

Dec 2011

5258

Information Note
Department of Natural Resources

Title: A review of the requests for information by the Board of Commissioners of Public Utilities in relation to its review of the Muskrat Falls project.

Issue: Whether the Board's request for information are consistent with the reference question and the term of reference supplied by the Government.

Background and current status:

- On June 17, 2011, the Government referred a question to the Board of Commissioners of Public Utilities (the "Board") about the Muskrat Falls project under the authority of section 5 of the *Electrical Power Control Act, 1994*. That section provides that the Lieutenant – Governor in Council may refer to the Board a question on a "matter relating to power" on which the Board is then required to hold a public hearing and report back to the government within the time specified in the reference.
- In the terms of reference and reference question submitted to the Board, a copy of which is attached as Appendix A, the Government noted that in the Energy Plan it committed to the development of the Lower Churchill hydro resource. It was also noted that the Government determined that the least – cost option for the supply of power to the Island interconnected system over the period of 2011 to 2067 was the development of the Muskrat Falls generation facility and the Labrador – Island Link transmission line ("the Projects") as compared to the "Isolated Island Option". Both options were generally described in the terms of reference and it was noted that they would be outlined further in a future submission made by Nalcor to the Board. In effect, the Board was asked to consider the two options as presented to it by Nalcor.
- With this as background, the Board was asked whether the Projects represented the least – cost option for the supply of power to the Island when compared to the Isolated Island Option. In answering this reference question, the Board was instructed that it:
 - shall consider and evaluate factors it considers relevant including NLH's and Nalcor's forecasts and assumptions for the Island load, system planning assumptions, and the processes for developing and comparing the estimated costs for the supply of power to Island Interconnected Customers; and
 - shall assume that any power from the Projects which is in excess of the needs of the Province is not monetized or utilized, and therefore the Board shall not include consideration of the options and decisions respecting the monetization of the excess power from the Muskrat Falls generation facility, including the Maritime Link project.

- 2 -

- The Board was instructed to report back to the Minister of Natural Resources by December 30, 2011.
- On July 26, 2011, the Board announced that the review was underway and that it had commenced the information gathering phase of the process. It was noted that Nalcor had responded to the Board's initial request for information in a filing on June 30, and that where necessary Nalcor will be required to file additional information. The Board also announced that Manitoba Hydro International Limited ("MHI") had been retained to provide a report analyzing the two "generation planning alternatives" identified in the terms of reference. It also indicated that the Consumer Advocate would be participating throughout the review process.
- Since the July 26 announcement, Nalcor has been asked for a total of 221 separate Requests for Information ("RFI's"). Of these, ninety came from the Board directly, 116 were asked by MHI, and fifteen were asked by the Consumer Advocate.
- Arising from a concern expressed by Nalcor that some of these RFI's may be outside the scope of the terms of reference, officials from NR and JUS were asked to determine how many RFIs were inconsistent with the Board's mandate.
- As noted earlier, the terms of reference indicated that in considering the reference question, it "shall consider and evaluate factors it considers relevant" and as such, the Board has a very broad discretion to ask questions it considers appropriate. However, NR and JUS officials were of the view that examined objectively, approximately 26 of the 221 RFIs could be considered outside the scope of the terms of reference.
- Broken down by requesting party, fifteen of the Board's ninety questions appeared problematic. Some were clearly irrelevant. One question asked Nalcor to develop an isolated island option with a number of significant assumptions and variables changed which appeared to go so far as to require the creation of an entirely new isolated island scenario. In other cases, questions were asked about Labrador power demand, human resource issues at Nalcor and the timing of the Emera negotiations, all of which have questionable relevance.
- Of MHI's 116 RFI's, it seemed that only one or two were clearly irrelevant as ~~they posed questions about the Upper Churchill project. Otherwise, nine questions~~ could be problematic as they arguably went beyond what should be required for a sensitivity and reliability analysis on the options and instead appeared to question the structure of the options themselves. Of the Consumer Advocate's fifteen questions only one was deemed to be problematic as it inquired about other options or alternatives beyond the two presented.

- 3 -

- In summary, the majority of the questions (195 out of 221) posed by all three parties seemed to be consistent with the term of reference. Of the remaining 26, some were clearly irrelevant, such as those that required the creation of a new isolated island option, while others were more arguably problematic such as those which may have moved beyond a sensitivity analysis on the models to questioning the underlying structure of models themselves. Attached as Appendix B are those specific questions identified by NR and JUS as potentially beyond the scope of the terms of reference.

Prepared by/Approved by: Paul Scott, Assistant Deputy Minister (Energy Policy)
Charles Bown, Associate Deputy Minister (Energy)

Attachments

10/12/2011