April 5, 2017

Dear [Redacted],

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act, 2015 [File #: EC/8/2017]

On March 8, 2017, Executive Council received your request for access to the following records/information:

"Please provide any records, including communications, information notes or briefing notes given to the Clerk regarding the Labrador Island Link (Muskrat Falls) Between Jan 1, 2017 and March 8, 2017."

I am pleased to inform you that a decision has been made by the Deputy Clerk of Executive Council to provide access to some of the requested information. Portions of the attached information have been removed in accordance with the following exceptions to disclosure, as specified in the Access to Information and Protection of Privacy Act (the Act):

29. (1) The head of a public body may refuse to disclose to an applicant information that would reveal

(a) advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;

30. (1) The head of a public body may refuse to disclose to an applicant information

(a) that is subject to solicitor and client privilege or litigation privilege of a public body;

Please note, pages 21 and 22 have been removed in their entirety in accordance with subsection 30(1)(a). You may appeal this decision by asking the Information and Privacy Commissioner to review the provision of partial access to the requested information. The complete process is set out in section 42 of 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 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 this decision, pursuant to section 52 of the Act (a copy of this section of the Act has been enclosed for your reference).

Responsive records will be published following a 72 hour period after the response is sent electronically to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. If you have any further questions, please feel free to contact me by telephone at (709)729-5691 or by e-mail at rachellecutler@gov.nl.ca.

Sincerely,

Rachelle Cutler
ATIPP Coordinator

Enclosure
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).
Each month, Nalcor Energy - Lower Churchill Project publishes a project report which provides an update on the Muskrat Falls Project including details on employment, construction activities, expenditures, safety and environmental activities, and details on community engagement initiatives during the month. The full Muskrat Falls Project December 2016 report can be viewed online at under the Newsroom at muskratfalls.nalcorenergy.com or by clicking here.

Here are some of the significant highlights from 2016:

**Employment and economic highlights from 2016 and since the start of project construction:**
- 4,982 - peak number of Newfoundlands and Labradorians working on the project in 2016 (that was 83% of the total workforce in that month)
- 1,225 - peak number of Labradorians working on the project in 2016
- 642 - peak number of Newfoundland and Labrador women working on the project in 2016
- 590 and 193 - peak number of NL Aboriginal and Innu workers respectively in 2016
- $1.41 billion - wages paid to Newfoundland and Labrador workers since start of project construction
- $1.33 billion - spent with Newfoundland and Labrador-based businesses since start of construction
- $12 million - invested in our provincial economy every week from the construction of the Muskrat Falls Project

**Construction Update:**
Construction on all components of the Muskrat Falls Project significantly advanced in 2016, with work ongoing between Churchill Falls and the Avalon Peninsula. Here's a summary of some of the key construction highlights from 2016.

**Muskrat Falls Generation:**
- Significant progress was made on the placement of concrete for the powerhouse and intake
- The spillway was put into operation
- The temporary cofferdam across the Churchill River was completed and the river was diverted through the spillway
- Stabilization work on the North Spur dam was substantially completed
- River impoundment started

**Labrador Transmission Assets (transmission line from Churchill Falls to Muskrat Falls):**
- 100% of the transmission towers and wire stringing was completed on the two, 250 km transmission lines from Churchill Falls to Muskrat Falls

**Labrador-Island Transmission Link (Muskrat Falls to Soldiers Pond):**
- Overall construction progress for the Labrador-Island Transmission Link in Labrador was 91% complete and 48% for the island

**HVac and HVdc electrical infrastructure requirements:**
- HVac Labrador switchyards were 82% complete at the end of 2016
- Labrador-Island Transmission Link converters, island switchyards and synchronous condensers were 40% complete
- Significant major equipment for HVdc Specialties was delivered to the province in 2016

**Strait of Belle Isle Marine Cable Crossing (SOBI):**
- SOBI Marine Cable Crossing was substantially complete with all three cables laid on the seafloor and protective rock berms installed
- The Strait of Belle Isle Marine Cable Crossing also made history during the year with the first ever connection between Labrador and the island portion of the province. Several world records were also achieved on this project. The pull-in (as it is referred by industry) broke the current world record for the longest high voltage direct current cable landfall pull-in in the world. Another record was reached when 540,000 tonnes of locally quarried rock was installed over 80 km to create the protective berm over the three subsea cables. To date, this is the largest subsea rock installation campaign that has been performed in a single campaign in Newfoundland and Labrador, and the fastest known fall pipe vessel rock installation campaign of this quantity.
History was made this summer with the first ever connection between Labrador and the island portion of the province.

