

**Date : 5/5/2011 3:18:43 PM**  
**From : "Bown, Charles W."**  
**To : "Evans, Catherine"**  
**Subject : Fw: Emailing: LCP Regulatory Process.doc**  
**Attachment : LCP Regulatory Process.doc;**

Please print 6 copies

Sent Via BlackBerry

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

From: Bown, Charles W.

To: Bown, Charles W.

Sent: Thu May 05 15:15:26 2011

Subject: Emailing: LCP Regulatory Process.doc

<<LCP Regulatory Process.doc>>

The message is ready to be sent with the following file or link attachments:

LCP Regulatory Process.doc

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

# **LCP Regulatory Process**

## **Key Messages**

### **Legislative Framework**

- Policy for the production, transmission and distribution of power in the province is established in the Electrical Power Control Act
- The Act states that all sources and facilities for the production, transmission and distribution of power in the province should be managed and operated in a manner that would result: in the most efficient production, transmission and distribution of power; and power being delivered to consumers in the province at the lowest possible cost consistent with reliable service.
- The Act also states that electricity rates should be reasonable and not unjustly discriminatory; be established, wherever practicable, based on forecast costs for that supply of power for 1 or more years,; and provide sufficient revenue to the producer or retailer of the power to enable it to earn a just and reasonable return
- The Act requires that the Public Utilities Board implement the power policy, and in doing so shall apply tests which are consistent with generally accepted sound public utility practice.
- The Act allows for an exemption from this policy where a public utility is engaged in activities that, in the opinion of the Lieutenant-Governor in Council as a matter of public convenience or general policy, are in the best interest of the province.
- The Public Utilities Act establishes the construct and powers of the Board of Commissioners of Public Utilities.
- The Act requires that a public utility must submit an annual capital budget of proposed improvements or additions to its property to the PUB for its approval not later than December 15 in each year for the next calendar year, and the budget shall include an estimate of contributions toward the cost of improvements or additions to its property the public utility intends to demand from its customers.
- The PUB establishes the rate base for a utility. In addition to costs to generate, transmit and distribute power, this base can include the part, that the PUB may determine, of the money paid for the use of plant or equipment leased, hired or shared by the public utility, either as supplementary to or instead of its own plant or equipment.

- The Public Utilities Act states that the Lieutenant-Governor in Council may exempt a public utility from the application the Act where the public utility is engaged in activities that in the opinion of the Lieutenant-Governor in Council, as a matter of public convenience or general policy, are in the best interest of the province.

#### Orders In Council

- OC2000-xxx states that
- OC2009-xxx states that

#### **Lower Churchill Project**

- The construction and operation of the Muskrat Falls generation facility and the Labrador Island Link will be carried out by Nalcor Energy or a subsidiary. This portion of the project will be exempt from the PUB through OC2009-xxx
- Sales of power from Nalcor (or subsidiary) to Newfoundland and Labrador Hydro will be accomplished through a PPA. This PPA is subject to PUB review and approval for inclusion in the rate base. An exemption for this PPA has not been provided.
- Nalcor has requested that Government commit to putting in place those matters to ensure that the price and rate base for Muskrat Falls power is established and the resultant PPA is exempted from PUB review.

#### **Messages**

- The construction and operation of the Lower Churchill Project, including the Muskrat Falls Project and the Labrador Island Link will be exempt from the Public Utilities Act. This comes about through the legislative exemption for Nalcor Energy as provided in the Energy Corporation Act.
- Nalcor will negotiate a power purchase agreement (PPA) with Newfoundland and Labrador Hydro. This PPA will establish the terms of the long-term arrangement for the sale of electricity to NLH.
- NLH will be exempt from the Public Utilities Act and the Electrical Power Control Act with respect to the inclusion of the PPA into NLH's rate base.
- The decision to exempt the PPA from PUB review is extraordinary. It is based on the conclusion that developing the Lower Churchill project is in the best interest of the people of the province.
- In 2007, Government acknowledged that, by making the right decisions, Newfoundlanders and Labradorians can have a cleaner environment and a solid and sustainable electricity industry, with a secure supply of

competitively-priced electricity for economic development and domestic use.

- Government stated then that next source of generation to meet growing demand would be the Lower Churchill Project with a connection between Labrador and the Island. It also committed to replacing the Holyrood Thermal Generating Station with power from Lower Churchill.
- In an effort to make this happen, Government committed in the Energy Plan to investing a significant portion of its non-renewable resource revenues in renewable energy infrastructure such as hydro developments and transmission.
- In the Energy Plan, Government also noted that the regulatory structure for the electricity industry must change. It notes that while the regulatory process must continue to protect customers by ensuring that electricity supply is adequately planned and is provided on a reliable basis at the most reasonable cost, the process should also incorporate broader considerations such as conservation and environmental protection.
- The Lower Churchill project will achieve a number of significant objectives that will define the future of our province;
  - The project will be the foundation for a new economy based on long-term revenues from renewable energy developments;
  - The Project will be an economic engine for the province, and Labrador in particular, during its construction period;
  - The Project will provide surplus power and establish Labrador as an industrial development market;
  - The Project will enable the province to meet its climate change targets and reduce GHG's and other emissions through the closure of the Holyrood Thermal Generating facility ;
  - The Project will significantly improve the reliability of electricity supply to customers through the connections to Labrador and Nova Scotia;
  - The Project eliminates future electricity rate volatility and stabilizes rate growth; and
  - The Project will facilitate the monetization of the other renewables through the strategic connection to the North American electricity grid.
- These objectives are outside the scope of a traditional regulatory review and would not be considered in a decision on proceeding with the Lower Churchill Project.
- A traditional regulatory review would favour the thermal option over the long-term hydro option because its initial capital costs are lower. This review however, has a short-term view where the fuel price risk is left to

future generations. The Muskrat Falls Project will ensure stable electricity price over the long-term, and at the current and project price of oil, it will provide the lowest cost electricity.

- Muskrat Falls is a pioneer project. It is the first of the two great electricity projects remaining in North America. These projects have been stalled by our inability to access the North American marketplace.
- Muskrat Falls will:
  - Provide long-term, reliable and least cost electricity to the province
  - Connect the province to the North American electricity grid;
  - Greatly improve electricity reliability;
  - Eliminate fuel price risk and stabilize electricity rates;
  - Reduce GHG's and other emissions;
  - Facilitate development of other renewables;
  - Generate long-term revenue for provincial treasury; and
  - Stimulate the economy during construction, particularly in Labrador.