



Hydro Place, 500 Columbus Drive.  
P.O. Box 12800, St. John's, NL  
Canada A1B 0C9  
t. 709.737.1440 f. 709.737.1800  
nalcorenergy.com

April 18, 2018

VIA EMAIL

Attention: [REDACTED]

Dear [REDACTED]

Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act, 2015* (File #: PB/242/2018)

On March 19, 2018 Nalcor Energy received your request for access to the following records/information:

*On August 25, 2016 Nalcor provided the following response to my question: Q. Has Nalcor assumed that government's invested "equity" will remain invested for the life of the project? Reply from Nalcor: "No, as cash is available annually it is distributed to the Province as a dividend. These dividends would incorporate the return of and the return on equity. At the end of the current contractual arrangements, the equity invested will have been fully refunded to the Province."*

*Please provide the following information:*

- 1. A schedule showing all cash equity contributions by year, past years and up to full power at Muskrat Falls, for each of the Labrador Island Link, Muskrat Falls generation and Labrador Transmission assets, by each of Emera and the government of NL.*
- 2. A similar schedule showing all non-cash contributions by year, past years and up to full power, for each of the LIL, MF and LTA, by each of Emera and the government of NL.*
- 3. A schedule showing separately a) projected return on equity and b) return of equity, by year, from 2021-70, for each of the LIL, MF and the LTA for each of Emera and the government of NL.*
- 4. Allocation of the \$2.6 billion in financing costs among each of the LIL, MF and LTA.*
- 5. The value of AFUDC on generation assets (each of MF and LTA) if cost of service financing were used instead of levelized unit energy costs (LUEC).*

6. In the quote above when will the "current contractual arrangements" come to an end?

7. What are the differences between the province's entitlement to a return on equity for equity invested in the LIL compared with the province's return on equity in generation assets?

8. What are the differences between the province's entitlement to a return on equity for equity invested in the LIL compared with Emera's return on equity in the LIL or is the return the same? Is Emera's return "guaranteed"? Is the province's return also "guaranteed" or simply "allowed"?

9. The source from which Nalcor will return equity to the province, whether through depreciation allowances, the issue of additional debt or replacement of provincial equity with equity from private sources.

10. Is Nalcor obligated to "guarantee", as contrasted with "allowing" a utility rate of return, on Emera's investment in the LIL?

11. If so, is Nalcor required to offset any corporate income tax payments which Emera must pay on its equity return in the LIL? What will be the cost to Nalcor in each year from 2012-2070 arising from such offsetting payments?

Nalcor's July 18, 2011 presentation to the PUB at <http://www.pub.nl.ca/applications/MuskratFalls2011/files/presentation/Nalcor-ProjectOverview-July18-11.pdf> page 37, indicates that Emera's investment in the LIL was intended to represent 29% of total equity. There was an expectation that Emera's share in the LIL would be 29% and that Emera was entitled to own 49% of the equity in the Lower Churchill Project transmission assets. On December 15, 2017 Nalcor advised me that Emera's share will be "in the range of 60%" based on \$600 million invested in direct costs.

12. Please reconcile the 29% with the current 60% of direct costs and advise how these percentages are affected by financing costs.

13. What will be Emera's share of Lower Churchill Project transmission assets? Will they continue to be 49%?

The following is taken from the 2010 Term Sheet, Appendix D, section 2j:

"Emera will create an NL regulated utility, and that NL utility will hold the Additional Investment Asset and will file rate and budget requests with the Board of Commissioners of Public Utilities. The Formal Agreements shall provide Emera with a capital structure and return on equity equal

to that approved by the Board of Commissioners of Public Utilities for privately owned regulated electrical utilities.”

14. Has Emera created an NL regulated utility? If so has it filed rate and budget requests with the PUB?

The following is taken from 5.12 of the NL Development Agreement:

5:12: “Nalcor shall use commercially reasonable efforts to cause the Partnership to be a public utility regulated by the PUB or other Authorized Authority allowed to recover costs associated with the LIL on a cost of service basis.”

15. What steps have been taken to cause the Partnership to become a regulated public utility?

With respect to items 1, 2, and 4, please see the attached information. Nalcor has no responsive records for items 3(b), 5 and 14.

With respect to item 3(a), Nalcor does not track the information specifically as you have requested, however, the equity returns included in the revenue requirement for each of LIL, MF and LTA for Emera and Nalcor can be calculated based on Table 4 provided in PB/651/2017 and the table provided in PB/740/2017 which are attached hereto.

Item 6 is also addressed in the PPA, the TFA and the LIL Lease. These agreements can be found at:

[http://muskratfalls.nalcorenergy.com/wp-content/uploads/2013/03/Transmission-Funding-Agreement\\_29Nov2013.pdf](http://muskratfalls.nalcorenergy.com/wp-content/uploads/2013/03/Transmission-Funding-Agreement_29Nov2013.pdf)

[http://muskratfalls.nalcorenergy.com/wp-content/uploads/2013/03/LIL-Lease\\_29Nov2013.pdf](http://muskratfalls.nalcorenergy.com/wp-content/uploads/2013/03/LIL-Lease_29Nov2013.pdf)

[http://muskratfalls.nalcorenergy.com/wp-content/uploads/2013/03/Power-Purchase-Agreement\\_29Nov2013.pdf](http://muskratfalls.nalcorenergy.com/wp-content/uploads/2013/03/Power-Purchase-Agreement_29Nov2013.pdf)

Item 7 is addressed on page 13 of the September 2017 Oversight Committee report and the PPA, the TFA and the LIL Lease. The Oversight Committee report can be found at:

[https://www.gov.nl.ca/mfoversight/pdf/quarterly\\_report\\_sept\\_2017.pdf](https://www.gov.nl.ca/mfoversight/pdf/quarterly_report_sept_2017.pdf)

With respect to items 8 and 10, please refer to the definition of "RROE" which is specifically addressed in Section 3.9 of both the LIL Lease and the Transmission Funding Agreement (TFA).



Item 9 is also addressed in the LIL Lease, the TFA and the Power Purchase Agreement. The source of the equity return is found in these agreements.

With respect to item 11, please see attached "LIL PA Deal Summary". This record has been provided in part. Redactions have been made in accordance with section 29(1)(a), as it reveals advice with respect to risk exposure under the agreement. With respect to the second question posed in item 11, Nalcor has no responsive records.

Regarding items 12 and 13, these are addressed in the attached "NLDA Deal Summary". This record has been provided in part. Redactions have been made in accordance with section 29(1)(a), as it reveals advice with respect to risk exposure under the agreement.

Nalcor Energy has full control of the Labrador-Island Link (LIL) and will also own 100% of the transmission rights of that link. Emera Inc. is an investor in this transmission asset providing equity funding in the form of partnership capital account contributions to the LIL Limited Partnership (LIL LP).

Under the LIL arrangements with Emera, as outlined in the Newfoundland and Labrador Development Agreement and LIL Limited Partnership Agreement (available on the Muskrat Falls website), Nalcor and Emera are each entitled to contribute a portion of the equity capital required to fund LIL construction costs along with the debt guaranteed by the Government of Canada.

<http://muskratfalls.nalcorenergy.com/wp-content/uploads/2013/03/07-NL-Development-Agreement-Execution-Copy-July-31-14.pdf>

<http://muskratfalls.nalcorenergy.com/wp-content/uploads/2017/03/11-LIL-Limited-Partnership-Agreement-Execution-Copy-July-31-12.pdf>

As outlined in these agreements, the percentage of the LIL LP capital account that Emera is permitted to contribute will vary over the period of LIL construction from Muskrat Falls Project sanction in December 2012, following financial close in December 2013, and through to final completion and in service of the LIL project.

