Dear [Redacted]

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (File # NR-102-2018)

On July 27, 2018, the Department of Natural Resources received your request for access to the following records/information:

I want every briefing, information, decision or other note prepared for the minister or deputy minister of natural resources since the liberal government was elected in 2015 relating to mitigation of power rates.

On August 22, 2018, you further confirmed that you did not want draft documents or Cabinet records. You also agreed to the redaction of non-responsive records to your request.

I am pleased to inform you that a decision has been made by the Department of Natural Resources, confirmed by the Deputy Minister, to provide access to the requested records. The records are attached.

We are providing access to the most information possible but have made redactions in accordance with Sections 29(1)(a), 35(1)(d), 35(1)(f) and 35(1)(g) of ATIPPA, 2015 as follows:

29. (1)(a) The head of a public body may refuse to disclose to an applicant information that would reveal advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;

35. (1)(d) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose information, the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in significant loss or gain to a third party;
35. (1)(f) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the government of the province or a public body, or considerations which relate to those negotiations.

35. (1)(g) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose information, the disclosure of which could reasonably be expected to prejudice the financial or economic interest of the government of the province or a public body.

Please note we have made full page redactions under these Sections for page 57.

As set out in section 42 of the Act you may ask the Information and Privacy Commissioner to review the department’s decision to provide access to the requested information. 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 request should identify your concerns with the department’s response and why you are requesting a review.

The request for review 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

Pursuant to section 52 of the Act, you may also appeal directly to the Supreme Court Trial Division within 15 business days after receiving the department’s decision.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed 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. Please note that requests for personal information will not be posted online.

For further details about how an access to information request is processed, please refer to the Access to Information Policy and Procedures Manual at

If you have any questions, please feel free to contact me at 709-729-0463 or rhynes@gov.nl.ca.

Sincerely,

[Signature]

Rod Hynes
ATIPP Coordinator
Title: Canadian Federation of Independent Business (CFIB)

Issue: To summarize a CFIB policy brief on the effects the Muskrat Falls project will have on small- and medium-sized enterprises (SMEs)

Background and Current Status:
- The CFIB is a non-profit business organization funded entirely by independent business owners and represents the interests and concerns of over 109,000 Canadian owners of SMEs to all three levels of government. In NL, it represents over 2,000 small- and medium-sized businesses from all sectors of the economy.

- Issues of concern and policy positions are directed by members through surveys, opinion polls and face-to-face meetings, which the CFIB delivers to all three levels of government via research reports, meetings and testimonies. Issues are extensive and typically include tax policies, labour policies and red tape reduction.

- On July 12, 2017, the CFIB released a policy brief entitled “In a Shocking State: Small business perspectives on electricity in Newfoundland and Labrador”. The discussion is primarily based on the Muskrat Falls project and its effect on electricity rates. It states that most public debate centers on residential rates while the effect on SMEs has been mostly overlooked.

- The report states that SMEs are split evenly on support for the Muskrat Falls project. Those in favour focus on the environmental and economic benefits (such as replacing the Holyrood generating station); and those opposed cite the rising cost of electricity.

- The main findings were that electricity is the main source of energy used by SMEs; 63% of owners stated their power utility had not offered them any information on how to manage their electricity usage; with Muskrat Falls coming on stream, it’s even more important for SMEs to find ways to reduce their electricity costs; and SMEs are split on whether they would consider using net metering to offset those costs.

- The brief noted the Premier’s statement during Question Period in the House of Assembly on March 8, 2017, that “[the government] will use whatever options that we have available to us to maintain competitive rates”. The CFIB said the options available include recall power from the contract with Hydro Quebec to replace Holyrood power; revenue from the sale of excess power applied to rate mitigation efforts (as per the Premier during said Question Period); the extended loan guarantee; a rate of return based on the Muskrat Falls project and the Labrador-Island Link which could "generate hundreds of millions of dollars of revenue, which could be returned to the ratepayer"; and removal of the Harmonized Sales Tax (HST) on electricity.

- The CFIB provided two recommendations:
  1. Provide PUB oversight on the Muskrat Falls project to ensure greater transparency and accountability for the project, but also more predictability on future electricity rate increase; and
  2. Eliminate the HST applied to electricity for residents.
Analysis:

- The CFIB noted that Nalcor forecasts that rates will double for all users in the province. Analysis done by the CFIB indicates that it could mean an additional cost of $179 million annually for SMEs. This would result in decreased profits and/or increased prices for consumers.

- NR notes that rate mitigation is a key issue in future electricity rate management. In Budget 2017 Nalcor was directed to source opportunities to lower rates in the future. As well, the budget committed millions to be set aside to offset the projected rate increases with the creation of the Rate Management Reserve.

- The CFIB stated that they are "pleased the government has committed to address a doubling of power rates as it would be harmful to SMEs". In public discourse, NR notes that the mitigation measures put in place by Budget 2017 should focus not only on residential rates but also include SMEs so that those business owners do not feel ostracized.

Action Being Taken:

- This note is for informational purposes only.

Prepared/Approved by: R. Montague/C. Snook/ J. Cowan
Ministerial Approval: Received from Hon. Siobhan Coady

July 13, 2017
Information Note
Department of Natural Resources

Title: Current Status of Process for Identifying Options for Electricity Rate Mitigation

Issue: Reducing the impact of the Muskrat Fall Project (MFP) on electricity rates is a key energy policy priority for the Government of Newfoundland and Labrador (GNL). The following provides an update on the current status of the process for identify options to achieve this goal.

