

NLIS 2  
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### **Proposed Amendments Support Financing of the Muskrat Falls Development**

A series of legislative amendments to the *Energy Corporation Act*, the *Hydro Corporation Act*, and the *Electrical Power Control Act* will be introduced in the House of Assembly today (Tuesday, December 18). The amendments will help to advance implementation of the Muskrat Falls development and financing activities associated with the project.

“The amendments are designed to facilitate the financing structure of the Muskrat Falls project and will allow Nalcor to approach markets in early 2013 to begin the next steps in the finance-raising process,” said the Honourable Jerome Kennedy, Minister of Natural Resources. “Protecting non-project assets has always been a core principle of government’s approach to developing this project, and these amendments are designed to mitigate risk and provide protection for the ratepayers of Newfoundland and Labrador.”

Nalcor Energy is currently undergoing its multi-year finance-raising process. This requires Nalcor to provide credit-rating agencies, the Government of Canada, and potential lenders confidence in the project’s business and financial case and demonstrate its ability to cover all debt payments and other costs over the life of the project.

The amendments are designed to accomplish three primary goals related to project financing. It will facilitate non-recourse project financing and protection of the province’s non-project assets, protect rate payers against additional costs and higher rates, and provide Nalcor with equity payments and sufficient borrowing limits.

“These amendments support the most desirable financing arrangement for the Muskrat Falls project and signal to potential lenders that our government supports this project and will take the necessary steps to ensure the project’s success in the best interest of Newfoundlanders and Labradorians,” added Minister Kennedy. “This will advance and ensure the timeliness of the financing schedule and will help move the project forward.”

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Media contact:  
Heather Maclean  
Director of Communications  
Department of Natural Resources

709-729-5282, 697-4137  
[heathermaclean@gov.nl.ca](mailto:heathermaclean@gov.nl.ca)

## **BACKGROUNDER**

### **Summary of Legislative Amendments**

#### **Non-recourse financing and protection of non-project assets**

- Non-recourse financing means the only collateral pledged against the loans are Muskrat Falls Project assets with no other non-project assets of the Provincial Government or Nalcor at risk.
- Protecting non-project assets has always been a core principle of government's approach to developing Muskrat Falls.
- In exchange for having no recourse to other assets, lenders need confidence that Newfoundland and Labrador Hydro can recover all project costs, including debt repayment.
- The legislative changes achieve this by providing government the authority to direct the PUB to include all project costs in rates, thereby securing the project revenue that provides certainty to lenders.
- The legislative amendments also provide for Nalcor and its subsidiaries to sign contracts for the project on their own behalf and not on behalf of the province. This protects the province from any liability for contractual obligations with respect to Muskrat Falls.

#### **Protection of ratepayers against additional costs and higher rates**

- Newfoundland and Labrador Hydro will be committed to buy Muskrat Falls energy through take-or-pay financial arrangements. These costs will be passed onto ratepayers.
- If other sources of energy were permitted into the system (such as from mainland generation sources), there would be no savings or benefit to ratepayers as the costs of such sources would be in addition to, instead of in alternative to, Muskrat Falls costs. In other words, alternate sources of energy would result in higher rates for ratepayers.
- To protect against this, the amendments provide Newfoundland and Labrador Hydro exclusive rights to supply wholesale electricity on the Island to industrial customers and Newfoundland Power.

- The amendments regarding exclusive rights do not apply to self-generation by commercial and residential customers, self-generation for emergency purposes, generation for export, as well as exemptions that could be approved by government.
- The legislative amendments protect government from any potential claims for damages in relation to the amendments or implementation of the exclusive rights provision.

**Crown equity payments and sufficient borrowing limits for Nalcor**

- These amendments assure lenders that government's equity contribution to the project will come from a clearly identified source (the Consolidated Revenue Fund) and will be available as needed to complete the project.
- Nalcor's current borrowing limit is \$600 million. These amendments retain this same limit for non-project borrowing, but allow Nalcor and its subsidiaries to borrow required additional amounts to complete the project.
- Government will continue to have oversight over Nalcor's borrowing for both non-project related and project-related funding through its role as shareholder.
- Nalcor has been prudent and cautious in managing the project and its financing, as proven by independent external studies by Manitoba Hydro International, Navigant Consulting, and others throughout the Decision Gate process.
- The legislation must be in place before Nalcor can advance the lending process early in 2013 as planned in the current project schedule, which assumes project sanction by the end of 2012.
- The amendments enable the most desirable financing arrangement for the project, support the finance-raising process, and are a signal to potential lenders that government will take the necessary steps to ensure the project's success.
- The amendments support advancement of Muskrat Falls and will help move the project forward.