

Date : 11/26/2012 7:44:35 AM

From : "Bown, Charles W."

To : "Thompson, Robert" , "emartin@nalcenergy.com" , "Taylor, Brian W."

Subject : Re: Ed, I have re drafted the letter to reflect the tone that I would recommend. Happy to discuss in the morning. I will delay my flight to Toronto so as to be available. Jim Prentice

Agree: looks good.

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**From:** Thompson, Robert

**Sent:** Monday, November 26, 2012 07:42 AM

**To:** 'EMartin@nalcenergy.com' <EMartin@nalcenergy.com>; Bown, Charles W.; Taylor, Brian W.

**Subject:** Re: Ed, I have re drafted the letter to reflect the tone that I would recommend. Happy to discuss in the morning. I will delay my flight to Toronto so as to be available. Jim Prentice

Looks good.

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**From:** EMartin@nalcenergy.com [mailto:EMartin@nalcenergy.com]

**Sent:** Monday, November 26, 2012 06:39 AM

**To:** Thompson, Robert; Bown, Charles W.; Taylor, Brian W.

**Subject:** Fw: Ed, I have re drafted the letter to reflect the tone that I would recommend. Happy to discuss in the morning. I will delay my flight to Toronto so as to be available. Jim Prentice

Fyi - response from Jim P

Ed

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**From:** "Prentice, Jim" [Jim.Prentice@cibc.com]

**Sent:** 11/26/2012 03:16 AM EST

**To:** Ed Martin; James Meaney; Derrick Sturge; Auburn Warren; "Hay, David - Investment Banking" <David.Hay@cibc.com>; "Inskip, Cliff - Debt Capital Markets" <Cliff.Inskip@cibc.com>; "Dean, Adam" <Adam.Dean@cibc.com>

**Subject:** Ed, I have re drafted the letter to reflect the tone that I would recommend. Happy to discuss in the morning. I will delay my flight to Toronto so as to be available. Jim Prentice

Re: The Concurrent Sanction of the Nalcor Lower Churchill Projects with Emera's Maritime Link Project

Dear Mr. -----,

We are writing to advise you of the progress that we have made in fulfilling the requirements of the November 19, 2012 draft 'Agreement Providing Key Terms and Conditions for the Federal Loan Guarantee for the Financing Debt of the Lower Churchill River Project (the "Draft FLG Term Sheet")'.

We have been working with our legal counsel and our financial advisors in an effort to ensure that all issues arising from the November 19, 2012 draft have been satisfactorily resolved. Notwithstanding some of the drafting challenges, we believe that we can finalize matters over the next several days, so that the Prime Minister can travel to Atlantic Canada later this week for the proposed announcement.

As we understand the situation, four issues remain. Three of them are drafting issues which we anticipate will be resolved through the efforts of our negotiators.

Specifically, Canada has indicated its willingness to address in a constructive way the outstanding issues in the Draft FLG Term Sheet with respect to :

- (a) the aboriginal condition precedent ;
- (b) the environmental condition precedent ;
- (c) and the implementation of full credit substitution.

These drafting issues were identified by Nalcor in its response of November 24, 2012 and by Emera in its response of. November [], 2012.

We are confident that these drafting issues can be resolved over the next 24 hours.

The remaining issue relates to how we can best implement Canada's position that there be 'one Project and one Guarantee'. We agree with Canada's position that there need be only one guarantee but we have but have been working with our lawyers and financial advisers to find a way to action that requirement, given the financing reality that the Project actually consists of four separate construction phases that will be financed and constructed sequentially, not simultaneously.

To this point, Canada has insisted the best way to proceed is to insist that our two companies commit to simultaneous financial closings for all

four phases of the Projects before any Federal Loan Guarantee will be issued for any of the phases. The objective, as we understand it, has been to have only one Guarantee for the entire project.

Our two companies fully agree with Canada's desire to ensure that this Project is one which is of 'national and regional significance' and we wish to be responsive to the importance that Canada has placed on seeing all four phases of this Project built. We share that desire. To that end, we have been working with our lawyers and financial advisers to provide Canada with the assurance you require, while enabling the construction schedule we have committed to.

