

Muskrat Falls Corporation

Corporate Office
500 Columbus Drive
P. O. Box 15000, Stn. A
St. John's, NL Canada A1B 0M4

Lower Churchill Project Operations Office
350 Torbay Road, Suite 2
St. John's, NL Canada A1A 4E1

LTR-CH0032001-0330

13 April 2016

ANDRITZ HYDRO CANADA INC.
6100 Trans-Canada Hwy.
Pointe-Claire, Quebec
H9R 1B9

Attention: Mr. William Mavromatis

Subject: Agreement CH0032-001
Supply and Install Powerhouse and Spillway Hydro-Mechanical Equipment
Re: Change Order No. 10 – 1st Invoice
CHO 010 – Invoice and Payment Certificate
Ref: LTR-CH0032001-0326

Dear Mr. Mavromatis,

Company acknowledges receipt of Contractor Interim Payment Certificate (Payment Application) dated 11-Apr-2016 in the amount of CAD \$ 5,004,962.44, allegedly for work performed up of 29-Feb-2016, pursuant to Change Order No. 10 together with Contractor letter dated 11-Apr-2016, reference PM-150 and would respond as follows.

Contractor is incorrect in asserting that it is performing the work on a cost reimbursable basis rather than a lump sum. Under no circumstances has Company suggested or agreed that Contractor would be reimbursed for its failure to manage, plan, coordinate, control and execute the works in a timely manner.

Contractor is also aware that pursuant to Section 12.3 Procedural Requirements of Exhibit 3 of the Agreement, Contractor will not present invoices for a Change, nor will Company compensate Contractor for any Change, in the absence of a Change Order. There is no issued reimbursable Change Order for the Works, therefore Contractor Invoice and Payment Certificate is invalid.

Contractor is aware that all Changes shall be subject to the compensation provisions and payment terms set out in Article 12 of the Agreement, Exhibit 2 – Compensation, and Exhibit 3.

In this regard, Contractor is further referred to the following:

a Nalcor Energy company

Article 12.3: Compensation to the Contractor shall be paid:

- a) monthly based on progress, and/or
- b) Upon achieving a payment milestone.

Contractor is aware that Change Order No. 10 was issued to Contractor with the defined payment terms of a lump sum basis and that payments to cover the cost of the acceleration would be made progressively based on the physical progress of the Work. The value of Change Order No. 10 issued to Contractor is CAD \$ 3,370,314.00.

Pursuant to Article 12.8 (a) (ii) of the Agreement, Contractor shall submit an application for payment identifying the percentage completed as of the 25th of the month.

Notwithstanding that Contractor's interim payment certificate is incorrect insofar as it relates to works allegedly completed to 29-Feb-2016 (rather than 25-Feb-2016), Contractor has also failed to present a proper application for payment/payment certificate in compliance with the express terms and conditions of the Agreement, specific to the compensation provisions and payment terms as indicated and referenced to herein.

Specifically, the value of the Change Order for Achievement of River Diversion on/or before 15-Jun-2016 is CAD \$ 3,370,314.00. Contractor is aware that pursuant to Section 12.3 Procedural Requirements of Exhibit 3 of the Agreement that Contractor is not permitted to Invoice for an amount greater than the defined Change Order Value. Secondly, Contractor shall not prepare or present an Invoice until the Payment Certificate is approved by Company and such approved payment certificate should accompany the Invoice, Thirdly, Contractor's interim application for payment/payment certificate should have been prepared based on the achieved physical progress of the Work – In this regard, Contractor is referred to Company letter dated 13-Apr-2016, reference Non Billable Costs which has already indicated that the actual earned progress to period ending 29-Feb-2016 is no more than 2.39%, therefore Contractor is entitled to no more than 2.39% of the Change order Value, or CAD \$ 80,550.50, however, considering that Contractor has caused multiple delays to achieving river diversion on/or before 15-Jun-2016 and has failed to address the issues of non-recoverable indirect costs as a consequence of the Contractor caused delays and has also demonstrated an inability to prepare, implement and maintain any form of mitigating measures to recover the Contractor caused delays, no actual payment is at this stage due to Contractor, consequently Contractor Payment Certificate is rejected.

Contractor's reference to Article 12.13 (b) is incorrect. The Change Order is not reimbursable, but Lump Sum. There is no delay on the part of Company; Contractor has failed to comply with the express provisions of the Contract.

Regards,

A handwritten signature in blue ink, appearing to read 'S. O'Brien', written in a cursive style.

Scott O'Brien

Company Representative
Project Manager – Muskrat Falls Generation
Project Delivery Team
Lower Churchill Project