It is estimated that Emera's contributions will represent approximately \$0.6B or 51% of the LIL LP capital account upon completion of LIL. This is based on: 1) the cost of LIL included in the \$10.1B project estimate from June 2017; 2) Emera's current estimate of \$1.6B for the Maritime Link; and 3) total debt of \$7.9B for the Muskrat Falls generation project, Labrador Transmission Assets (transmission line from Churchill Falls to Muskrat Falls), and LIL that benefits from a federal loan guarantee from the Government of Canada.

With respect to item 15, under the MF Project Exemption Order (<http://www.assembly.nl.ca/Legislation/sr/regulations/rc130120.htm>) the MF, LIL and LTA



entities are designated as public utilities (see Section 3), but they are then exempted from PUB oversight within the Order and related Orders in Council OC2013-341, OC2013-342 and OC2013-343 dated 29-Nov-2013. The text of these orders is available at: <http://www.exec-oic.gov.nl.ca/>

This letter will be published following a 72 hour period after it is sent electronically to you or five business days in the case where the letter has been mailed to you. It is the goal to have the responsive records posted to Nalcor Energy's website within one business day following the applicable period of time.

You may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the *Access to Information and Protection of Privacy Act* (the Act) (a copy of this section of the Act has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner is as follows:

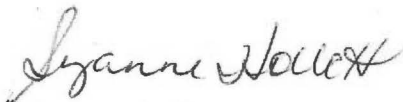
Office of the Information and Privacy Commissioner  
2 Canada Drive  
P. O. Box 13004, Stn. A  
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309  
Toll-Free: 1-877-729-6309  
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section of the Act has also been enclosed for your reference).

If you have any further questions, please feel free to contact the undersigned by telephone at (709) 737-1284 or by e-mail at [suzannehollett@nalcorenergy.com](mailto:suzannehollett@nalcorenergy.com).

Sincerely,



Suzanne Hollett  
Access and Privacy Officer

**Access or correction complaint**

42.(1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

**Direct appeal to Trial Division by an applicant**

52.(1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).





Response to March 19, 2018 ATIPPA  
Information as at June 2017 LCP Cost Update  
Dollars in Millions

Q1. A schedule showing all cash equity contributions by year, past years and up to full power at Muskrat Falls, for each of the Labrador Island Link, Muskrat Falls generation and Labrador Transmission assets, by each of Emera and the government of NL.

<u>Muskrat Falls</u>	2012 (1)	2013	2014	2015	2016	2017	2018	2019	2020	Total
Nalcor	189	427	68	296	366	618	561	398	(186)	2,736
Emera	-	-	-	-	-	-	-	-	-	-
Total	189	427	68	296	366	618	561	398	(186)	2,736

<u>Labrador Transmission Assets</u>	2012 (1)	2013	2014	2015	2016	2017	2018	2019	2020	Total
Nalcor	29	64	43	77	64	32	20	19	81	428
Emera	-	-	-	-	-	-	-	-	-	-
Total	29	64	43	77	64	32	20	19	81	428

<u>Labrador Island Link</u>	2012 (1)	2013	2014	2015	2016	2017	2018	2019	2020	Total
Nalcor	106	0	60	172	53	193	121	123	(260)	568
Emera	-	68	-	118	168	55	-	-	238	647
Total	106	68	60	291	221	248	121	123	(22)	1,215

<u>Total LCP</u>	2012 (1)	2013	2014	2015	2016	2017	2018	2019	2020	Total
Nalcor	323	491	171	545	483	843	702	540	(364)	3,733
Emera	-	68	-	118	168	55	-	-	238	647
Total	323	558	171	664	651	898	702	540	(127)	4,380

(1) - 2012 amounts include all in-kind contributions for project related costs incurred by Nalcor up to Project Sanction.

Q2. A similar schedule showing all non-cash contributions by year, past years and up to full power, for each of the LIL, MF and LTA, by each of Emera and the government of NL.

<u>Muskrat Falls</u>	2012	2013	2014	2015	2016	2017	2018	2019	2020	Total
Nalcor	-	-	-	-	-	-	-	-	-	-
Emera	-	-	-	-	-	-	-	-	-	-
Total	-	-	-	-	-	-	-	-	-	-

<u>Labrador Transmission Assets</u>	2012	2013	2014	2015	2016	2017	2018	2019	2020	Total
Nalcor	-	-	-	-	-	-	-	-	-	-
Emera	-	-	-	-	-	-	-	-	-	-
Total	-	-	-	-	-	-	-	-	-	-

<u>Labrador Island Link</u>	2012	2013	2014	2015	2016	2017	2018	2019	2020	Total
Nalcor	17	11	12	13	15	27	45	53	45	237
Emera	-	5	6	10	24	37	42	45	32	201
Total	17	16	18	22	39	64	87	98	78	439

<u>Total LCP</u>	2012	2013	2014	2015	2016	2017	2018	2019	2020	Total
Nalcor	17	11	12	13	15	27	45	53	45	237
Emera	-	5	6	10	24	37	42	45	32	201
Total	17	16	18	22	39	64	87	98	78	439

Q4. Allocation of the \$2.6 billion in financing costs among each of the LIL, MF and LTA.

	MF	LTA	LIL	Total
Gross Interest	667	177	723	1,568
Interest Earned	(88)	(23)	(85)	(195)
AFUDC	-	-	439	439
	579	155	1,077	1,811
Soft Costs	46	10	37	93
Other Financing Costs	73	16	6	95
Financing Reserves	193	47	103	343
TTO/Pre-Commissioning Costs	65	37	157	259
	377	110	303	790
	956	265	1,380	2,602





Response provided in PB/651/2017

Table 4: Nalcor Energy's Projection of Revenue Requirement - Labrador-Island Link, Muskrat Falls, Muskrat Falls-Churchill Falls Transmission Link (\$000)

	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
<b>LIL<sup>1</sup></b>										
Return on Equity	136,854	134,931	132,991	131,416	129,108	127,163	125,219	123,618	121,327	119,379
O&M <sup>2</sup>	60,468	62,010	63,591	65,212	66,875	68,581	70,329	72,123	76,666	75,848
Depreciation	99,900	99,900	99,900	99,900	99,900	99,900	99,900	99,900	99,900	99,900
Interest	119,467	117,266	115,050	112,652	110,247	108,062	105,754	103,471	101,351	99,017
	416,689	414,107	411,532	409,180	406,130	403,706	401,202	399,112	399,244	394,144
<b>Muskrat<sup>1</sup></b>										
Return on Equity	15,431	31,908	39,070	58,159	80,648	114,404	139,586	163,579	191,141	217,899
O&M <sup>2</sup>	40,650	41,628	42,630	43,658	44,712	45,793	46,901	47,772	48,364	49,559
Innu	5,838	5,961	6,075	6,075	6,075	6,075	6,075	6,075	6,075	6,075
Water Power Rental	15,614	15,942	16,277	16,619	16,968	17,324	17,688	18,059	18,438	18,826
Depreciation	124,014	124,014	124,014	124,014	124,014	124,014	124,014	124,014	124,014	124,014
Interest	123,392	120,949	118,458	115,825	113,071	110,401	107,550	104,596	99,064	94,462
	324,939	340,402	346,524	364,350	385,487	418,010	441,813	464,095	487,096	510,835
<b>LTA<sup>1</sup></b>										
Return on Equity	(763)	2,136	3,264	2,411	12,009	16,994	21,020	25,182	29,962	34,664
O&M <sup>2</sup>	21,645	22,187	22,743	23,313	23,897	24,496	25,111	25,741	26,387	27,050
Depreciation	21,934	21,934	21,934	21,934	21,934	21,934	21,934	21,934	21,934	21,934
Interest	24,126	23,646	23,155	22,645	22,092	21,569	21,009	20,426	19,344	18,461
	66,943	69,904	71,097	70,303	79,932	84,994	89,074	93,284	97,628	102,109

<sup>1</sup> Details provided for complete years during the 50 year term.<sup>2</sup> O&M includes an allowance for Sustaining Capital.

