of additional resources to the Board.

Jerome P. Kennedy, Q.C.

December 22, 2011

Mr. Thomas J. Johnson

I am writing further to your letter dated December 15, 2011, to the Board of Commissioners of Public Utilities (the "Board") regarding timelines for the Muskrat Falls Project review (the "Review"). Your letter was referred to the undersigned from the Board's website.

As you are aware, Government has advised the Board that the Review must be completed by March 31, 2012, in order to ensure that the Board's report can be examined and debated by members of the House of Assembly during the Spring sitting. Extending the March 31, 2012 completion date would result in a risk of the report not being reviewed in the House of Assembly prior to final sanctioning of the project.

In order to meet the March 31, 2012 completion date, it will be imperative that all parties involved in the Review limit their activities to those necessary to complete their respective roles. From the Consumer Advocate's perspective, this means ensuring that the electricity ratepayers of the Province have a consolidated voice in the Review process.

In your December 15 letter to the Board, you indicated that you would be "having several public sessions around the Province in order to receive customer input directly on the matters engaged in the review." While public participation through the Consumer Advocate will play a critical part in the Review, it was not Government's intention for the Consumer Advocate to conduct any public hearing process separate and apart from hearings being conducted by the Board. It is Government's position that the Consumer Advocate's role in the Review process is to coordinate public comment and participation, through submissions to the Consumer Advocate, and to then represent the Province's electricity ratepayers in the public process being completed by the Board.

Your letter to the Board also addressed the fact that you have not been provided with certain confidential exhibits. This is a necessary limitation given the extreme commercial sensitivity of the confidential exhibits and the fact that Nalcor is precluded from producing others under non-disclosure agreements entered into with third parties. The Terms of Reference were drafted to ensure that the Board and its expert could conduct a complete examination of the Reference Question. In order to conduct a thorough review, it was imperative that the Board have access to all documents to which Nalcor had access. The Consumer Advocate's role is to ensure that a thorough analysis is completed by the Board. It was not contemplated that the Consumer Advocate would complete its own independent analysis of the project.

Meeting the March 31, 2012 deadline for a report will require significant effort by the Board, the Consumer Advocate and Nalcor. The role of the Consumer Advocate is to assist the Board in this process by making representations on behalf of electricity ratepayers into the processes established by the Board. We expect that contribution to be on an informed and expert basis within the terms of reference. We are prepared to provide assistance as may be requested in the Consumer Advocate's fulfillment of this important role.