Background and Current Status:

don The Department of Natural Resources (NR), the Department of Finance and Nalcor officials have formed a working group to develop a list of options for rate mitigation that could include a wide variety of initiatives, including cost cutting measures and revenue growth opportunities through greater electrification and incentives to attract new customers.

Prepared by/Reviewed by: M. Janes
Approved by:

September 11, 2017
Supplemental Information note
NL Energy Sector Priorities and Speaking Points

Topic: NL Electricity and Oil and Gas Policy Priorities and Speaking Points

Issue: To summarize key issues, priorities and related speaking points for Newfoundland and Labrador’s electricity and oil and gas sectors

Background:

ELECTRICITY
Overview:
• The Newfoundland and Labrador electricity system has almost 7,500 megawatts (MW) of generating capacity. Around 2,000 MW serve approximately 300,000 customers in the province, with the remaining electricity exported via transmission related to the Churchill Falls hydroelectric project. NL customers are connected to either the Island or Labrador interconnected system, or to one of the province’s 21 diesel systems in isolated coastal communities.

• NL’s electricity priorities are: 1) Interconnection preparation; 2) rate management; 3) domestic use of alternative energy; and 4) export opportunities. (Annex A provides further detail on these priorities, as well as potential speaking points).

Priorities:

1) Interconnection Preparation
• For the first time, and through completion of the Muskrat Falls Project, the Island System will become connected with Labrador through the Labrador-Island Link transmission line, and with Nova Scotia and North America through the Maritime Link transmission line. This interconnection will allow NL to sell its excess power in the North American market (Labrador already connected to Quebec).

2) Rate Management
• NL has taken a number of steps to determine the costs, schedule and risks of the 824 MW Muskrat Falls project, and to ensure all necessary steps are taken to identify and mitigate any remaining engineering and construction risks as the project proceeds including:
  o hiring a proven utility leader as CEO;
  o appointing an independent and capable new board of directors; and
  o stabilizing and improving the contract terms for the project’s major contractor.

• Government is currently working with Nalcor Energy to ensure that all options are explored for minimizing electricity rate increases related to Muskrat Falls. These include:
  o maximizing the value of Churchill Falls energy available to NL;
  o bringing surplus power from Labrador across the Labrador Island Link for island use;
  o importing less expensive power via the Maritime Link when it is advantageous to do so;
  o electrification (e.g. increasing electric vehicle usage and electric space heating); and
  o using revenues from export sales.
3) **Domestic use of Alternative Energy**
   - Currently, over 80 percent of the province’s electricity is generated from renewable resources. This is primarily from hydro, with a small proportion from wind (over 54 MW).

   - As of July 1, 2017, NL’s net metering programs allow NL residents to generate power from small scale renewable sources for their own use and supply surplus power to the utility.

   - NL’s biogas program allows electricity generation from raw materials such as landfill and agricultural waste. NL is currently finalizing a power purchase agreement with a proponent.

   - The province’s 21 diesel systems serve around 3,400 customers and have a total installed capability of approximately 36 MW. This includes five communities in the Nunatsiavut region and one which is being decommissioned in fall 2017 as it has been approved for relocation.

   - Since 2008, NL has invested $3.5 million to determine if alternative energy sources (e.g. wind and hydro), can be used to reduce generation costs in isolated Labrador communities.

   - NL is seeking opportunities to develop wind farms and small scale hydro, with the diesel systems as priority. NL is participating in the Nunatsiavut Energy Security Working Group for the five Nunatsiavut systems, and developing a request for EOI for the remaining systems.

4) **Export Opportunities**
   - Currently, Nalcor exports around 1.5 terawatt hours (TWh) of energy annually from Churchill Falls, through its Quebec transmission reservation. Following completion of the Muskrat Falls project in 2020, Nalcor’s annual energy surplus will be approximately 3 TWh per year.

   - The Muskrat Falls project will connect the island of Newfoundland with the North American grid for the first time. This will allow Nalcor to maximize the value from provincial electricity resources by exporting excess electricity to other regions of Canada and the US.

   - Nalcor has been engaged with Emera and New Brunswick Power for several years exploring opportunities to export NL’s generation into the Maritimes and New England.

   - NL is working with the federal and Atlantic Canadian governments and utilities to identify the best opportunities for new electricity infrastructure to reduce carbon emissions in the region.

**Potential Speaking Points:**
- NL has an abundance of developed and undeveloped renewable energy resources. These hydro and wind resources are essentially free of GHG emissions and relatively stable from a long-term cost perspective.

- Currently, over 80 percent of NL’s electricity is generated from renewable resources and this number will increase to 98 percent once Muskrat Falls comes into service. It will also displace approximately one million tonnes of greenhouse gas emissions annually through decommissioning the province’s 490 MW thermal generating station.
• NL's clean electricity supply options can assist other jurisdictions in meeting their current and future electricity needs over various timeframes. These options include:
  o Existing energy through the 265 MW transmission reservation through Quebec;
  o Additional power through the Muskrat Falls project in 2020;
  o The undeveloped 2,250 MW Gull Island hydroelectric project; and
  o Other undeveloped wind and small scale hydro generation projects.