Table 4: Nalcor Energy's Projection of Revenue Requirement - Labrador-Island Link, Muskrat Falls, Muskrat Falls-Churchill Falls Transmission Link (\$000)

	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040
<b>LIL<sup>1</sup></b>										
Return on Equity	117,430	115,804	113,608	110,885	107,200	104,899	102,008	99,411	96,814	94,483
O&M 2	77,782	79,766	83,015	85,132	87,302	89,529	90,468	101,871	141,564	145,373
Depreciation	99,900	99,900	99,900	99,900	99,900	99,900	99,900	99,900	99,900	99,900
Interest	96,576	94,355	89,448	85,716	84,098	82,166	80,565	78,863	76,939	75,010
	<u>391,688</u>	<u>389,825</u>	<u>385,971</u>	<u>381,633</u>	<u>378,500</u>	<u>376,494</u>	<u>372,941</u>	<u>380,045</u>	<u>415,217</u>	<u>414,766</u>
<b>Muskrat<sup>1</sup></b>										
Return on Equity	242,374	269,493	297,430	326,242	355,909	386,456	419,854	453,655	487,055	521,432
O&M 2	50,785	52,042	53,332	54,654	56,010	57,400	59,239	69,299	66,645	68,280
Innu	6,075	6,075	6,075	6,075	6,075	6,075	6,075	6,075	6,075	6,075
Water Power Rental	19,221	19,625	20,037	20,457	20,887	21,326	21,774	22,231	22,698	23,174
Depreciation	124,014	124,014	124,014	124,014	124,014	124,014	124,014	124,014	124,014	124,014
Interest	92,862	89,360	85,799	82,145	78,438	74,676	68,911	63,614	59,612	55,552
	<u>535,332</u>	<u>560,609</u>	<u>586,687</u>	<u>613,587</u>	<u>641,333</u>	<u>669,947</u>	<u>699,867</u>	<u>738,888</u>	<u>766,099</u>	<u>798,527</u>
<b>LTA<sup>1</sup></b>										
Return on Equity	38,873	43,627	48,524	53,573	58,771	64,122	70,011	75,958	81,806	87,824
O&M 2	27,730	28,427	29,142	29,875	30,626	31,397	32,188	33,550	42,464	43,489
Depreciation	21,934	21,934	21,934	21,934	21,934	21,934	21,934	21,934	21,934	21,934
Interest	18,194	17,509	16,813	16,099	15,375	14,640	13,513	12,477	11,695	10,902
	<u>106,730</u>	<u>111,497</u>	<u>116,413</u>	<u>121,481</u>	<u>126,706</u>	<u>132,093</u>	<u>137,645</u>	<u>143,919</u>	<u>157,900</u>	<u>164,149</u>

<sup>1</sup> Details provided for complete years during the 50 year term.<sup>2</sup> O&M includes an allowance for Sustaining Capital.

Table 4: Nalcor Energy's Projection of Revenue Requirement - Labrador-Island Link, Muskrat Falls, Muskrat Falls-Churchill Falls Transmission Link (\$'000)

	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050
<b>LIL<sup>1</sup></b>										
Return on Equity	91,619	89,021	86,423	84,062	81,227	78,678	75,333	72,731	69,909	67,293
O&M 2	149,047	152,749	156,437	160,165	163,810	167,521	171,101	174,847	178,587	182,406
Depreciation	99,900	99,900	99,900	99,900	99,900	99,900	99,900	99,900	99,900	99,900
Interest	73,079	71,238	69,368	67,435	64,874	56,196	54,547	52,727	50,884	49,041
	<u>413,645</u>	<u>412,908</u>	<u>412,128</u>	<u>411,562</u>	<u>409,811</u>	<u>402,295</u>	<u>400,881</u>	<u>400,205</u>	<u>399,280</u>	<u>398,640</u>
<b>Muskrat<sup>1</sup></b>										
Return on Equity	565,914	584,891	604,222	623,958	643,974	664,475	685,306	707,709	739,794	759,474
O&M 2	69,956	71,674	73,436	75,242	77,093	78,991	80,937	82,931	84,976	87,073
Innu	6,075	6,075	6,075	6,075	6,075	6,075	6,075	6,075	6,075	6,075
Water Power Rental	23,661	24,158	24,665	25,183	25,712	26,252	26,803	27,366	27,941	28,527
Depreciation	124,014	124,014	124,014	124,014	124,014	124,014	124,014	124,014	124,014	124,014
Interest	51,416	47,295	43,119	38,863	34,546	30,169	25,741	20,069	5,049	2,776
	<u>841,036</u>	<u>858,108</u>	<u>875,530</u>	<u>893,334</u>	<u>911,414</u>	<u>929,976</u>	<u>948,876</u>	<u>968,164</u>	<u>987,849</u>	<u>1,007,940</u>
<b>LTA<sup>1</sup></b>										
Return on Equity	95,585	98,950	102,379	105,879	109,428	113,063	116,755	120,756	126,628	130,071
O&M 2	44,540	45,616	46,719	47,848	49,006	50,192	51,407	52,652	53,928	55,235
Depreciation	21,934	21,934	21,934	21,934	21,934	21,934	21,934	21,934	21,934	21,934
Interest	10,094	9,289	8,472	7,639	6,795	5,939	5,073	3,956	1,025	581
	<u>172,153</u>	<u>175,789</u>	<u>179,503</u>	<u>183,301</u>	<u>187,164</u>	<u>191,128</u>	<u>195,170</u>	<u>199,299</u>	<u>203,515</u>	<u>207,822</u>

<sup>1</sup> Details provided for complete years during the 50 year term.<sup>2</sup> O&M Includes an allowance for Sustaining Capital.



Table 4: Nalcor Energy's Projection of Revenue Requirement - Labrador-Island Link, Muskrat Falls, Muskrat Falls-Churchill Falls Transmission Link (\$000)

	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060
<b>LIL <sup>1</sup></b>										
Return on Equity	64,676	62,236	59,444	56,832	51,370	47,940	45,122	41,454	38,482	35,941
O&M 2	186,272	190,224	194,178	198,273	201,845	205,873	210,101	214,248	218,616	223,159
Depreciation	99,900	99,900	99,957	100,246	100,246	100,246	100,259	100,265	100,265	100,265
Interest	47,195	45,349	44,805	56,662	53,530	49,763	51,179	50,966	46,411	41,836
	<u>398,043</u>	<u>397,709</u>	<u>398,384</u>	<u>412,013</u>	<u>406,991</u>	<u>403,822</u>	<u>406,661</u>	<u>406,933</u>	<u>403,774</u>	<u>401,201</u>
<b>Muskrat <sup>1</sup></b>										
Return on Equity	779,571	800,472	819,794	838,670	965,578	997,208	1,029,668	1,062,978	1,097,158	1,132,232
O&M 2	89,222	90,559	92,200	94,516	96,890	99,324	101,819	104,377	107,000	109,689
Innu	25,193	45,781	46,741	47,676	53,524	55,487	57,094	58,743	60,435	62,171
Water Power Rental	29,127	29,738	30,363	31,000	31,651	32,316	32,995	33,688	34,395	35,117
Depreciation	124,014	124,014	124,014	124,014	124,014	124,014	124,014	124,014	124,014	124,014
Interest	434	(1,491)	(1,722)	(1,756)	(1,988)	(2,045)	(2,105)	(2,165)	(2,228)	(2,292)
	<u>1,047,560</u>	<u>1,089,074</u>	<u>1,111,389</u>	<u>1,134,119</u>	<u>1,269,669</u>	<u>1,306,304</u>	<u>1,343,485</u>	<u>1,381,634</u>	<u>1,420,774</u>	<u>1,460,931</u>
<b>LTA <sup>1</sup></b>										
Return on Equity	133,589	137,321	140,710	143,962	165,832	171,283	176,877	182,617	188,507	194,551
O&M 2	56,575	57,716	58,957	60,397	61,873	63,386	64,936	66,524	68,151	69,818
Depreciation	21,934	21,934	21,934	21,934	21,934	21,934	21,934	21,934	21,934	21,934
Interest	124	(257)	(297)	(303)	(343)	(352)	(363)	(373)	(384)	(395)
	<u>212,221</u>	<u>216,714</u>	<u>221,304</u>	<u>225,991</u>	<u>249,297</u>	<u>256,251</u>	<u>263,384</u>	<u>270,702</u>	<u>278,208</u>	<u>285,909</u>

<sup>1</sup> Details provided for complete years during the 50 year term.<sup>2</sup> O&M includes an allowance for Sustaining Capital.

