

Date : 5/12/2010 8:47:42 AM

From : "Bown, Charles W."

To : "Thompson, Robert" , "LeonaBarrington@nalcenergy.com" , "EMartin@nalcenergy.com" , "GBennett@nalcenergy.com" , "Crawley, Brian" , "Matthews, Elizabeth" , "Barron, Tracy B."

Subject : RE: Draft News Release and Backgrounder

Some points we may want to consider including in either the Nalcor release or NL response.

#### Specific Comments

- ☐ The Regie contradicted its previous rulings in support of HQ arguments against Nalcor's applications
- ☐ The ruling is based on inaccurate interpretations of the OATT and the 1969 Power Contract, not raised by HQ, but rather developed by the Regie to bolster HQ's arguments
- ☐ The Regie did not suspend procedural timelines during the complaint process and allowed Nalcor's application to lapse
- ☐ The Regie has ruled that Nalcor has no operational control over CF, rather CF is part of the HQ systems and is controlled by HQ

#### General comments

- ☐ The ruling is clearly one-sided as evidenced by the Regie bringing its own arguments against Nalcor's complaints; arguments that were not developed or presented by HQ during the hearings where Nalcor could defend and counter.
- ☐ The ruling demonstrates that the Regis is not impartial but is instead deferential to Hydro Quebec.
- ☐ Open Access exists in QC for the benefit of HQ; other parties can expect to be frustrated by HQ, its wholly owned and controlled subsidiaries and the government appointed regulatory bodies that cannot claim independence.

-----Original Message-----

From: Thompson, Robert

Sent: Wednesday, May 12, 2010 7:26 AM

To: LeonaBarrington@nalcenergy.com; EMartin@nalcenergy.com; GBennett@nalcenergy.com; Crawley, Brian; Matthews, Elizabeth; Bown, Charles W.; Barron, Tracy B.

Subject: RE: Draft News Release and Backgrounder

Leona:

My only comment is that we say we disagree with the Regie ruling without suggesting why. Then we go back to our key messages about HQ's practices without dealing with the fact that those practices have now been backed up by the regulator. There seems to be something missing. While perhaps too early to reveal the grounds for an appeal, seems we need to offer some kind of point on the problem with the ruling.

Robert

-----Original Message-----

From: LeonaBarrington@nalcenergy.com [mailto:LeonaBarrington@nalcenergy.com]

Sent: Wed 5/12/2010 12:36 AM

To: EMartin@nalcenergy.com; GBennett@nalcenergy.com; Crawley, Brian; Matthews, Elizabeth; Thompson, Robert; Bown, Charles W.; Barron, Tracy B.

Subject: Draft News Release and Backgrounder

Hello everyone,

I've attached (and copied below) the draft news release and backgrounder in preparation of the ruling becoming public tomorrow morning. The decision will be going public at 10:30 NL time tomorrow so we'll need to be ready to issue the News Release at around that time so I'd like to land on the content first thing in the morning.

Looking forward to your thoughts.

Cheers.

Quebec's Transmission System not Open to Competitors: Nalcor Energy

May 11, 2010 - The Régie de l'énergie (Régie), Québec's energy regulator, today issued their ruling in response to complaints filed by Nalcor Energy against Hydro-Québec Transénergie. The complaints stem from Nalcor's effort to export power across the Quebec transmission system from the 3,074MW Lower Churchill Hydroelectric Project in Labrador.

The Régie ruled solely in favour of Hydro-Quebec and dismissed all arguments presented by Nalcor.

"We disagree completely with the conclusions and ultimate ruling announced today by the Régie de l'énergie and intend to aggressively pursue all appeal options," said Ed Martin, President and CEO, Nalcor Energy.

"While there has been much detailed discussion around technicalities and legalities, it all boils down to a very simple question: Does Hydro-Québec provide fair and reasonable access to its transmission lines as it is supposed to do under its own tariff rules which they've adopted from the United States? We strongly believe that the evidence is to the contrary."

Martin went on to add, "This decision does not just have implications for Newfoundland and Labrador; it has broader implications for electricity trade across the country and throughout North America. Clearly, the existing processes do not enable fair and open transmission access and we will continue to take the lead in

fighting for an even playing field and non-discriminatory access."

Newfoundland and Labrador has been willing to pay its fair share of rental fees and system upgrades required to transport electricity from the Lower Churchill Project through Quebec. Nalcor was offering to pay the pre-determined tariff amount of approximately \$6 billion over 30 years as well as invest billions of dollars in upgrades to Quebec's transmission system.

"One can only be perplexed by the attitude of Hydro-Quebec, which is putting billions of dollars of investment and employment opportunities at stake," Martin said.

Nalcor Energy has been preparing for all potential outcomes from the Régie and while today's decision is important, it represents only a component of a broader market access strategy for exporting power from the Lower Churchill Project to key markets. The outcome of this decision has not changed planning for other market access alternatives, including exporting power from Labrador to the island of Newfoundland and then into the Maritime Provinces via a subsea link and into the Northeastern US markets. Nalcor is also continuing its pursuit of a separate 724 MW transmission service request into the Maritimes Provinces and New England which the company filed with Hydro-Quebec TransEnergie in February 2007.

"This decision is precisely why we are pursuing two alternative routes to market. In parallel with our pursuit of open access in Quebec, we have also been exploring the link to the island of Newfoundland and onward to the Maritimes and the United States with the same level of importance," said Martin. "That work is continuing and our collaboration with potential customers is ongoing."

The effort to assess the development of the Lower Churchill Project is moving forward on multiple fronts and involves further study on the Project's technical and environmental elements as well as its final configuration. These studies will form the basis necessary to make a final decision on the Project's development.

The Lower Churchill Project, one of Nalcor Energy's five lines of business, is the most attractive undeveloped hydroelectric project in North America. The Project is two proposed installations, Gull Island and Muskrat Falls, will have a combined capacity of 3,074 MW and can provide 16.7 Terawatt hours of electricity per year. That is enough to supply hundreds of thousands of households annually and contribute significantly to the reduction of air emissions from thermal, coal and fossil fuel power generation.

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#### Background

Open transmission access is central to the operation of competitive electricity markets and to providing access to the significant untapped clean electricity supplies throughout Canada and the United States.

The Federal Energy Regulatory Commission (FERC) in the United States has established market rules and regulations designed to eliminate the potential for discrimination in the provision of transmission service on the electric grid. In order to enjoy the ability to sell electricity into the United States, Quebec must be in compliance with rules established by FERC.

The principles of open access and competitive markets have changed the structure of the electricity industry in the US and also influenced the electricity industry structure in Canada. In obtaining FERC authorizations, entities like Hydro-Quebec must structure themselves and operate in a manner so as to mitigate potential market power, the most fundamental means of which is to provide open access to their own jurisdictions.

Though Quebec has modified the structure of its electricity system, its actions to date have put into question whether or not the "spirit" of open access and reciprocity is being applied.

As a result, Nalcor Energy filed a number of complaints with the Régie de l'Énergie, Quebec's energy regulator and during January and February 2010, these complaints were reviewed during hearing proceedings in Quebec.

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Leona Barrington  
 Sr. Communication Specialist  
 Nalcor Energy - Lower Churchill Project  
 t. 709 737-1837 c. 709 693-7398 f. 709 737-1985  
 e. LeonaBarrington@nalcorenergy.com <mailto:LeonaBarrington@nalcorenergy.com>  
 w. nalcorenergy.com <http://nalcorenergy.com/>