To view video footage and pictures of some of the Muskrat Falls construction sites, visit the project Photo and Video Gallery at https://muskratfalls.nalcorenergy.com/newsroom/photo-video-gallery/

Thank you for your interest in Nalcor Energy’s Muskrat Falls Project. You’re receiving as you’ve previously indicated your interest in Nalcor Energy’s business operations. If you wish to discontinue receiving these emails, please respond to lowerchurchill@nalcorenergy.com with “unsubscribe” in the subject to request your name be removed from our distribution list.

Thank you,
Nalcor Energy-Lower Churchill Project
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atippoffice@gov.nl.ca.
Bern;
The answer to your question on Emera ownership of LIL is provided below from Nalcor with the initial calculation attached. In short, 59% of the capital account units, which in turn equates to the same percentage of distributions. I'm meeting with Todd, Randy and Meaghan to review, but the increase is an indirect effect of the FLG2. I will advise.

Charles

1. Emera’s participation in the LIL is outlined in the NLDA and LIL LPA, both found on the MF website (as noted below).

2. At LIL Sanction the calculation found in the attached was done to determine Emera’s equity funding obligation during the LIL development period (ie. construction). The $910M divided by the total LIL capital cost estimate at that time of $2,609M is where the original 35% came from, however this does not represent the LIL LP partnership capital account contributions (equity) that Emera was permitted to fund. Their target Debt-to-Equity (DER) of 55/45 meant the equity they could contribute was actually 45% x $910M or $409M.

3. In accordance with the NLDA, the calculation noted in #1 above is done again following full commissioning of the entire project based on final costs of the LIL, LTA and ML in the event Emera’s % of the transmission asset costs (based on the ML and their LIL additional investment) is less than 49%, they would have to pay a cash "true up" to Nalcor in return for more LIL partnership capital account units to address this. Based on the LTA and LIL estimates included in the $9.1B from the June 2016 update and the current $1.57B ML estimate, that would mean a payment of around $190M, so Emera’s total equity investment in LIL would end up at around $600M. This is the amount noted in their investor presentation.

4. As outlined in the provisions of the NLDA and LIL LPA, the percentage of the LIL LP partnership capital account that Emera is permitted to contribute will vary over the period of LIL construction from sanction in December 2012, following Financial Close in December 2013, and through to final completion and in service of the LIL project. It is currently at 62.7% but once the $409M cap is hit, it will begin to decline.

5. With the June 2016 cost increase to $9.1B, and assuming no FLG2, Nalcor/NL would have been required to fund all the LIL cost overruns. As a result, Emera’s % of the LIL LP partnership capital account at completion would have ended up around 35%.

6. However, with FLG2, approximately $1B of LIL capital account contributions that Nalcor/NL would have needed to fund will be now be replaced with lower cost Canada guaranteed debt. This is of significant benefit to ratepayers given 3.5-4.0% cost of debt vs. 8.5% cost of equity, and it also benefits taxpayers due to lower borrowings required by NL to fund the LIL equity and therefore lower interest costs.
Meanwhile, Emera's equity investment of around $600M remains the same, so instead of them having contributed 35% of the LIL capital account, it's actually around 59%. This is the other amount noted in their investor presentation.

7. While Emera will have contributed more of the required LIL equity capital than Nalcor through the arrangements noted above (and will therefore get a greater % of the partnership distributions during the operating period), Nalcor still maintains 100% control of the LIL given that (i) LIL General Partner Co., which is responsible for the management of the LIL LP, is a wholly owned subsidiary, and (ii) through another Nalcor wholly owned sub, LIL Operating Co., we also own 100% of the transmission rights over the LIL in accordance with the terms of the LIL Lease (also on the MF website).
Determination of Initial Cash Call to Emera NL
Relating to Emera NL Investment in the Labrador Island Link
*per Section 5.8(a)(iii)(A) of the NL Development Agreement*

Estimated Capital Costs - Transmission Assets
- Labrador Island Link ("LIL") $2,509,748,893
- Labrador Transmission Assets ("LTA") $691,582,487
- Maritime Link ("ML") $1,388,485,000