• NL is focused on electricity rate management and is laying the foundation for well-planned and well-managed resource development based on innovation, excellence, and sound business and regulatory practices. The result is better management, controls and outcomes.

• Through completion of the Muskrat Falls Project, NL’s Island System will become connected with the North American grid for the first time. As such, our government is continuing its work to implement a number of policy, regulatory and legislative changes to reflect North American market rules, transmission access rules, and reliability oversight.

• NL is currently exploring other opportunities to increase its renewable energy, including offsetting diesel in our regulated electricity-isolated diesel systems.

• Our priority is acting to maximize the net benefits from use of our renewable electricity within the province and for electricity export.

OIL AND GAS SECTOR

Overview:
• NL has an estimated 3.9 billion barrels of discovered crude oil and 12.6 trillion cubic feet of discovered natural gas. Currently, NL’s offshore oil projects include Hibernia (including the Main Area, AA Block and Hibernia Southern Extension), Terra Nova, White Rose and the White Rose Expansion Projects (including North Amethyst, West White Rose and the South White Rose Extension).

• The next stand-alone project is Hebron, with first oil expected before the end of 2017. Cumulative oil production from all projects as of July 31, 2017 was 1.71 billion barrels with an estimated value of $122.6 billion.

• NL’s rich endowment of petroleum and natural gas resources represents one of the province’s greatest opportunities. As existing projects progress through their life cycles, new developments will need to come on stream in order to keep resource revenues flowing. For that to happen, new, economically viable resources must be found.

• Oil and gas exploration activities in the offshore Newfoundland area continuing at a high pace; bids in 2016 licensing rounds drew record total work commitments of over $757 million, the third highest total bid amount to date for any year. The Labrador licensing round will close November 9, 2017, with a follow-up licensing round announced for 2019. This will also be the most active year in terms of seismic acquisition with four 3D programs (3 vessels) and one 2D program to be collected. There are over $3 billion in exploration work commitments currently on the books.
Priorities:

- Husky Energy confirmed plans in May 2017 to develop the White Rose Expansion Project with a fixed wellhead platform. The WREP will provide tremendous benefits to the people of the Province. This project will provide 9.7 million person hours of employment during the engineering and construction phases equating to more than 5,000 person years of employment. The operational phase will mean a further 250 permanent platform jobs and significant supply and service opportunities. This project will add more than $3 billion in provincial royalties, equity, and taxes.

- NL’s oil and gas priorities are to focus on the future development of the oil and gas industry, with the intent of developing a more sustainable and competitive industry, while ensuring that NL residents and businesses are the principal beneficiaries of all projects. This is discussed in detail below, followed by potential speaking points for the Minister. (Annex B provides further detail on these priorities, as well as potential speaking points).

- The oil and gas industry is highly dependent on global commodity prices and related patterns of supply and demand. Commodity prices in petroleum sectors remain low, placing negative pressure on the relative profitability of ongoing and proposed developments, as well as on the oil royalties and corporate taxes paid to the Provincial Government. The challenge then, is to support industry during downturns such that activity is maintained in the short term and that conditions are right to encourage new exploration and development when market factors improve.

- To position the province globally as a preferred location for oil and gas development, in December 2016 NL established an Oil and Gas Industry Development Council to: decrease the time from exploration and discovery; promote regulatory excellence; focus on life cycle benefits from projects to maximizing benefits to the province through construction, fabrication and supply and service activities; and, provide fiscal certainty to attract companies to assess exploration opportunities.

- Of key importance to the Province is the ongoing federal review of environmental assessment and regulatory processes. NL’s main concern was how changes to the federal environmental assessment process will affect the NL offshore oil and gas industry and specifically, the issue of designating the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB) as a Responsible Authority (RA) under the Canadian Environmental Assessment Act, 2012 (CEAA 2012).

- NL’s position is that industry requires regulatory consistency that is inherent in the ‘single regulator’ model envisioned under the Accord Acts. Any separation of responsibilities, especially environmental processes to an outside regulator, is inefficient and ineffective in ensuring all components in the overall authorization of a work or activity are coordinated to ensure the utmost protections are in place for worker safety and environmental protection. The C-NLOPB must be designated as an RA under CEAA, 2012 as decisions that have the ability to impact the economy in our region should be based on decision making in the region by those best positioned to do so.

- The current suite of offshore regulations is outdated and notably prescriptive in format and design. To ensure an effective, efficient and transparent regulatory regime, governments embarked on a regulatory initiative to modernize our offshore regulations to achieve global competitiveness without compromising safety and the environment.
The Frontier and Offshore Regulatory Renewal Initiative (FORRI) was established to work collaboratively to modernize offshore operational regulations under the Accord Acts and under federal legislation. FORRI is an intergovernmental partnership with representation from NRCan, Indigenous and Northern Affairs Canada, the NL Department of Natural Resources, the NS Department of Energy, the C-NLOPB, the C-NSOPB, and the NEB. QC will be invited to join FORRI as full partners once their offshore Accord is complete. The FORRI participants are modernizing the regulatory framework for Canada’s frontier and offshore oil and gas sector under a goal-oriented style similar to that adopted internationally.

Atlantic Occupational Health and Safety Initiative: is working towards developing performance based OHS regulations to replace the Transitional Occupational Health and Safety Regulations (TOHSR) that came into effect on December 31, 2014 to implement the new Part III.1 legislative amendments to the Accord Acts. The OHS regulations initiative has moved into Phase III of policy intent development.