Table 4: Nalcor Energy's Projection of Revenue Requirement - Labrador-Island Link, Muskrat Falls, Muskrat Falls-Churchill Falls Transmission Link (\$000)

	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070
<b>LIL <sup>1</sup></b>										
Return on Equity	33,172	30,500	27,829	25,232	22,487	19,816	17,145	14,518	10,879	4,325
O&M 2	227,755	232,473	237,297	242,247	247,284	252,455	257,750	263,182	268,556	269,503
Depreciation	100,265	100,265	100,265	100,265	100,265	100,265	100,265	100,265	100,265	79,033
Interest	37,245	32,655	28,064	23,474	18,884	14,293	9,703	5,112	1,515	145
	<u>398,437</u>	<u>395,893</u>	<u>393,455</u>	<u>391,218</u>	<u>388,920</u>	<u>386,829</u>	<u>384,863</u>	<u>383,077</u>	<u>381,215</u>	<u>353,006</u>
<b>Muskrat <sup>1</sup></b>										
Return on Equity	1,168,219	1,205,144	1,243,028	1,281,897	1,321,773	1,362,682	1,404,649	1,447,700	1,491,862	1,025,027
O&M 2	112,445	115,271	118,169	121,139	124,184	127,306	130,507	133,788	137,153	140,602
Innu	63,952	65,780	67,656	69,580	71,553	73,578	75,656	77,787	79,973	63,134
Water Power Rental	35,855	36,608	37,376	38,161	38,963	39,781	40,616	41,469	42,340	28,820
Depreciation	124,014	124,014	124,014	124,014	124,014	124,014	124,014	124,014	124,014	82,676
Interest	(2,357)	(2,425)	(2,494)	(2,565)	(2,637)	(2,712)	(2,789)	(2,867)	(2,948)	(2,273)
	<u>1,502,128</u>	<u>1,544,392</u>	<u>1,587,749</u>	<u>1,632,226</u>	<u>1,677,850</u>	<u>1,724,649</u>	<u>1,772,654</u>	<u>1,821,891</u>	<u>1,872,394</u>	<u>1,337,984</u>
<b>LTA <sup>1</sup></b>										
Return on Equity	200,753	207,116	213,644	220,342	227,214	234,264	241,496	248,915	256,525	176,265
O&M 2	71,527	73,277	75,071	76,909	78,792	80,722	82,699	84,725	86,802	88,929
Depreciation	21,934	21,934	21,934	21,934	21,934	21,934	21,934	21,934	21,934	14,623
Interest	(406)	(418)	(430)	(442)	(454)	(467)	(481)	(494)	(508)	(392)
	<u>293,807</u>	<u>301,909</u>	<u>310,220</u>	<u>318,744</u>	<u>327,486</u>	<u>336,453</u>	<u>345,649</u>	<u>355,080</u>	<u>364,753</u>	<u>279,425</u>

<sup>1</sup> Details provided for complete years during the 50 year term.<sup>2</sup> O&M includes an allowance for Sustaining Capital.



Response provided in PB/740/2017

Nucor Energy's Projection of LR Return on Equity (\$000)

	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069
Emera ROE	70.177	69.191	68.196	67.189	66.205	65.208	64.211	63.190	62.215	61.216	60.217	59.183	58.257	56.861	54.971	53.791	52.309	50.977	49.645	48.450	46.581	45.649	44.317	43.106	41.652	40.345	38.830	37.296	35.849	34.507	33.165	31.914	30.482	29.143	26.142	24.783	23.138	21.257	19.733	18.430	17.010	15.640	14.270	12.939	11.281	10.161	8.792	7.445	5.579
Nucor ROE	66.677	65.740	64.795	64.027	62.903	61.855	61.008	60.128	59.112	58.163	57.213	56.011	55.351	54.024	52.229	51.108	49.859	48.434	47.165	46.031	44.638	43.372	42.106	40.956	39.575	38.333	36.708	35.415	34.060	32.786	31.501	30.322	28.962	27.680	25.028	23.357	21.984	20.197	18.749	17.511	16.162	14.860	13.550	12.289	10.956	9.655	8.353	7.073	5.300
Total	136.854	134.931	132.991	131.416	129.108	127.163	125.219	123.618	121.927	119.979	117.450	115.804	113.608	110.885	107.300	104.899	102.008	99.411	96.814	94.483	91.619	89.021	86.423	84.062	81.227	78.678	75.333	72.731	69.909	67.293	64.676	62.236	59.644	56.832	51.370	47.940	45.122	41.454	38.482	35.841	33.172	30.500	27.823	25.132	22.487	19.816	17.145	14.518	10.879





**NALCOR/EMERA TRANSACTION****Business Deal Summary:****Newfoundland and Labrador Development Agreement**

**NOTICE TO READER:** This document summarizes the April 23, 2012 draft of the Newfoundland and Labrador Development Agreement. While reasonable efforts have been made to fairly describe material provisions of the draft agreement, the summary is not comprehensive and should not be relied upon as a complete representation of the contents, or as a substitute for thorough review, of the draft agreement.

**CONFIDENTIALITY NOTICE:** This document and the information it contains (i) comprise confidential and commercially sensitive information of Nalcor Energy ("Nalcor") and of Emera Inc. ("Emera"), (ii) must be held in strict confidence by the recipient, (iii) may be used only for the purpose authorized by Nalcor, (iv) may not be copied, distributed or disclosed to any other person by the recipient, in whole or in part, without Nalcor's prior written consent, and (v) must be returned to Nalcor immediately at any time upon Nalcor's request.

**Draft: June 15, 2012**

**Nalcor/Emera Transaction - Business Deal Summary -  
Newfoundland and Labrador Development Agreement**

---

**1. Parties**

The parties to the Newfoundland and Labrador Development Agreement ("NLDA") are Nalcor, Emera, Labrador-Island Link General Partner Corporation ("GP"), Labrador-Island Link Holding Corporation ("Nalcor LP") (both of which, when incorporated, will be wholly-owned subsidiaries of Nalcor) and ENL Island Link Incorporated ("Emera NL") (an indirect wholly-owned subsidiary of Emera).

Nalcor LP and Emera NL will be the limited partners in Labrador-Island Link Limited Partnership ("Partnership"); GP will be the general partner of the Partnership. By their respective parental guarantees, the obligations of Nalcor LP to Emera and Emera NL will be guaranteed by Nalcor; those of Emera NL to Nalcor and Nalcor LP will be guaranteed by Emera.

The NLDA may be assigned to affiliates of Nalcor and/or Emera if required for structuring of the transaction using a prescribed form of assignment attached to the NLDA. Nalcor and Emera will remain fully liable for performance of the agreement by their affiliates.

