Natural Resources
December 3, 2013

1. Progress of Federal Loan Guarantee and Financial Close

2. Release of Muskrat Falls Related Regulations and Legislation

    - Assignment of Churchill River Water Rights to Muskrat Falls Corporation

    - Equity Support Agreements for the Lower Churchill Project's Federal Loan Guarantee

    - Intergovernmental Agreement for the Lower Churchill Project's Federal Loan Guarantee

Note: Background sections are provided for information purposes only throughout this document and are not part of key messaging.

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Progress of Federal Loan Guarantee and Financial Close

- The Provincial Government and Nalcor have been working diligently since December 2012 to complete the federal loan guarantee and project debt financing for the Muskrat Falls Project.

- Conditions for the federal loan guarantee are being met as expected.

- The federal loan guarantee is a significant achievement and will result in a projected one billion dollar savings which will be passed on to ratepayers.

- With regards to financial close, we will go into the market at the right time. This is a market-driven process and, on the advice of bankers, we are not in a position to disclose timing or where we are headed in this regard.

- The Muskrat Falls project is about the future of energy in Newfoundland and Labrador. It will provide tremendous benefit to our province, the Atlantic region, and Canada as a whole.

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Assignment of Churchill River Water Rights to Muskrat Falls Corporation

Primary Messages

- The Assignment and Assumption Agreement fulfills a key requirement of the federal loan guarantee term sheet and is consistent with the term sheet principles.

- The Assignment and Assumption Agreement is effective the date of signing and is between the Government of Newfoundland and Labrador, Nalcor and its subsidiary, the Muskrat Falls Corporation.

- The Assignment and Assumption Agreement will transfer the water rights on the Lower Churchill River (under the 2009 Water Lease) from Nalcor Energy to its subsidiary, Muskrat Falls Corporation, for the purposes of power generation.

- The Muskrat Falls Corporation, a subsidiary of Nalcor, will construct, own and operate these assets on behalf of the people of the province.

- The federal loan guarantee is a significant achievement and will result in a projected one billion dollar savings which will be passed on to ratepayers.

- The Muskrat Falls project is about the future of energy in Newfoundland and Labrador. It will provide tremendous benefit to our province, the Atlantic region, and Canada as a whole.

Secondary Messages

- Although the Assignment and Assumption Agreement transfers all the water rights on the Lower Churchill River to Muskrat Falls Corporation, Nalcor retains an option to have all Gull Island Rights reassigned to it at any time and in its sole discretion for the future development of Gull Island.

- The Assignment and Assumption Agreements also includes Government's consent to allow the granting of a security interest in the Water Lease to the collateral agent/security trustee for the benefit of the Government of Canada and others. The security interest does not apply to the Gull Island Rights. This is a requirement of the Federal Loan Guarantee.

- As a result of transferring the water rights on the Lower Churchill River from Nalcor to Muskrat Falls Corporation, the existing Water Management Agreement between Nalcor and CFLCo must also be assigned to Muskrat Falls Corporation. This will be done through a separate assignment agreement between Nalcor and Muskrat Falls Corporation.

- Should Nalcor Energy exercise its option to reassign Gull Island Rights at a future date, a new Water Management Agreement will be required.

Background

- The 2009 Lease provides Nalcor with the exclusive use of the Lower Churchill River for a period of 50 years.

- The Lease grants Nalcor certain rights, including:
    - The exclusive right to harness and make use of the Lower Churchill River;
    - All power rights associated with the Lower Churchill River;
    - Exclusive right to construct and utilize all works on the Lower Churchill River for the purposes of developing hydroelectric power; and
    - Exclusive right to store and regulate so much of the Lower Churchill River as may be economic or beneficial for the purposes of developing of the Lower Churchill River.

- The rights under the 2009 Lease will be transferred via an Assignment and Assumption Agreement between Government, Nalcor and Muskrat Falls Corporation.

- This Agreement has an option for Nalcor to take back rights to the Lower Churchill River related to Gull Island.

- The Agreement also provides Government's consent to MFCo granting a security interest in the Lease to Canada for the Muskrat portion only.

- Water Management Agreement
    - Should Nalcor exercise its Gull Island option in the future, three separate parties would have interests in the Churchill River (CFLCo, Nalcor and MFCo)
    - This will present issues with the 2009 Water Management Agreement which contemplates only 2 parties with interests (CFLCo and Nalcor)
    - A new Water Management Agreement will be required at that time.

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Equity Support Agreements for the Lower Churchill Project's Federal Loan Guarantee

Primary Messages

- The Equity Support Agreements and Guarantees fulfill a key requirement of the federal loan guarantee and outline the province's equity contribution in the Muskrat Falls project. These agreements support the advancement of the Muskrat Falls Project and help move the project forward in a timely manner.

- Nalcor and the Province are committed to providing the equity necessary to provide for the completion of the Project.

- The federal loan guarantee is a significant achievement and will result in a projected one billion dollar savings which will be passed on to ratepayers.

- The Muskrat Falls project is about the future of energy in Newfoundland and Labrador. It will provide tremendous benefit to our province, the Atlantic region, and Canada as a whole.