The OHS and FORRI initiatives are on similar timelines with the target date for completion of the draft regulations for fall 2018 with final publication into Canada Gazette II anticipated for the spring of 2019.

- FPT discussions in collaborative forums on oil and gas development and infrastructure have largely focused on pipelines. However, NL would also like discussions to go beyond traditional pipeline investment to encompass investment in oil and gas exploration, and investment in infrastructure and technologies that can continue to bring these resources to market.

Potential Speaking Points:

- Newfoundland and Labrador possesses significant undiscovered and underdeveloped petroleum resources in our offshore area. From prospectivity to discovery to production, the long-term view for oil and gas exploration and development remains strong in our Province, despite market fluctuations and uncertainty.

- Oil and gas exploration activities in our offshore area are continuing at a high pace. The 2016 offshore licensing rounds drew record total work commitments of over $750 million and this year will be a highly active year in terms of seismic acquisition with four 3D programs and one 2D program to be collected. In fact, the province currently has nearly $3 billion in exploration work commitments on the books.

- We also have the White Rose Extension Wellhead Platform Project beginning construction in Newfoundland and Labrador later this year with first oil expected in 2022. This exciting endeavor will result in direct employment, business and other industrial benefits provided to the Province, and will total more than $3 billion in provincial royalties, equity and taxes.

- We need to keep this momentum going by continuing to support the oil and gas industry during downturns such that activity is maintained in the short term and that conditions are right to encourage new exploration and development when market factors improve.

- A renewed focus on cooperation among governments and other stakeholders in the energy sector will help contribute to a more competitive economy in a changing national and global landscape.
In December, my government established an Oil and Gas Industry Development Council to assist in determining the long-term vision of the province’s oil and gas industry. I believe that a collaborative approach is essential to ensuring resources are developed in a manner that will result in a responsive and sustainable industry. This means developing actions, mechanisms and policies that will ensure the long-term success of our industry.

Officials from Newfoundland and Labrador, Nova Scotia and the Federal Government have also been working on important initiatives to modernize our offshore oil and gas regulatory structures. This includes the FORRI initiative as well as progress on new occupational health and safety regulations. These initiatives will strengthen our regulatory regime and ensure our global competitiveness without compromising safety and the environment.

Prepared/Approved by:  C. Boland and A. Philpott/ C. Snook / J. Cowan
Ministerial Approval:

October 5, 2017
Information Note  
Department of Natural Resources  

Title: Application from the Consumer Advocate  

Issue: On January 4, 2018 the Office of the Consumer Advocate (CA) filed an Application with the Board of Commissioners of Public Utilities (PUB) to delay Newfoundland and Labrador Hydro’s (NLH) 2017 General Rate Application (GRA).  

Background and Current Status:  
- On January 4, 2018 on the basis of its concerns with the proposed cost of service study, particularly as it related to the off-island purchases deferral account, the CA applied to the PUB for an Order to delay the schedule for the GRA (including settlement discussions, negotiations, the filing of issues lists and witness lists, the motions day, and the commencement of public hearings) until additional information is provided by NLH. The public hearing portion of the GRA had been scheduled to begin January 30, 2018.  
- The CA’s Application includes the following concerns, that the:  
  o Deferral account is not a rate mitigation plan but a proposal to over-charge customers by basing rates on a cost of service study that NLH forecasts will over collect revenues (and when and how the funds are to be allocated to customers in the future);  
  o Deferral account lacks transparency as NLH has not submitted a procurement plan for off-island purchases;  
  o Deferral account lacks a definition, (including whether NLH can legally collect these costs prior to the commissioning of the Muskrat Falls Project);  
  o Costs for using the Labrador Transmission Assets (LTA) and the Labrador Island Link (LIL) appear “exorbitant”;  
  o GRA does not specify how deferral account funds will be allocated to the various customer classes.  
- The CA maintains that in light of the above concerns, the current GRA is incomplete, making it impossible for customers, interested parties, and the PUB to make informed decisions on the proposed cost of service study and the off-island purchases deferral account.  
- The CA requests that additional information should be filed prior to any GRA settlement negotiations, including:  
  o A 2019 test year cost of service study based on the expected supply scenario with off-island purchases over the LIL and ML;  
  o A proposal for a supply cost adjustment mechanism to complement the cost of service study (given the uncertainties brought of the off-island purchases);  
  o NLH’s power procurement plan for off-island purchases over the LIL and ML;  
  o NLH’s plan for sales of power over the LIL and ML;  
  o A vetting program for both sales and purchases over the LIL and ML to assist parties and the PUB in determining if customers are receiving optimum value;  
  o An open access transmission tariff including how the open access regime will work;  
  o A Newfoundland Power (NP) wholesale rate better reflecting forecast marginal costs.  
- The CA’s Application states that without additional information, the PUB could not reasonably comply with the Electrical Power Control Act, 1994’s provision to deliver power to customers at the lowest possible cost consistent with reliable service.
Analysis:
- It is not yet determined how the PUB will rule in relation to this application from the CA.
- While the CA has raised concerns regarding the proposed approach to valuing the off-island deferral account, neither the CA nor its expert witness for this GRA has disputed that raising additional funds from rate payers for rate management is prudent. The CA’s objection is focused on the specific approach to valuing the off-island deferral account proposed in the GRA and the perceived lack of quantifiability and transparency with the approach.
- The CA notes there is no precedent in this jurisdiction for the rate mitigation initiative proposed by NLH and that the CA believes the PUB “could not endorse any such ‘plan’ based on the information” provided to date.
- NR had a discussion with the PUB on the potential response to the CA’s Application. The PUB advised that all interveners, including NLH, will have the opportunity to respond to the CA’s Application and that the CA in turn can respond to any responses received from interveners. The PUB advises that this process would likely take two weeks. Should the PUB turn down the CA’s Application, the PUB expects the GRA schedule to continue as scheduled. Should the PUB approve of the CA’s Application, the PUB anticipates an additional six months would be added to the GRA schedule.
- The PUB indicated such an application so late in the GRA process is an unusual and possibly unprecedented situation.
- PUB staff have also advised in the recent past that delaying NLH’s 2018/19 GRA rate implementation could have other unforeseen complications.