**2. General Description of the NLDA**

In general terms, the NLDA: establishes the Joint Development Committee ("JDC-NL") for the non-Maritime Link ("ML") assets and confirms the ownership structure that applies to them; provides the mechanics related to the funding of the Labrador-Island Link ("LIL") and Emera's ownership interest in it (through Emera NL's participation in the Partnership). The NLDA establishes the capital structure and rate of return for Emera in accordance with the term sheet between Nalcor and Emera dated November 18, 2010 ("Term Sheet") as equivalent to that approved by the Newfoundland and Labrador Public Utilities Board ("PUB") or other authorized authority for privately owned regulated electrical utilities; and it provides Nalcor rights to acquire Emera NL's partnership interest in various circumstances.

Nalcor is to own and be responsible for the development of the Muskrat Falls Plant ("MFP") and the Labrador Transmission Assets ("LTA"). The LIL will be developed by Nalcor and owned 100% by the Partnership.

Nalcor is responsible for LIL cost overruns not approved by the PUB for inclusion in the capital costs of the LIL. Nalcor LP will be issued one Class C Limited Unit for each dollar contributed in respect of a non-PUB approved cost overrun. All other cost overruns will be paid by Nalcor and Emera proportionate to their ownership interest in the Partnership.

The JDC-NL is established to provide a common understanding of project progress and to discuss issues related to development activities on the MFP, the LTA and the LIL. It consists of four representatives from Nalcor and two representatives of Emera; if the representatives have differing views on JDC-NL matters, the position of Nalcor shall prevail.

On formation of the Partnership Nalcor LP receives 75 Class A Limited Units in the Partnership.



**Nalcor/Emera Transaction - Business Deal Summary -  
Newfoundland and Labrador Development Agreement**

---

Until the Partnership is created and begins to function, work on the LIL is being done and expenditures made by Nalcor; the results of this work and expenditures will have to be transferred to the Partnership and such transfer will require the preparation and execution of an Asset Transfer Agreement between Nalcor and the Partnership.

At LIL sanction:

- Emera executes a parental guarantee in favour of Nalcor and Nalcor LP with respect to the obligations of Emera NL under the Labrador-Island Link Limited Partnership Agreement ("LIL LPA"), the NLDA and related agreements;
- Emera NL executes a cross-default indemnity agreement to secure Emera's obligations under the LIL LPA, the NLDA, the New Brunswick Transmission Utilization Agreement ("NB TUA") and the MEPCO Transmission Rights Agreement ("MTRA") via its Partnership distributions;
- Emera NL executes a subscription agreement ("Emera NL Subscription Agreement") and receives 25 Class B Limited Units;
- Emera NL pledges its Class B Limited Units to Nalcor and Nalcor LP during construction to secure the debts and obligations of Emera and Emera NL under the pledge agreement, the NLDA, the Emera NL Subscription Agreement and the LIL LPA;
- Nalcor executes a parental guarantee in favour of Emera and Emera NL and Nalcor LP enters into a cross-default indemnity agreement (mirror of those executed by Emera and Emera NL); and
- The Partnership executes an equity funding agreement obligating Nalcor LP to meet cash calls and procure cash calls from Emera NL proportionate to its ownership interest. The equity funding agreement is as between the Partnership and Nalcor LP to obligate Nalcor LP to make cash calls as requested by the general partner. In accordance with the NLDA, Emera is obligated through a back-to-back arrangement to make its proportionate share of cash calls. This allows Nalcor LP and the Partnership to face the lenders directly without Emera's involvement, minimizing Emera's role in the financing process for the LIL, which is a benefit to both Nalcor and Emera.

**The LIL Funding Process**

Until LIL Sanction Nalcor will fund all LIL costs; the resulting assets will be transferred to the Partnership on or about LIL sanction.

Emera's initial investment obligation in the LIL is equal to 49% of the estimated costs of the LTA, the LIL and the ML (collectively, "Transmission Assets"), less the estimated costs of the ML, all as



**Nalcor/Emera Transaction - Business Deal Summary -  
Newfoundland and Labrador Development Agreement**

---

of the date of sanction of the LIL. Emera NL will invest funds in the Partnership at LIL sanction reflecting this estimated ownership percentage.

Following sanction, funds contributed by Emera as at sanction will be utilized to fund construction, upon the expiration of which funding and until the closing of the construction financing ("Financial Close"), each of Nalcor LP and Emera NL will meet cash calls proportionate to their ownership interest. After Financial Close, all cash requirements are met with advances under the credit facilities to be negotiated with lenders, until the targeted capital structure of the Partnership is achieved. Thereafter, until first commercial power, funding requirements are met with advances under the credit facilities until fully drawn and equity based on the targeted capital structure.

The targeted financial structure: Nalcor LP will advise the GP 90 days prior to Financial Close of the target debt:equity ratio ("DER") it wants to achieve in respect of its investment. Emera NL's target DER will reflect a capital structure equal to the maximum equity component approved by the PUB for privately owned regulated electrical utilities. The weighted average of the Nalcor LP target DER and the Emera NL target DER will be the target DER for the Partnership.

The exact amount of Emera's investment obligation will be recalculated twice after first commercial power of the LIL ("FCP"): (a) on receipt not later than 180 days after FCP of an Interim Cost Report showing actual capital costs of the Transmission Assets to that date and (b) on receipt not later than five years after FCP of a Final Cost Report showing actual capital costs of the Transmission Assets.

After each recalculation Nalcor LP or Emera NL shall contribute to the Partnership (and the Partnership shall return to the other partner as required) such amount of equity as is needed to make Emera's investment in the LIL (including the portion of the Partnership debt attributed to it for the purpose of these calculations) equal to 49% of the actual capital costs of the Transmission Assets (less non-PUB approved cost overruns on the LIL), less the actual capital costs of the ML, all as of the date of FCP of the LIL.

Emera NL shall earn an annual return on equity equal to that approved by the PUB for privately owned regulated electrical utilities. If the Partnership allocations fall short of this, Nalcor will pay the shortfall in accordance with an agreed formula based on regulatory accounting principles approved by the PUB.

**Nalcor Options to Acquire Emera NL's Partnership Interest**

- If the ML is not sanctioned by Nalcor, then Nalcor has the option to acquire Emera NL's Partnership Interest in the Partnership for the amount of its Partnership capital account (i.e. rate base).

**Nalcor/Emera Transaction - Business Deal Summary -  
Newfoundland and Labrador Development Agreement**

---

- At the end of the service life of the LIL, Nalcor has the option to acquire Emera NL's Partnership Interest for \$1.00 plus any sustaining capital not yet recovered in partner distributions.
- At any time, Nalcor may exercise one of several options to cause Emera to retire from the Partnership or to acquire Emera's Partnership Interest (without cause). The option exercised must keep Emera whole in terms of the amounts it would have received as a partner (i.e. equal to the distributions it would have received during the Service Life of the LIL if it had retained its Partnership units).

The Partnership will be the borrower of the construction and long-term financing of the LIL. It will obtain revenue to service its debt, pay its expenses and pay a return to its partners by leasing or licensing the LIL for an annual rent to Labrador-Island Link Operating Corporation ("Opco") for a term of 50 years pursuant to a LIL Assets Agreement. Opco will also be responsible for the payment of all operating and maintenance ("O&M") expenses of the LIL. As a result, Opco (a wholly-owned subsidiary of Nalcor) will own all of the transmission rights in the LIL.

Opco will earn its revenue by making the transmission rights on the LIL available to Newfoundland and Labrador Hydro ("NLH") in consideration of payments sufficient to allow Opco to pay all of its obligations to the Partnership and for O&M.

If Opco determines it is necessary to incur sustaining capital after first commercial power of the LIL, then the LIL LPA will be amended such that Nalcor and Emera will make payments proportionate to their ownership interest in the LIL allowing both Emera and Nalcor to earn a return on their additional investments.

