

Information Note
Department of Natural Resources

Title: Nalcor Board Governance

Issue: To provide information about the governance structure of Nalcor and its subsidiaries and to highlight related issues.

Background and Current Status:

- Nalcor Energy (Nalcor) is a provincial Crown energy corporation created in 2007 to manage the province's energy resources. Its activities include the development, generation, transmission and sale of electricity, the exploration, development, production and sale of oil and gas, industrial fabrication, and energy marketing.
- Nalcor's business is segregated into seven reporting segments - Hydro Regulated, Churchill Falls, Oil and Gas, Energy Marketing, Phase I Lower Churchill Project, Bull Arm Fabrication, and Corporate and Other Activities. This segregation facilitates the evaluation of operational performance and the assessment of the overall contribution of each segment to Nalcor's long-term objectives.
- Nalcor has 15 subsidiary companies, each with its own board of directors that govern Nalcor's lines of business. These boards include directors with broad backgrounds including: lawyers, accountants, educators, business people and community members.
- The role of the Province with respect to the governance of Nalcor and its subsidiaries is to ensure that decisions are made in a transparent and accountable way, enhancing confidence and public trust, to establish and maintain accountability for the actions of Nalcor, and to provide Nalcor with authority to conduct its business in the manner that accomplishes the goals established by government in the best interest of the people of the Province.
- A blend of legislation and other policy instruments set out Nalcor's mandate (and that of various subsidiaries). Legislatively, the *Energy Corporation Act*, the *Hydro Corporation Act, 2007*, and elements of the *Corporations Act* guide Nalcor's activities. Statements of Government policy as contained in *Focusing Our Energy – Newfoundland and Labrador Energy Plan*, and a Shareholder's Letter of Expectation guide corporate activities and establish strategic direction.
- The Shareholder's Letter of Expectations provides the Shareholder with a formal means of communicating direction and priorities, and is considered one of the best elements of best practice, as noted by Power Advisory LLC in its report, "Review of the Newfoundland and Labrador Electricity System." The Letter is an agreement between the Department of Natural Resources and Nalcor Energy on respective roles, responsibilities, policy direction and performance expectations. While it is not legally binding, its aim is to promote a cooperative working relationship between both parties.

- In January 2014 the Government of Newfoundland and Labrador announced an independent review “to look at the current electricity system in Newfoundland and Labrador, and engaged Power Advisory LLC (Power Advisory) to undertake this review. In its final report, Power Advisory’s recommendations with respect to governance included:

“...using a merit-based and objective approach to appoint board members to ensure they have the necessary skills and qualifications to carry out board functions; developing and enhancing board members’ knowledge and understanding of the electricity sector through means such as formal briefings and provision of a statement of goals or primary objectives for the year under review; limiting appointment terms for Board members for fixed five-year terms to enhance their independence; and allowing to Board to appoint the CEO.”

- On November 2, 2015, government announced that it was retaining an external consultant to identify the full suite of skills and experience needed at the board level at Nalcor, that individuals for board positions would be identified by an independent group using best practices for assessing qualifications, and that there would be increase in the number of directors at Nalcor and independent directors at Newfoundland and Labrador Hydro.
- Also on November 2, 2015 Nalcor announced that Newfoundland and Labrador Hydro would now have its own president, separate from Nalcor, and named John MacIsaac to that post. He had previously been Vice-President Project Execution and Technical Services and the Nalcor Executive Lead of Churchill Falls. In making the appointment, Nalcor highlighted significant changes and growth that has occurred in the past 10 years requiring a fundamental change within their operating mode and organization structure.

Analysis:

- In addition to public announcements, NR has internally undertaken a review of best practices in governance of crown corporations and has prepared a draft governance framework for discussion internally. This framework for discussion generally:
 - Lays out legal requirements and general policy expectations that government has of Nalcor
 - Clearly defines the roles and responsibilities of those involved in the governance framework
 - Clearly defines planning and reporting requirements for Nalcor
 - Lays out information sharing and communication expectations.

Action Being Taken:

- The Department will continue to work with Nalcor to address ongoing governance issues and to address recommendations made by Power Advisory.

Prepared/approved by: B. Rose / R. Bates/

Ministerial Approval:
November 13, 2015