Secondary Messages

- Nalcor is providing an Equity Support Agreement. The Province is providing an Equity Support Guarantee of NL's commitment to the project. In effect, this is a completion guarantee.

- The province will be responsible for compensation to the Government of Canada for liabilities for the full term of the federal loan guarantee.

- The Guarantees for the Equity Support Agreements, like the federal loan guarantee, are irrevocable and absolute.

Background

- The Muskrat Falls Project will be financed through a combination of debt and equity. Government's financial contribution will be provided through an equity contribution to Nalcor, which Nalcor will then invest in subsidiary corporations responsible for each elements of the project. Nalcor will borrow through its subsidiaries to cover the remaining project costs.

- In November 2011, the Province outlined its commitments to the Project in a Commitment Letter to Nalcor, agreeing to provide base level and contingent equity to achieve in-service for the Project (MF, LTA, and LIL). This letter was used for finance-raising purposes and to secure the Federal Loan Guarantee (FLG).

- The FLG includes a number of conditions precedent that the parties must complete to the satisfaction of Canada prior to the finalization of the FLG, including a commitment to provide base and contingent equity:
  - Base Equity refers to the budgeted equity contribution to each project at the planned debt-to-equity ratio for project costs.
  - Contingent equity refers to additional equity which may be required to cover cost overruns on each aspect of the Project.

- To meet the FLG requirements, and consistent with Government's 2011 Commitment Letter to Nalcor, Nalcor and the Province will enter into two separate agreements for each aspect of the Project.
  - NL Equity Support Agreements
    - Nalcor is entering into a separate Agreement for each of MF, LTA and LIL, with the responsible authorities and Canada's financial intermediary trustee for the provision of base and contingent equity to each subsidiary.
    - Nalcor will commit to provide base equity sufficient to meet the maximum debt-to-equity ratios for each project, and contingent equity for any cost overruns to achieve commissioning.
  - Guarantees for NL Equity Support Agreements
    - The Province is entering into a separate agreement for each of MF, LTA and LIL with Canada's financial intermediary trustee to guarantee the payment of Nalcor's equity commitments should Nalcor fail to fulfill its commitments.
    - In effect, the Province is guaranteeing to fund all the required base equity and contingent equity. The Guarantee is irrevocable and constitutes a guarantee of payment.

- Required Equity
- With respect to MF, LTA and LIL, the FLG is capped at $5 Billion (MF/LTA - $2.6B, LIL, $2.4B)

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Intergovernmental Agreement for the Lower Churchill Project's Federal Loan Guarantee

Primary Messages

- The Intergovernmental Agreement fulfills a key requirement of the federal loan guarantee term sheet and is consistent with the term sheet principals.

- Through the Intergovernmental Agreement, the Government is confirming the Equity Support Guarantee commitment to fund the equity required to complete the Project, and will not take any action to impact the recovery of project costs to service the FLG debt.

- The risk associated with breaching the Intergovernmental Agreement is entirely in the Government's control.

- The Intergovernmental Agreement is effective the date of signing and is a legally binding agreement between the Government of Newfoundland and Labrador and the Government of Canada.

- The federal loan guarantee is a significant achievement and will result in a projected one billion dollar savings which will be passed on to ratepayers.

- The Muskrat Falls project is about the future of energy in Newfoundland and Labrador. It will provide tremendous benefit to our province, the Atlantic region, and Canada as a whole.

Secondary Messages

- Should the Government take action that impacts the ability of the borrowers to recover costs and service the FLG debt, the Government will indemnify Canada for any costs it incurs as a result.

- Should the Government not provide the equity required to achieve Project in-service, it will indemnify Canada for any costs it incurs as a result.

- Through the Intergovernmental Agreement, the Government is also agreeing to indemnify Canada for any action taken by the Board of Commissioners of Public Utilities (PUB) that affects cost recovery and servicing the FLG debt. Given Government's legislative control over the PUB, this is not a concern.

Background

- The Loan Guarantee term sheet was concluded in November 2012 and contains a number of conditions precedent that have to be completed before the guarantee will be provided.

- The IGA addresses a number of these conditions, including:
    - NL Commitments under Schedule B of the IGA
        - Approval of the creation of subsidiaries and entities controlled by Nalcor to facilitate the development and operation of the project;
        - Providing base level and contingent equity support required by Nalcor to achieve in-service; and
        - Ensuring that regulated rates for NLH allow it to collect sufficient revenue to recover costs.

    - Indemnification
        - The IGA also indemnifies Canada for any costs, losses or damages that Canada may incur under the FLG as a result of NL Government action that prevents the recovery of project costs and the servicing of debt incurred under the FLG. The NL Government is effectively guaranteeing it will pay Canada whatever costs it incurs if the NL government makes a regulatory decision or change that impacts the recovery of project costs.
        - If there is a failure to complete any component of the project as a result of the inability of the province to comply with the commitments outlined in Schedule B of the IGA, the province will indemnify Canada for any costs.
        - The indemnification also includes any action by the PUB that affects cost recover and debt service. Given Government's legislative control over the PUB, this was not seen to be problematic.

    - Legal enforceability
        - All obligations of the IGA should be assumed to be contractually binding.