Emera is to provide Nalcor with opportunities to invest in existing assets or future investments being considered by Emera on similar terms and conditions provided to Emera for its investment in the LIL. Emera and Nalcor will meet no less than twice a year to review and discuss such opportunities.

- As discussed in the summary of the LIL LPA, Emera NL will recover from the Partnership taxes applicable to its partnership earnings, taking into account deductions available to Emera NL, if any, related to its financing of its equity interest in the LIL.

**Intellectual Property ("IP")**

Upon payment therefor, the Partnership will own IP resulting from the LIL development activities by Emera, Nalcor or their respective Affiliates ("Partnership Owned IP") and will have sufficient royalty free licences from Emera and Nalcor to use any of their separately developed IP ("Background IP") necessary to use the Partnership Owned IP.



**Nalcor/Emera Transaction - Business Deal Summary -  
Newfoundland and Labrador Development Agreement**

---

The Partnership, Nalcor and Emera grant each other the following royalty free licences to the IP resulting from LIL and LTA development activities and any relevant Background IP: (a) right to use in any of the transmission assets, (b) right to use internally in their own respective businesses and (c) right to sublicense, with the consent of the other parties, to third parties.

Prior to the transfer of the ML to Nalcor, if the Partnership, Nalcor or Emera proposes to license the Partnership Owned IP to a non-affiliated third party, prior consent of the other parties is required, and Nalcor and Emera will share equally until up to 20 years after the transfer date of the ML, in any licensing revenues arising from IP commercialized prior to transfer. Otherwise, the Partnership retains all third party licensing revenue as owner of the IP.

**3. Value of the Commitments and Obligations Contemplated in the NLDA**

Nalcor commitments identified in the NLDA aggregate \$4.4 billion based on current available cost estimates (100% of the cost of the LTA and the MFP, and approximately 70% of the cost of the LIL), plus related financing costs. Although as regards the Partnership Nalcor LP is responsible for 100% of the equity contributions, in the NLDA Emera has committed to Nalcor to fund approximately 30% of the equity of the LIL (\$0.6 billion) based on current available cost estimates.

**4. Description of the Links between the NLDA and the other Elements of the Nalcor – Emera Deal**

**(a) General**

The respective commitments of Nalcor and Emera regarding the funding of the LIL via the Partnership are essential to the development of the LIL, which in turn is an essential feature of the Project, Nalcor's obligation to deliver the Nova Scotia Block to Emera and Nalcor's ability to export through NS, NB and into New England.

**(b) New Brunswick Transmission Utilization Agreement/MEPCO Transmission Rights Agreement**

(i) The additional investment of Emera in the LIL is grouped in a "value block" with the transmission rights Emera is providing to Nalcor pursuant to the NBTUA and the MTRA. As a result, there are a number of cross links between the NLDA and these two transmission agreements. Although the NBTUA and the MTRA are effective on signing, the term during which the transmission rights are available to Nalcor does not start until first commercial power of the ML. Prior to this time, if Emera and any affiliate of Emera are in material compliance with the provisions of the NLDA, and Emera or an affiliate of Emera is not provided with the opportunity to invest in the LIL Partnership, Emera has the right to terminate the NBTUA and the MTRA. In addition, if Emera and any affiliate of Emera are in material compliance with the provisions of the NLDA, and Emera

**Nalcor/Emera Transaction - Business Deal Summary -  
Newfoundland and Labrador Development Agreement**

---

has not yet invested in the ML, Emera has the right to terminate the NLDA if Emera is not satisfied (at LIL sanction) that the LIL Partnership will be a public utility regulated by the PUB or other authorized authority allowing recovery of costs associated with the LIL on a cost of service basis.

- (ii) Emera may also terminate the NBTUA and the MTRA without liability under the NLDA if Nalcor ceases all or a material portion of the LIL development activities for greater than 120 days (unless contemplated by the project schedule or for seasonal interruptions).
- (iii) Schedule 9 – Emera NL Cross Default Indemnity Agreement and Schedule 10 – Nalcor LP Cross Default Indemnity Agreement set forth reciprocal indemnity obligations. Under the Nalcor LP Cross Default Indemnity Agreement, if Nalcor or Nalcor LP is in default of its obligations under the NLDA, the LIL LPA, the Nalcor Equity Funding Agreement (“NEFA”) between Nalcor LP and the Partnership (wherein Nalcor LP agrees to fund 100% of the equity required by the Partnership to achieve first commercial power of the LIL), the NBTUA or the MTRA and has not cured the default within the applicable cure period, Nalcor LP agrees to indemnify Emera for the losses arising from such default. The indemnity obligation and the amount of loss are subject to dispute resolution under the agreement where the default occurred. Once the default and the amount of loss are determined the distributions to which Nalcor LP is entitled under the LIL LPA are directed towards satisfaction of the outstanding amount.

The Emera NL Cross Default Indemnity Agreement sets forth the same process should Emera or Emera NL be in default of its obligations under the NLDA, the LIL LPA, the NBTUA or the MTRA.

The Nalcor Parental Guarantee and the Emera Parental Guarantee guarantee the obligations of their respective affiliates under the Cross Default Indemnity Agreements.

- (iv) After first commercial power of the LIL, Nalcor has the option pursuant to section 5.10(b) of the NLDA to grant to Emera and Emera NL a security interest in the Nalcor LP partnership interest or the distributions to secure its obligations under the NLDA, the LIL LP Agreement, the NEFA and the Nalcor LP Cross Default Indemnity Agreement. On providing such a security interest, Emera is required to provide the same security interest in favour of Nalcor and Nalcor LP to secure the obligations of Emera and Emera NL under the NLDA, the LIL LP Agreement and the Emera NL Cross Default Indemnity Agreement.



**Nalcor/Emera Transaction - Business Deal Summary -  
Newfoundland and Labrador Development Agreement**

---

- (v) If Emera or an affiliate of Emera is in default of its obligations under the NBTUA or the MTRA, and has not cured such default within the applicable time period, there are damages owing to Nalcor, and Nalcor exercises an option to purchase Emera NL's Partnership interest under the NLDA, the purchase price payable by Nalcor or Nalcor LP pursuant to the option is reduced by the amount owing to Nalcor under the NBTUA or the MTRA. If it is Nalcor which is in default of its obligations under the NBTUA or the MTRA, there are damages owing to Emera, and Nalcor exercises an option to purchase Emera NL's Partnership interest under the NLDA, the purchase price increases by the amount owing.
  
- (c) ECA and JOA
  - (i) If Nalcor ceases development activities on the LIL in accordance with the NLDA for a period greater than 120 days (other than as contemplated by the project schedule or a normal seasonal disruption), Emera may require Nalcor to compensate Emera with equivalent energy and capacity as it would have received under the Energy and Capacity Agreement ("ECA") as if the LIL was completed. If the Maritime Link is not completed at the time, Emera is obligated to mitigate its damages by taking commercially reasonable steps to minimize the actual capital costs of the Maritime Link (in effect to stop construction of the Maritime Link and the amount of equivalent energy and capacity Nalcor is required to compensate Emera is tied to the costs incurred to date). Emera may only avail of this remedy if it is in material compliance with its obligations under the ML (Emera) Transmission Service Agreement, the ML (Nalcor) Transmission Service Agreement and the Nova Scotia Transmission Utilization Agreement ("NSTUA").
  
- (d) ML-JDA
 

As noted in section 2 above, in determining the dollar amount of Emera NL's investment in the LIL, knowledge of the capital costs of the ML is required. The actual capital costs of the ML are determined using the cost accounting protocol in the ML-JDA.
  
- (e) LIL LPA
 

The NLDA must be read in conjunction with the LIL LPA as that agreement establishes the structure of the Partnership and how it is managed. It also sets out the rights and privileges of holders of the Partnership Units, including the mechanics for distribution of cash and allocation of income and losses to the partners after first commercial power of the LIL.