Total Transmission Assets $4,689,816,380

Multiplied by 49% $2,298,010,026

Less: ML Estimated Capital Costs $1,388,485,000

Emera NL Additional Investment $909,525,026

Emera NL Funding Obligation % 34.9%

LIL Capital Balance at January 31, 2013 $126,613,699

Emera NL Initial Cash Contribution $67,731,273

LIL Capital Account Balances Following Emera NL Contribution
- Nalcor $126,613,699 65.1%
- Emera $67,731,273 34.9%

$194,344,972 100.0%

Emera NL Permitted Equity Contribution @ 45% $409,286,262

Notes:
- Per Nalcor DG3 Estimate at Sanction
- Per Nalcor DG3 Estimate at Sanction
- Per ML UARB Filing
- Per Nalcor Month End Financial Statements
Bown, Charles

From: Bown, Charles
Sent: Tuesday, March 7, 2017 11:20 AM
To: Coffey, Bernard (Clerk of the Executive Council)
Subject: RE: Emera LIL investment

The 45% represents the equity share of Emera's debt/equity ratio for their LIL investment. The amount Emera can invest is capped at 49% of total transmission costs less the cost of the Maritime Link. The dollar amount they can contribute adjusts as the cost of the transmission projects change.

I'm working on your questions with JPS and NR and will have a table prepared today. The math in this equation is impacted by the additional debt the LIL project is obtaining and its impact on partnership equity share. We met early this morning and have posed some questions to Nalcor that we need asap. NTV is aware of the Uncle Gnarley blog and has posed a question to Nalcor on the change in Emera share. I will advise.

Charles

From: Coffey, Bernard (Clerk of the Executive Council)
Sent: Tuesday, March 7, 2017 11:01 AM
To: Bown, Charles <CBown@gov.nl.ca>
Subject: Re: Emera LIL investment

Charles:

What does the last 45% figure in the attachment represent?

I'd like asap a detailed chronological account of how Emera's interest in the LIL has evolved over time.

Bern

Sent from my BlackBerry 10 smartphone on the Bell network.

From: Bown, Charles
Sent: Tuesday, March 7, 2017 7:45 AM
To: Coffey, Bernard (Clerk of the Executive Council)
Subject: Emera LIL Investment

Bern;

The answer to your question on Emera ownership of LIL is provided below from Nalcor with the initial calculation attached. In short, 59% of the capital account units, which in turn equates to the same percentage of distributions. I'm meeting with Todd, Randy and Meaghan to review, but the increase is an indirect effect of the FLG2. I will advise.

Charles
1. Emera's participation in the LIL is outlined in the NLDA and LIL LPA, both found on the MF website (as noted below).

2. At LIL Sanction the calculation found in the attached was done to determine Emera's equity funding obligation during the LIL development period (ie. construction). The $910M divided by the total LIL capital cost estimate at that time of $2,609M is where the original 35% came from, however this does not represent the LIL LP partnership capital account contributions (equity) that Emera was permitted to fund. Their target Debt-to-Equity (DER) of 55/45 meant the equity they could contribute was actually 45% x $910M or $409M.

3. In accordance with the NLDA, the calculation noted in #1 above is done again following full commissioning of the entire project based on final costs of the LIL, LTA and ML in the event Emera's % of the transmission asset costs (based on the ML and their LIL additional investment) is less than 49%, they would have to pay a cash "true up" to Nalcor in return for more LIL partnership capital account units to address this. Based on the LTA and LIL estimates included in the $9.1B from the June 2016 update and the current $1.57B ML estimate, that would mean a payment of around $190M, so Emera's total equity investment in LIL would end up at around $600M. This is the amount noted in their investor presentation.

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From: Bown, Charles  
Sent: Tuesday, March 7, 2017 1:18 PM  
To: Coffey, Bernard (Clerk of the Executive Council)  
Subject: RE: Emera LIL investment  
Attachments: LIL Equity.xlsx

my draft of the table is attached. I have forwarded to Nalcor to fill-in required information.

Charles

From: Coffey, Bernard (Clerk of the Executive Council)  
Sent: Tuesday, March 7, 2017 11:01 AM  
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6. However, with FLG2, approximately $1B of LIL capital account contributions that Nalcor/NL would have needed to fund will be now be replaced with lower cost Canada guaranteed debt. This is of significant benefit to ratepayers given 3.5-4.0% cost of debt vs. 8.5% cost of equity, and it also benefits taxpayers due to lower borrowings required by NL to fund the LIL equity and therefore lower interest costs. Meanwhile, Emera’s equity investment of around $600M remains the same, so instead of them having contributed 35% of the LIL capital account, it’s actually around 59%. This is the other amount noted in their investor presentation.