We are therefore pleased to advise that both Nalcor and Emera have now agreed to a 'joint' or simultaneous sanctioning of the component Projects, with the result that they will become a single Project (the "Single Project") with staged construction.

There will be only one Federal Loan Guarantee and it will be drawn upon as each component part of the Project is ready to proceed to close its financing. All of the conditions precedent to the Federal Loan Guarantee will pertain as the Guarantee is drawn upon for financing purposes by the financial institutions providing the financing.

Our financial advisers have also prepared the required Financing Structure and Transaction Structure.

In this way, each component of the Single Project can be constructed in their proper sequence, with the required financial closings and the application of the Federal Loan Guarantee that pertains to them. In this manner, the specific content and conditions of a single overarching federal Loan Guarantee would be fully respected.

This approach is fully consistent with both Canada's objectives and those of the Project Proponents and in our view it can be effected with a clarification to Article 3.5 of the Draft FLG Term Sheet. The current draft of that provision, imposes on both Nalcor and Emera, a condition to the issuance of the Federal Loan Guarantee which pertains to each component of the Lower Churchill River Project. It seems to require not only that both sides Sanction their respective projects but also that both sides achieve 'financial close' before any project receives its Federal Loan Guarantee. Unfortunately that structure doesn't mirror the actual financing and construction requirements.

The current version of Article 3.5 requires some re drafting in any event because it is circular and says in effect, that the FLG cannot be signed until all of the conditions precedent have been met, yet one of the conditions precedent is the signing of the FLG.

Both Nalcor and Emera intend to jointly sanction their respective projects this week, allowing for the Prime Minister's announcement to proceed. We will, in effect, be creating the Single Project, and in our view, Canada's objective of providing a single Federal Loan Guarantee for a single regional project will have been achieved.

Our legal and financial advisers have recommended this approach on the basis that it is consistent with normal financing practice for a project of this nature and with this schedule. The alternative approach, namely, requiring each proponent of the Project to not only sanction but to also commit to enormous expenditures in developing its portion of the Project without being able to draw upon the Federal Loan Guarantee for their portion of the Project would in effect, nullify the effect of having the Guarantee at all.

We do not believe that this was Canada's intention and frankly, it puts the project at risk since the Proponents cannot draw upon the guarantee as and when the construction schedule requires.

We would therefore respectfully suggest that Section 3.5 of the Draft FLG Term Sheet be modified to provide that once the joint Sanction by Nalcor and Emera is announced, the conditions precedent pertaining to the issuance of the Federal Loan Guarantee for the component parts of the Single Project belonging to Emera not constitute a condition precedent for the issuance of the Federal Loan Guarantee of the component parts of the Single Project belonging to Nalcor and vice versa.

In conclusion, we recognize that both Canada and our region will benefit greatly from the Project and time being of the essence, we are both ready to immediately proceed with Sanction and the Federal Loan Guarantee based on our solution provided to you above.

We are available to discuss any aspect of our request at your earliest possible convenience and will bring our financial advisers as required.

Sincerely yours,

NALCOR ENERGY. EMERA INC.

Per: Per:

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**From:** EMartin@nalcorenergy.com [mailto:EMartin@nalcorenergy.com]

**Sent:** Monday, November 26, 2012 01:16 AM

**To:** James Meaney <JamesMeaney@nalcorenergy.com>; DSturge@nalcorenergy.com <DSturge@nalcorenergy.com>; Auburn Warren <AuburnWarren@nalcorenergy.com>; Hay, David - Investment Banking; Prentice, Jim; Inskip, Cliff - Debt Capital Markets; Dean, Adam; emartin@nalcorenergy.com <emartin@nalcorenergy.com>

**Subject:** Fw: Letter

Jim,  
Attached letter for review and comment. Still trying to balance seriousness of the situation with a solution based tone. Could use some feedback on this. We will get more feedback from the government tomorrow, and could be changes. Comments welcomed this evening - I am signing off for tonight, will connect early tomorrow to follow up.  
Ed

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**From:** Edmund Martin [ed.martin@ ]  
**Sent:** 11/26/2012 02:38 AM NST  
**To:** Ed Martin  
**Subject:** Letter