Action Being Taken:
- NR will continue to monitor the process pertaining to NLH’s 2017 GRA.

Prepared by/Reviewed by: L. MacDonald / M. Janes / C. Snook / J. Cowan
Ministerial Approval:

Attachments: Annex A – Consumer Advocate Application date January 4, 2018

January 4, 2018
Annex A – Consumer Advocate Application date January 4, 2018

IN THE MATTER OF
the Electrical Power Control Act, 1994
SNL 1994, Chapter E-5.1 (the “EPCA”)
and the Public Utilities Act, RSNL 1990,
Chapter P-47 (the “Act”), as amended; and

IN THE MATTER OF a General Rate
Application by Newfoundland and Labrador
Hydro to establish customer electricity rates
for 2018 and 2019 filed on July 28, 2017, and
subsequently revised on September 15, 2017,
October 15, 2017, October 27, 2017 and
November 27, 2017 (the “GRA”)

TO: The Board of Commissioners of Public Utilities (the “PUB”)

The Application of the Consumer Advocate states:

1. The Consumer Advocate has been appointed under the authority of Section 117 of the Public Utilities Act to represent the interest of domestic and general service consumers and, as such, is an Intervenor in the above-noted GRA.

2. The Consumer Advocate maintains that the settlement discussions scheduled to begin on January 10 would be premature and unproductive. The record is far from complete, making it impossible for customers, the parties and the PUB to make an informed judgment and a reasonable decision on the appropriateness of the proposed cost of service study and off-island purchases deferral account.

3. The Application herein is for an Order that the Public Utilities Board (the “PUB”) delay the schedule for the GRA until Hydro files with the parties certain relevant information.
The Consumer Advocate has numerous concerns with Hydro's proposed cost of service study and off-island purchases deferral account, based on the following:

(a) Hydro suggests that its proposed Off-Island Purchases Deferral Account is a rate mitigation plan. It is not. It is a proposal to over-charge customers by basing rates on a cost of service study that Hydro forecasts will significantly over-collect revenues. A portion of the funds collected, represented as the difference between energy supply costs under the proposed cost of service study and actual energy supply costs, would be made available to the PUD to decide if, when and how the funds might be used to mitigate upcoming, but as yet unknown and unapproved, rate increases. If, when and how the funds are to be allocated to customers in the future is a critical component of any rate mitigation plan for which there is currently no information on the record.

(b) The Off-Island Purchases Deferral Account lacks transparency as Hydro has not submitted a procurement plan for off-island purchases.

(c) The deferral account lacks a definition, appears open-ended and there is no certain information to found Hydro's claim of the potential to accumulate hundreds of millions of dollars. The estimate of the account balance by August 31, 2020 is $174.3 million (NP-NLH-115, rev 1). However, this is understated as costs for use of the LIL/LTA assets appear to be exorbitant, without any stated justification, and it is not clear under current legal documentation if Hydro can collect these costs prior to the commissioning of the Muskrat Falls Project. Further, the proposed deferral account does not include purchases over the ML.

(d) The proposed deferral account does not include reliability benefits. As stated in Expert Evidence submitted by JT Browne Consulting (page 4): “The net
benefits prior to full commissioning of the MTGF would also include improved reliability of the IIS. It would be difficult to estimate the value of this increased reliability and Hydro has not attempted to estimate it. It is not clear why reliability benefits are so difficult to estimate. For example, the new transmission facilities may lead to savings arising from: 1) avoiding, or delaying, construction of new generation facilities, 2) relegate Holyrood Units 1 and 2 to standby status, and Unit 3 to synchronous condenser operation, 3) cancellation of capacity assistance agreements, 4) allowing purchases of non-firm economy energy rather than firm energy purchases with an implied capacity charge, and/or 5) freeing up capacity on the Island that might be sold in the Northeastern United States. Hydro is proposing to set Island customer rates at levels reflecting the continued operation of Holyrood for both capacity and energy purposes including capital, O&M and fuel, without returning to customers the costs it avoids from the reliability benefits derived from the LIL/LTA and ML transmission. This is inconsistent with the Cost of Service Standard that the utility may be assured of an opportunity to earn a fair return because the “opportunity” is weighted in Hydro's favour.