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<th>DG3</th>
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<th>Jun-16</th>
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<td>0.9</td>
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<td>percent of LIL</td>
<td>29%</td>
<td>31%</td>
<td>34%</td>
<td>38%</td>
</tr>
</tbody>
</table>

This is the share that Emera can contribute; but this must be adjusted by the DER of 55:45.

| 45%          | 0.3 | 0.4 | 0.4    | 0.6    |

This is the amount of equity Emera can contribute to the LIL project partnership

Required | LIL Equity
          | Nalcor
          | Emera

Percent Emera Equity
Revised

- The Nalcor/Emera agreements were signed in July 2012. Emera's participation in the LIL is defined under the NL Development Agreement (NLDA) and the LIL Limited Partnership (LIL LP) Agreement, both of which are available on the MF website.
- As part of these arrangements, Nalcor maintains 100 percent control of the LIL and all of the transmission rights.
- At LIL Sanction it was estimated that Emera was permitted to make equity contributions to the LIL LP partnership capital account of $409M. This was based on the cost estimates of LIL, LTA and ML at that time, a calculation under the NLDA whereby Nalcor's portion of these transmission assets was 51% and Emera's 49%, and that for Emera's LIL investment they would fund 45% of it based on equity per their target Debt-to-Equity Ratio (DER) of 55:45.
- In accordance with the NLDA, the calculation noted above is done again following full commissioning of the entire project based on final costs of the LIL, LTA and ML. In the event Emera's % of the transmission asset costs (based on the ML and their LIL additional investment) is less than 49%, they would have to pay a cash "true up" to Nalcor in return for more LIL LP partnership capital account units to address this. Based on current cost estimates for these transmission assets, this amount is expected to be approximately $190M.
- As a result of the cost increases announced in June 2016, and the decision
to seek the additional FLG of up to $2.9B to alleviate the amount of LIL equity that Nalcor/NL will need to fund (to the benefit of both NL ratepayers and taxpayers), Emera will get a greater percentage of the LIL partnership distributions during the operating period because they will have contributed more of the required equity to the LIL LP partnership capital account than Nalcor during the development period.

- Based on current cost estimates and the provisions of the NDLA, including the true-up noted above, Emera total equity contributions to the LIL will total around $600M, which would represent approximately 59% of the LIL LP partnership capital account.

Dave/Auburn feel free to chime in with anything else......

James Meaney
General Manager, Finance
PROJECT DELIVERY TEAM
Lower Churchill Project

You owe it to yourself, and your family, to make it home safely every day. What have you done today so that nobody gets hurt?

Karen O'Neill—03/07/2017 12:09:21 PM—Jim/Derrick, DNR has drafted the following KMs in relation to the Emera LIL equity question. Derrick

Jim/Derrick, DNR has drafted the following KMs in relation to the Emera LIL equity question.

Derrick are you able to review and correct any misinformation?

I've already added a few points in red below.

Thanks
Karen

Karen O'Neill
Communications Manager
Lower Churchill Management Corporation
Nalcor Energy - Lower Churchill Project

18
Natural Resources
Emera’s Ownership of Labrador Island Transmission
March 8, 2017

Summary:
Uncle Gnarley posted a blog on Monday, March 6: EMERA - SILENTLY BUILDING THEIR OWN NL ENERGY WAREHOUSE. In the blog it states:
“... a colleague of mine directed me to the most recent investor relations presentation from Emera. It contained an infographic on the Muskrat Falls project together with the quote – “Emera to invest 600 Million, for a 59% partnership capital in the Labrador Island Link”. Although I have determinedly followed the Muskrat Falls project since 2011, I have never heard of or seen reference to 59% of the Partnership Capital. It having been brought to my attention, I could only wonder what it meant.”

Mike Connors has followed up with Nalcor and asked: Is it true that Emera has increased its ownership stake in the Labrador-Island Link to 59%. When and why did this happen?