**Nalcor/Emera Transaction - Business Deal Summary -  
Newfoundland and Labrador Development Agreement**

---

**5. Obligations and Benefits – Nalcor and Emera**

Nalcor Obligations: construct the LTA, MFP and LIL, including contributing all required funding for the LTA, the MFP and the LIL (Emera's agreement to contribute does not reduce Nalcor's obligation to the Partnership); guarantee the obligations of its subsidiaries.

Emera Obligations: contribute its agreed proportion of the required funding for the LIL including pledging its interest in support of the financing; guarantee the obligations of its subsidiaries.

The NLDA is effective on signing but Emera's obligation to invest in the Partnership does not arise until Nalcor sanctions the LIL.

**6. Risks and Exposures under the NLDA**

**(a) Business Risks to Nalcor**

(i)

s.29(1)(a)

(ii)

In addition, while the entity owning and constructing the LIL is a limited partnership, the GP is a wholly-owned subsidiary of Nalcor as is Nalcor LP. In

(iii)



**Nalcor/Emera Transaction - Business Deal Summary -  
Newfoundland and Labrador Development Agreement**

---

(b) Business Risks to Emera

(i)

(ii)

s.29(1)(a)

(iii)

**7. Identification of any Further Agreements or Arrangements to be Negotiated after Signing the NLDA**

Further agreements will be required to be negotiated with Emera when (i) Nalcor identifies an investment opportunity presented by Emera in which it wishes to participate, (ii) an opportunity to invest in sustaining capital for the LIL arises, or (iii) Nalcor exercises the option to 'buy out' Emera's interest in the Partnership; negotiation of the exact method of effecting that transaction will be then required.

The LIL Assets Agreement (between the Partnership and Opco) has not yet been developed; it is expected to be put in place as part of the documentation of the financing of the LIL prior to December 31, 2012. Similarly, an agreement between Opco and NLH making transmission rights over the LIL available to NLH in consideration of payments sufficient to allow Opco to pay all of its obligations to the Partnership and for O&M must be developed.

Until the Partnership is created and begins to function, work on the LIL is being done and expenditures made by Nalcor; the results of this work and expenditures will have to be transferred to the Partnership and such transfer will require the preparation and execution of an Asset Transfer Agreement between Nalcor and the Partnership.

**8. Material Variations from Term Sheet**

- (a) Financing Arrangements - There are no financing arrangements reflected in the Formal Agreements as no such arrangements are yet in place. [TS 4(d); NLDA 2.5(c)]

**Nalcor/Emera Transaction - Business Deal Summary -  
Newfoundland and Labrador Development Agreement**

---

- (b) Ownership of LIL - The Labrador-Island Link will be owned by the LIL Limited Partnership. [TS App D 2(c); NLDA 2.2]
- (c) Nalcor Continuing Option - Nalcor can exercise its continuing option to acquire Emera's Partnership Interest in a variety of ways provided that the principles set out in 5.15(c)(ii) are met. [TS App D 2.2(e)(ii); NLDA 5.15(c)]
- (d) Emera Holding Entity - Parties agreed the LIL Limited Partnership will be the regulated entity. Emera has incorporated a NL corporation to hold the Additional Investment as a limited partner. Permanent establishment of Emera LP is defined in LIL-LPA, definition of "Qualified Partner". [TS App D 2(f)]





## **NALCOR/EMERA TRANSACTION**

### **Business Deal Summary:**

#### **Labrador-Island Link Limited Partnership Agreement**

**NOTICE TO READER:** This document summarizes the April 23, 2012 draft of the Labrador-Island Link Limited Partnership Agreement between Labrador-Island Link General Partner Corporation, as general partner and Labrador-Island Link Holding Corporation, as initial limited partner. While reasonable efforts have been made to fairly describe material provisions of the draft agreement, the summary is not comprehensive and should not be relied upon as a complete representation of the contents, or as a substitute for thorough review, of the draft agreement.

**CONFIDENTIALITY NOTICE:** This document and the information it contains (i) comprise confidential and commercially sensitive information of Nalcor Energy ("Nalcor") and of Emera Inc. ("Emera"), (ii) must be held in strict confidence by the recipient, (iii) may be used only for the purpose authorized by Nalcor, (iv) may not be copied, distributed or disclosed to any other person by the recipient, in whole or in part, without Nalcor's prior written consent, and (v) must be returned to Nalcor immediately at any time upon Nalcor's request

**Nalcor/Emera Transaction - Business Deal Summary -  
Labrador-Island Link Limited Partnership Agreement**

---

**1. Parties**

The parties to the Labrador-Island Link Limited Partnership Agreement ("LIL LPA") are Labrador-Island Link General Partner Corporation ("GP"), as general partner and Labrador-Island Link Holding Corporation ("Nalcor LP"), as initial limited partner. Both of these corporations are wholly-owned subsidiaries of Nalcor. The agreement provides for other persons who are admitted to the Labrador-Island Link Limited Partnership ("Partnership") as a partner in accordance with the provisions of the agreement to become parties to the agreement upon admission.

**2. General Description of the LIL LPA**

The LIL LPA establishes the structure for the Partnership and how the Partnership is managed. It provides the mechanics for distributions of cash and allocations of income and losses to the partners after first commercial power of the Labrador-Island Link ("LIL") is achieved.

The Partnership will be the borrower of the construction and long-term financing of the LIL. It will obtain revenue to service its debt, pay its expenses and pay a return to its partners by leasing or licensing the LIL for an annual rent to Labrador-Island Link Operating Corporation, a wholly-owned subsidiary of Nalcor ("Opco") for a term of 50 years pursuant to a LIL Assets Agreement. Opco will also be responsible for the payment of all Operating and Maintenance ("O&M") expenses of the LIL. This transaction will implement the provision of the term sheet between Nalcor and Emera dated November 18, 2010 ("Term Sheet") that Nalcor shall own all of the transmission rights in the LIL.

Opco will earn its revenue by making the transmission rights on the LIL available to Newfoundland and Labrador Hydro ("NLH") in consideration of payments sufficient to allow Opco to pay all of its obligations to the Partnership and for O&M.

Article 3 of the LIL LPA establishes the number of units to be issued and rights attached to each class of Partnership units:

- (a) 75 Class A Limited Units (to be owned by Nalcor LP) – one vote for each unit held, rights to receive distributions and income on prepaid rent. Prepaid rent from Opco to the Partnership pursuant to the LIL Assets Agreement may arise from time to time to ensure Limited Partners' taxable income remains positive;
- (b) 25 Class B Limited Units (to be owned by ENL Island Link Incorporated ("Emera NL") once it is admitted to the Partnership) – one vote for each unit held, rights to receive distributions and taxes ("Tax Adjustment Amount") in accordance with the regulatory accounting methodology approved by the Newfoundland and Labrador Public Utilities Board or other authorized authority ("PUB"); and
- (c) an unlimited number of Class C Limited Units (to be owned by Nalcor LP) – class of non-voting units used to fund cost overruns not approved by the PUB. These units have



**Nalcor/Emera Transaction – Business Deal Summary –  
Labrador-Island Link Limited Partnership Agreement**

---

no rights to distributions or to share in any net profits or losses of the Partnership but are entitled to share in the remaining assets of the Partnership in a liquidation.

Section 3.12 provides for the mandatory retirement of a limited partner and the payment to a retired partner of amounts equivalent to the distributions it would have received if it had retained its Partnership units. Section 12.1(d) requires a retired partner's agreement to any change to the Agreement that would adversely affect it.

