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To: Scott, Paul G.

Cc: DSturge@nalcenergy.com <DSturge@nalcenergy.com>

Sent: Wed May 25 09:25:27 2011

Subject: NAlcor Comments on PUB Referral

Hi Paul. Attached are most of our comments. I am still tracking down Ed's comments and will get them to you as soon as I am successful.

- David

(See attached file: Reference Question May 24 Justice Comments 240511 v2 (Nalcor Comments).doc)

~~In the Energy Plan, 2007, Pursuant to subsections 5(1) and (2) of the *Electrical Power Control Act, 1994* (the “EPCA”), Government hereby refers the following matter to the Board of Commissioners of Public Utilities (the “Board”).~~

Government committed to the development of the Lower Churchill hydro resource, and Newfoundland and Labrador Hydro (“NLH”) ~~have~~ has determined that the ~~lower~~ least-cost option for the supply of power to the Island interconnected system over the period of 2011-2067 is the development of the Muskrat Falls generation facility and the Labrador-Island Link transmission line, as defined in Schedule “A” attached hereto (the “Project”). Under this proposal, it is contemplated that NLH would enter into a long-term power purchase agreement and transmission services agreement with Nalcor Energy (“Nalcor”), or subsidiaries, the costs of which would be included in NLH’s regulated cost of service recovered from NLH’s Island interconnected system customers (the “Island Interconnected Customers”).

Pursuant to subsections 5(1) and (2) of the *Electrical Power Control Act, 1994* (the “EPCA”), Government hereby refers the following matter to the Board of Commissioners of Public Utilities (the “Board”).

#### The Reference Question

The Board shall review and provide a report on whether the Board agrees that the Project represents the least – cost option for the supply of power to Island Interconnected Customers, as compared to the isolated Island development scenario as outlined in Schedule “B” hereto (the “Isolated Island Option”), this being the “Reference Question”, ~~whether the~~

~~Project represents the least – cost option for the supply of power to Island Interconnected Customers, as compared to the isolated Island development scenario as outlined in Schedule “B” hereto (the “Isolated Island Option”). For the purposes of this reference, the review shall not include considerations of the options and decisions respecting the monetization of the excess power from the Muskrat Falls generation facility, including the Maritime Link project.~~

In answering the Reference Questions, the Board:

- ~~• , the Board shall consider and evaluate factors it considers relevant including NLH and Nalcor’s forecasts and assumptions for the following:~~
- ~~• The screening process used by NLH in identifying feasible approaches for the Island Interconnected Customer power requirements. These approaches are: small scale hydro (including the Shawmont study); the Isolated Island Option, the Project, Gull Island; import from Quebec; and import from the Maritimes.~~
- ~~• The Island load, forecasts system planning assumptions, and process for developing and comparing the estimated costs for delivery of power to NLH; and~~

**Commented [DPH1]:** This started as comparison between infeed and isolated island, and then went to review of all options, and now seems to be back to the original. The concern with the original comparison was the exposure to criticism that all reasonable options are not shown to be inferior to the infeed.

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- ~~used by NLH in comparing the two options;~~

[Confidentiality – 2 options:

Option 1:

In conducting a public hearing process as required by section 5 of the EPCA, the Board shall ensure information requests and examinations shall only be considered to the extent:

- they are within the mandate of this reference; and
- the Board is satisfied that the reply to an information request or examination will not require the disclosure of confidential or commercially sensitive information, meaning information Nalcor or NLH maintain the release of which, may negatively affect Nalcor's ability to minimize costs associated with the Project and ultimately the cost to Island Interconnected Customers. To the extent the Board accepts such arguments by Nalcor or NLH as being reasonable, the Board shall permit a response excluding such information.

The Board, NLH and Nalcor may enter into agreement respecting what information does or does not meet the criteria above ~~as may be necessary~~, and any such agreement shall be made public.

Option 2:

The Board, NLH and Nalcor shall enter into an agreement respecting the treatment and disclosure of confidential information in respect of this process and the potential disclosure of any such information to the public].

For the purposes of this public hearing, ~~a~~ consumer advocate shall be appointed pursuant to section 117 of the *Public Utilities Act*, and that consumer advocate shall have standing for such hearing.

Any ~~incremental costs~~ to the Board in respect of this matter, including the costs of the consumer advocate, shall be submitted by the Board to Nalcor and ~~shall be paid by Nalcor~~ ~~[should this be NLH?]~~. Nalcor shall be directed by Government to these costs.

The Board's report shall be provided to the ~~LG in C~~ Minister of Natural Resources by November 30, 2011 and it shall be made public by the Board at the same time.

**Commented [DPH2]:** Is this "as may be necessary" in the right place?

**Commented [DPH3]:** This is the generally preferred option, though both options are workable

**Commented [DPH4]:** Is it still contemplated that the consumer advocate will represent all interveners in the public hearing process?

**Commented [DPH5]:** Should this be "the allocated costs"

**Commented [DPH6]:** Alternatively, "... shall be submitted by the Board to NLH and NLH will be directed by the Board to recover these costs in rates.

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