Key messages:
• The deal with Emera was signed at project Sanction in 2012, under the former government:
  • Nalcor maintains 100 percent control of the Labrador Island Link and all of the transmission rights.
  • However, Emera will get a greater percentage of the partnership distributions during the operating period because they will have contributed more of the required equity capital than Nalcor on the Labrador Island Link.
  • To put this into context, Nalcor has a 51 per cent share of all transmission assets including the Labrador Island Link, Labrador Transmission Assets and Maritime Link. Emera has a 49 per cent share.
  • When the Labrador Island Link (LIL) was sanctioned in 2012, the equity that Emera was permitted to contribute to the LIL capital account was $409 million which is the equity share of Emera’s total investment of $910 million. (The $910 million on the LIL comes from Emera contributing 49
per cent share of all assets).
• It is estimated that Emera’s total equity investment in Labrador Island Link will be around $600 million, or around 59% of the capital account. This is the amount noted in their investor presentation.

From: karenoneill@nalcorenergy.com
Sent: Tuesday, March 07, 2017 12:04 PM
To: Quinton, Diana
Subject: Test

Karen O’Neill
Communications Manager
Lower Churchill Management Corporation
Nalcor Energy - Lower Churchill Project
t. 709.737.1427 c. 709.690.2012
e. koneill@nalcorenergy.com
1.888.576.5454

You owe it to yourself, and your family, to make it home safely every day. What have you done today so that nobody gets hurt?

“This email and any attached files are intended for the sole use of the primary and copied addressee(s) and may contain privileged and/or confidential information. Any distribution, use or copying by any means of this information is strictly prohibited. If you received this email in error, please delete it immediately and notify the sender.”
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Subject: Emera LIL investment

Bern;

The answer to your question on Emera ownership of LIL is provided below from Nalcor with the initial calculation attached. In short, 59% of the capital account units, which in turn equates to the same percentage of distributions. I’m meeting with Todd, Randy and Meaghan to review, but the increase is an indirect effect of the FLG2. I will advise.

Charles

1. Emera’s participation in the LIL is outlined in the NLDA and LIL LPA, both found on the MF website (as noted below).
2. At LIL Sanction the calculation found in the attached was done to determine Emera’s equity funding obligation during the LIL development period (ie. construction). The $910M divided by the total LIL capital cost estimate at that time of $2,609M is where the original 35% came from, however this does not represent the LIL LP partnership capital account contributions (equity) that Emera was permitted to fund. Their target Debt-to-Equity (DER) of 55/45 meant the equity they could contribute was actually $409M.
3. In accordance with the NLDA, the calculation noted in #1 above is done again following full commissioning of the entire project based on final costs of the LIL, LTA and ML in the event Emera’s % of the transmission asset costs (based on the ML and their LIL additional investment) is less than 49%, they would have to pay a cash “true up” to Nalcor in return for more LIL partnership capital account units to address this. Based on the LTA and LIL estimates included in the $9.1B from the June 2016 update and the current $1.57B ML estimate, that would mean a payment of around $190M, so Emera’s total equity investment in LIL would end up at around $600M. This is the amount noted in their investor presentation.
4. As outlined in the provisions of the NLDA and LIL LPA, the percentage of the LIL LP
partnership capital account that Emera is permitted to contribute will vary over the period of LIL construction from sanction in December 2012, following Financial Close in December 2013, and through to final completion and in service of the LIL project. It is currently at 62.7% but once the $409M cap is hit, it will begin to decline.

5. With the June 2016 cost increase to $9.1B, and assuming no FLG2, Nalcor/NL would have been required to fund all the LIL cost overruns. As a result, Emera’s % of the LIL LP partnership capital account at completion would have ended up around 35%.

6. However, with FLG2, approximately $1B of LIL capital account contributions that Nalcor/NL would have needed to fund will be now be replaced with lower cost Canada guaranteed debt. This is of significant benefit to ratepayers given 3.5-4.0% cost of debt vs. 8.5% cost of equity, and it also benefits taxpayers due to lower borrowings required by NL to fund the LIL equity and therefore lower interest costs. Meanwhile, Emera’s equity investment of around $600M remains the same, so instead of them having contributed 35% of the LIL capital account, it’s actually around 59%. This is the other amount noted in their investor presentation.

7. While Emera will have contributed more of the required LIL equity capital than Nalcor through the arrangements noted above (and will therefore get a greater % of the partnership distributions during the operating period), Nalcor still maintains 100% control of the LIL given that (i) LIL General Partner Co., which is responsible for the management of the LIL LP, is a wholly owned subsidiary, and (ii) through another Nalcor wholly owned sub, LIL Operating Co., we also own 100% of the transmission rights over the LIL in accordance with the terms of the LIL Lease (also on the MF website).