Article 5 sets out the methodology for partner distributions. Net income is allocated on a monthly basis. Revenues relating to the Tax Adjustment Amount are allocated to Emera NL only. Income on prepaid rent is allocated to Nalcor LP only. Otherwise, distributions are made periodically to limited partners on a pro-rata basis, based on budget as determined by the GP and subject to restrictions, if any, pursuant to the financing arrangements to be negotiated with lenders. Budgeted distributions consider the retention of cash for working capital purposes, sustaining capital and required cash reserves. After each fiscal year has ended and financial statements have been approved, a true-up distribution is completed to distribute remaining cash to the partners.

Prepaid Rent is desirable particularly from a tax point of view so that the Partnership has income as soon as it commences operations; Opco will prepay a part of the rent under the LIL Assets Agreement and the Partnership will invest such amount to earn interest; as the money to fund the prepaid rent to be prepaid by Opco will come from Nalcor, the Agreement provides that any earnings of the Partnership from the holding of such funds go exclusively to Nalcor LP.

If Emera NL were a regulated utility and applied for a rate, the PUB would allow, as part of its rate requirement, an amount related to the corporate income taxes paid by Emera NL. The Tax Adjustment Amount is an agreed 'proxy' for the tax recovery to which Emera NL would have been entitled were it a regulated entity. As Nalcor and its subsidiaries are not subject to income tax, there is no equivalent payment to Nalcor LP.

Section 5.10(a)(iii) obligates the GP to take all reasonable steps to ensure that the taxable income allocated to Emera NL in respect of each fiscal year shall be not less than 110% of its projected administrative expenses incurred as a result of holding such Class B Limited Units. No such provision is included in respect of Nalcor LP's holdings of Class A Limited Units. The purpose of Section 5.10 of the Agreement (including Section 5.10(a)(iii)) is to ensure that the Partnership and Emera NL have positive taxable income each year after the Partnership is activated, so as to reduce the potential application of the tax shelter/tax shelter investment rules. Section 5.10(a)(iii) was requested by Emera and is intended to ensure that Emera NL has positive taxable income after taking its administrative expenses into consideration (which would generally be deductible in determining its taxable income). As Nalcor LP is not subject to income tax, it needs no equivalent provision.



**Nalcor/Emera Transaction – Business Deal Summary –  
Labrador-Island Link Limited Partnership Agreement**

---

As to management of the Partnership, the LIL LPA provides that the GP is authorized to carry on the business of the Partnership with full power and authority. The powers set out are broad and include the ability to enter into the project financing arrangements. The GP can only act as directed or authorized by its Board of Directors. In order to assist the Partnership to obtain a suitable rating for its debt instruments the Board of the GP will always include a director who is “independent” as defined by one or more of the rating agencies (the definition is more stringent than that contained in the *Energy Control Act* (NL)). The LIL LPA provides that certain actions by the GP, such as borrowing (other than the project financing arrangements), guaranteeing the debts of others, selling or disposing of significant assets, making fundamental changes in the nature of the Partnership’s business, winding-up and voluntary insolvency proceedings, can only be taken if authorized by a majority (including the “independent” director) vote of the Board of the GP.

Typical provisions relating to books and records, reports, income tax information, accounting policies and appointment of auditor are included.

The procedures for partner meetings are set out in the LIL LPA.

The term of the LIL LPA commences on creation of the Partnership and will end on December 31, 2081, unless otherwise agreed to in writing by the partners. Dissolution before 2081 can only occur with the unanimous written consent of the partners.

**3. Value of the Commitments and Obligations Contemplated in the LIL LPA**

Nalcor commitments identified in the LIL LPA aggregate \$2.1 billion (100% of the cost of the LIL), plus associated financing costs; Emera commitments are nominal, but the LIL LPA must be read in conjunction with the Newfoundland and Labrador Development Agreement (“NLDA”) wherein Emera agrees with Nalcor to contribute approximately 30% of the cost of the LIL (\$0.6 billion), based on current available cost estimates of the Labrador Transmissions Assets, LIL and Maritime Link, through a combination of Partnership debt and equity.

**4. Description of the Links between the LIL LPA and the other Elements of the Nalcor – Emera Deal**

(a) General

The respective commitments of Nalcor and Emera regarding the funding of the LIL via the Partnership are essential to the development of the LIL, which in turn is an essential feature of the Project and Nalcor’s obligation to deliver the Nova Scotia Block to Emera.

(b) NLDA

The NLDA establishes (i) the mechanics related to the funding of the LIL, (ii) the capital structure and rate of return for Emera related to the LIL and the circumstances in which and the methods of Nalcor acquiring Emera’s interest in the Partnership.

**Nalcor/Emera Transaction – Business Deal Summary –  
Labrador-Island Link Limited Partnership Agreement**

The NLDA provides for cross default indemnities by both Emera and Nalcor in the event of defaults under certain of the other Formal Agreements; such an indemnity obligation can result in distributions ordinarily payable to a limited partner becoming payable to the indemnified party.

**5. Obligations and Benefits – Nalcor and Emera**

The limited partnership structure implements the provision of the Term Sheet that the LIL would be developed “in a joint venture or similar type structure that preserves the tax-exempt status of Nalcor”.

Other structures were considered, including joint ownership (rejected because it was unsuitable for borrowing purposes, among other things), a general partnership (rejected because of unlimited liability, lack of Nalcor control and potential exposure to Emera obligations) and a joint venture (rejected because of unfavourable tax consequences).

Unlike an ordinary partnership where all partners are fully liable for the debts of the partnership and have equal rights to manage the business, in a limited partnership the management of the business is the sole responsibility of the general partner while the limited partners are liable to the extent that they have agreed to invest in the business. However if a limited partner takes part in the “control of the business”, it will lose that limitation on its liability.

Under existing income tax law, partnerships are not themselves taxable. Rather, their earnings (or losses) are allocated to the partners for tax purposes with the result that while Emera (which will hold its interest in the Partnership through an indirect wholly-owned subsidiary, Emera NL) will report and pay tax on its portion of the earnings of the Partnership, the portion allocated to Nalcor (which will hold its interest in the Partnership through Nalcor LP) will be tax exempt.

The LIL LPA is effective on execution.

**6. Risks and Exposures under the LIL LPA**

(a) Business Risks to Nalcor

(i)

[REDACTED]

[REDACTED]

(ii) Failure of Nalcor to perform under the LIL LPA

While the entity owning and constructing the LIL is a limited partnership, the GP is a wholly-owned subsidiary of Nalcor as is Nalcor LP. [REDACTED]

[REDACTED]

s.29(1)(a)

s.29(1)(a) all redactions on this page

6

**Nalcor/Emera Transaction – Business Deal Summary –  
Labrador-Island Link Limited Partnership Agreement**

(iii)

(b) Business Risks to Emera

(i)

(ii)

(iii)

**7. Identification of any Further Agreements or Arrangements to be Negotiated after signing the LIL LPA**

Until the Partnership is created and begins to function, work on the LIL is being conducted and expenditures made by Nalcor; the results of this work and expenditures will have to be transferred to the Partnership and such transfer will require the preparation and execution of an Asset Transfer Agreement between Nalcor and the Partnership.

The LIL Assets Agreement (between the Partnership and Opco) has not yet been developed; it is expected to be put in place before the end of 2012 as part of the documentation of the financing of the LIL.



**Nalcor/Emera Transaction – Business Deal Summary –  
Labrador-Island Link Limited Partnership Agreement**

---

**8. Material Variations from Term Sheet**

- (a) Ownership of LIL - The Labrador-Island Link will be owned by the LIL Limited Partnership. [TS App D 2(c); NLDA 2.2]
- (b) Emera sharing O+M costs - This section has been superseded by use of the limited partnership structure and the transmission funding arrangement between Opco and NLH, and the LIL Asset Agreement between Opco and the Partnership. [TS App D 2(d)]