(e) The deferral account allows for the costs of off-island purchases including the cost of transmission, and the O&M costs associated with using LIL/LTA, but does not appear to allow for potential offsets for the costs of transmission that Island customers are already paying through the cost of service study. Without knowing what might be included for the costs of transmission under the open access regime that Hydro proposes to file by the end of the first quarter of 2018, it is difficult to know how customers will be charged for transmission. Regardless, the transmission costs for off-island purchases should allow for offsets that Island customers are already paying. Otherwise, it is inconsistent with the Cost of Service Standard that the utility may be
assured of an opportunity to earn a fair return because the "opportunity" is weighted in Hydro's favour.

(f) It does not specify how funds from the deferral account will be allocated to Island customer classes, so it is not clear how allowance will be made for the fact that Island customer classes have not been paying according to rates that reflect the costs they impose on the system, i.e., the proposed cost of service study does not incorporate off-island purchases. It appears the only practical way to allocate funds fairly would be to run after-the-fact cost of service studies reflecting the actual cost of supply to each customer class, which could be described as retroactive ratemaking.

5. Based on the foregoing, in the interests of regulatory efficiency and procedural fairness, the following information should be filed prior to any settlement negotiations (the "additional information"):  

i) A 2019 test year cost of service study based on the expected supply scenario with off-island purchases over the Labrador-Island Link (LIL) and the Maritime Link (ML).

ii) A cost of service study based on the expected supply scenario would render Hydro's proposed Off-Island Purchases Deferral Account obsolete. Hydro would be exposed to uncertainties brought on by off-island purchases, so should propose a supply cost adjustment mechanism to complement the cost of service study and protect it from such uncertainties.

iii) Hydro's power procurement plan for off-island purchases over the LIL and ML.
iv) Hydro’s plan for sales of power over the LIL and ML.

v) A vetting program for both sales and purchases over the LIL and ML that will enable the parties and the PUB to determine if customers are receiving optimum value.

vi) An open access transmission tariff, including an explanation of the facilities included in the tariff and an explanation as to how the open access regime will work, and how open access can be leveraged to provide optimum value to Island customers. This should include LIL/LTA transmissions, O & M costs that Hydro references in CA-NLH-177 and a legal position documenting why Hydro believes it is allowed to recover these costs prior to commissioning the Muskrat Falls project.

vii) A wholesale power rate for Newfoundland Power that better reflects forecast marginal costs.

5. Without the additional information the GRA would proceed without fundamental evidentiary components, with the result of the PUB being left without a proper foundation upon which to base its decision. On balance, the Consumer Advocate submits that it is clearly not reasonable for the PUB and the other parties to be required to allocate their resources further at this point and undertake the significant expenditures required of a GRA hearing, without the provision of the additional information that remains outstanding.

7. All parties are entitled to have accurate forecasts of Hydro’s revenue requirements, cost allocations and balances that might accumulate in any account set up for rate mitigation purposes.
8. There is no precedent in this jurisdiction for the rate mitigation initiative proposed by Hydro and the PUD could not endorse any such “plan” based on the information thus far provided by Hydro.

9. Here, the PUD is required in law to apply the policies established under the *Electrical Power Control Act, 1994* (the “EPCA”) and, in particular, to ensure that the GRA will result in power being delivered to consumers at the lowest possible cost consistent with reliable service.

10. Section 3(b) of the *Electrical Power Control Act, 1994* SNL 1994, c. E-5.1 (the “EPCA”) states:

    Power policy

    3. It is declared to be the policy of the province that

        (b) all sources and facilities for the production, transmission and
distribution of power in the province should be managed and
operated in a manner

            (i) that would result in the most efficient production,
transmission and distribution of power,

            (ii) that would result in consumers in the province having
equitable access to an adequate supply of power,

            (iii) that would result in power being delivered to consumers
in the province at the lowest possible cost consistent
with reliable service,

        ...

    and, where necessary, all power, sources and facilities of the
province are to be assessed and allocated and re-allocated in
the manner that is necessary to give effect to this policy;
11. There is precedent across Canadian jurisdictions for Public Utilities Boards to
require utilities to file additional information. Some of that precedent (albeit on
other issues) is referenced in the evidence of Mr. Patrick Bowman as encapsulated
in PUB-1C-008. Also, the PUB has jurisdiction under its own legislation in
reference to these matters.

12. In conclusion, without the additional information required herein, the PUB could
not reasonably comply with the above-referenced provisions of the Electrical Power
Control Act, 1994. The GRA lacks certainty, is vague and has been described by
our own expert as “fictitious”. It is difficult to appreciate how the PUB could be
alive to the issues based on generalities and without specific evidence. In terms of
outcomes, there can be no reasonable outcome given the lack of transparency.
Based on the foregoing, we are requesting that the Public Utilities Board order a
delay of any further proceedings, including settlement discussions, negotiations, the
filing of issues lists and witness lists, the motions day, and the commencement of
public hearings, until this additional information is provided to the parties in the
usual form.

DATED AT St. John’s, in the Province of Newfoundland and Labrador this 4th day of

Per:  

Dennis Brown, Q.C.
Consumer Advocate
Terrace on the Square, Level 2, P.O. Box 23135
St. John’s, Newfoundland & Labrador A1B 4J9

Telephone: (709) 724-3800
Telex: (709) 754-3800
Title: Responses to Consumer Advocate's Application to Delay Proceedings

Issue: To summarize responses to the Consumer Advocate's (CA's) application to delay proceedings pertaining to Newfoundland and Labrador Hydro's (NLH's) 2017 General Rate Application (GRA)

Background and Current Status:
- On January 4, 2018 the CA applied to the Board of Commissioners of Public Utilities (PUB) to delay the GRA schedule citing concerns with the proposed cost of service study, particularly in relation to the off-island purchases deferral account for rate management.

NLH's Response
- In its January 12, 2018 response, NLH noted the CA's Application is "inappropriate, without regulatory precedent, premature, prejudicial to Hydro, and ignores the very purpose of a holding a hearing on a general rate application."
- While NLH's response discussed CA concerns, its primary point was that it had submitted significant information supporting its 2017 GRA, and that it intends to provide NLH and Expert Witness testimony during the GRA hearing to further substantiate NLH's proposal, and that the CA will have full opportunity to test NLH's evidence during the hearing.
- NLH stated the CA's application is a "preemptive attempt to have the Board rule on Hydro's proposal prior to a full hearing," and "the Application seeks to have the Board prejudge Hydro's application without the evidence before it being tested [at a hearing]." NLH noted that "to allow the Consumer Advocate's Application would be profoundly prejudicial to the Hydro's GRA and would vitiate the process established by the Board for the GRA's determination."

Newfoundland Power's (NP's) Response
- NP's January 15, 2018 response noted that it agrees with certain CA points, including the fact that the evidence filed in support of the off-island purchases deferral account does not appear to be sufficient. NP however, also noted that "the Board should, in the circumstances, give due regard to Hydro's assertion of its right to proceed with its 2017 GRA as filed."

Island Industrial Customers' Response
- Island Industrial Customers' January 15, 2018 response noted their primary concern is rate certainty and delaying the current GRA would raise the "prospect of an extended period under interim rates and consequent rate uncertainty in 2018 and likely extending into 2019."
- This group also noted that if the deficiencies in NLH's GRA evidence asserted by the CA are borne out in the GRA hearing, it is NLH that bears the risk of its off-island purchases deferral account proposal not being approved in the PUB's ultimate GRA order.
CA’s Reply to Intervenors

- In its January 18, 2018 reply, the CA maintained its position that the GRA should be delayed until NLH files additional information supporting its off-island purchases deferral proposal.

- The CA has also stated that OC2013-343 stipulates that no costs “in respect of each” of Muskrat Falls, the Labrador Transmission Assets (LTA) or the Labrador-Island Link (LIL) “shall be included as costs, expenses or allowances in [NLH’s] cost of service calculation or in any rate application or rate setting process, and no such costs, expenses or allowances shall be recovered by [NLH] in rates until such time as the project is commissioned or nearing commissioning and Newfoundland and Labrador Hydro is receiving services from such project.” OC2043-343 in its entirety is appended as Annex I.

- In the CA’s view, which NP shares, OC2013-343 may prevent NLH from recovering costs associated with use of the LTA/LIL to source off-island purchases, such as recall power. NLH’s proposed off-island purchases deferral account proposes that operating and maintenance costs associated with the use of the LIL would be charged to ratepayers, thus reducing the potential deferral account savings balance. (It is important to note that NLH has not proposed capital cost recovery from the LIL/LTA.)

- A January 22, 2018 media article stated, “Newfoundland Power says cabinet order 2013-343 specifically says the LIL’s owners can’t charge ratepayers for using the link until the Labrador power project is completed.” In fact, NP’s response to the CA application was less unequivocal, which stated “…it is unclear whether the [off-island purchases deferral account] conforms to provincial Cabinet directives. Order in Council OC2013-343, which governs recovery of Muskrat Falls project costs, specifically prohibits the recovery of Labrador Island Link (“LIL”) costs until the project is “commissioned or nearing commissioning.” The article did not acknowledge that NP disagreed with the CA’s request to delay the entire GRA to address deferral account questions.

- The CA has noted it was unable to fully examine the deferral account issues in the context of a rate hearing as it did not have the information required to undertake a thorough examination. The CA has noted, “a comprehensive assessment of rate mitigation plans for Muskrat Falls is an important matter, but one that should be undertaken separately [from the current NLH GRA] and involve Hydro, NP and all intervenors.”

Analysis:

- NP and the Island Industrial Customers’ responses to the CA application express agreement with the CA’s deferral account concerns over lack of information. However, neither of these parties agrees with the CA that the GRA should be delayed to address these concerns.

- It is important to note the proposed deferral account does not seek to recover LIL/LTA capital or interest costs. Rather, the proposal seeks to recover operating and maintenance costs required to use the lines for off-island supply.
Action Being Taken:
- NR will provide an update when the PUB makes a ruling on the CA's application, which is expected to occur in the coming days.

Prepared/Reviewed by: M. Janes / C. Snook / J. Cowan
Ministerial Approval: Received from Hon. Siobhan Coady

January 18, 2018
Annex 1 – OC2013-343

Under the authority of section 5.1 of the Electrical Power Control Act, 1994, the Lieutenant Governor in Council is pleased to direct the Board of Commissioners of Public Utilities to adopt a policy, subject to section 3, that:

1) Any expenditures, payments or compensation paid directly or indirectly by Newfoundland and Labrador Hydro, under an agreement or arrangement to which the Muskrat Falls Project Exemption Order applies, to:
   a) a LIL Party,
   b) a system operator in respect of a tariff for transmission services or ancillary services in respect of the LIL, that otherwise would have been made to a LIL Party, or
   c) Muskrat Falls Corporation, in respect of:
      i) electrical power and energy forecasted by Muskrat Falls Corporation and Newfoundland and Labrador Hydro to be delivered to, consumed by, or stored by or on behalf of Newfoundland and Labrador Hydro for use within the province, whether or not such electrical power and energy is actually delivered, consumed, or stored within the province,
      ii) greenhouse gas credits, transmission services and ancillary services, and
      iii) obligations of Newfoundland and Labrador Hydro in addition to those obligations under financing arrangements related to the construction and operation of Muskrat Falls and the LTA shall be included as costs, expenses or allowances, without disallowance, reduction or alteration of those amounts, in Newfoundland and Labrador Hydro's cost of service calculation in any rate application and rate setting process, so that those costs, expenses or allowances shall be recovered in full by Newfoundland and Labrador Hydro in Island interconnected rates charged to the appropriate classes of ratepayers;

2) The costs, expenses or allowances of Newfoundland and Labrador Hydro described above, and the rates for Newfoundland and Labrador Hydro established by the Board of Commissioners pursuant to the direction under section 1, shall not be subject to subsequent review, and shall persist without disallowance, reduction or alteration of those costs, expenses or allowances or rates, throughout any processes for any public utility, including Newfoundland Power Inc., or any other process under the Electrical Power Control Act, 1994 or the Public Utilities Act;

3) Notwithstanding sections 1 and 2, no amounts paid by Newfoundland and Labrador Hydro described in those sections shall be included as costs, expenses or allowances in Newfoundland and Labrador Hydro's cost of service calculation or in any rate application or rate setting process, and no such costs, expenses or allowances shall be recovered by Newfoundland and Labrador Hydro in rates:
   a) where such amounts are directly attributable to the marketing or sale of electrical power and energy by Newfoundland and Labrador Hydro to persons located outside of the province on behalf of and for the benefit of Muskrat Falls Corporation and not Newfoundland and Labrador Hydro; and
   b) in any event, in respect of each of Muskrat Falls, the LTA or the LIL, until such time as the project is commissioned or nearing commissioning and Newfoundland and Labrador Hydro is receiving services from such project.
4) In this Order in Council, terms shall have the same meaning ascribed to them in the Muskrat Falls Project Exemption Order.
Title: Board of Commissioners of Public Utilities Decision on the Consumer Advocate’s Application for NL Hydro to refile its 2011 General Rate Application

Issue: To explain the Board of Commissioners of Public Utilities (PUB) January 26, 2018 Order with respect to the Consumer Advocate’s (CA) application to delay NL Hydro’s (NLH) 2017 General Rate Application (GRA).

Background and Current Status:
- On January 26, 2018 the PUB issued Order PU-2-2018 (“the Order”) in response to the CA’s January 4, 2017 application to delay NLH’s GRA pending NLH refileing the GRA. Background Information on the CA’s application and intervenors’ responses to it is provided in Annex 1.
- The PUB ordered NLH to file forecast 2018 and 2019 revenue requirements and cost of service studies based on the expected supply scenario, setting out the basis and support for the forecasts and assumptions used, including information related to customer rates and the updated fuel price forecast.
- The Order stated the PUB shares the concerns of NLH, Newfoundland Power (NP), and the Industrial Customer Group in relation to deferring the GRA, but stated that additional information relating to the expected supply scenario would be helpful in assessing the reasonableness of NLH’s proposals.
- The PUB noted 2018 and 2019 are transition years with Newfoundland and Labrador (NL) interconnecting via the Maritime Link (ML) and Labrador Island Link (LIL), thus making it challenging for NLH to provide a cost of service study reflecting the expected supply scenario of offsetting Holyrood thermal generation with off-island supply via the Labrador Island Link. However, the PUB is satisfied that reasonable assumptions can be made by NLH to reflect the circumstances anticipated.
- The PUB did not, however, grant the CA’s request to seek further information in other areas, including a procurement plan for off-island purchases, a plan for sales over the LIL and ML, or a vetting program for sales and purchases over the LIL and ML. The PUB said this information would not assist evaluating the GRA proposals.
- The PUB noted that information filed with regard to the 2018 and 2019 revenue requirement and cost of services studies should reflect:
  - purchases and sales over the LIL and ML;
  - the allocation of the operating and maintenance costs of the LIL and the LTA;
  - the classification and allocation of off-island power purchases;
  - the Holyrood fuel conversion rate;
  - the Holyrood capacity factor; and,
  - Holyrood fuel inventory used in rate base.
- The PUB also noted NLH should provide information in relation to customer rates and whether deferral accounts or other mechanisms would be necessary or appropriate to address uncertainties related to expected supply costs in 2018 and 2019.
• The PUB noted that that a process and schedule for the hearing of the GRA can be established which will minimize delays. For example, the hearing may be scheduled to begin before the additional information is filed to address the issues which are not directly related to the new information. In addition, the PUB noted that questions and evidence related to the new information can be addressed in the hearing thereby avoiding the significant delays associated with additional Requests for Information and written expert evidence.

• Once NLH files the additional information, intervenors will have opportunity during the hearing to address their issues with NLH's proposal to base the 2018 and 2019 test year revenue requirements and cost of service studies and rates on an isolated island scenario, including whether OC2013-343 prohibits NLH from incurring LIL or ML costs.

Analysis:
• It is unknown how the PUB may rule on the proposed off-island purchases deferral account. While the PUB has indicated it is sympathetic to the challenges of preparing cost of service studies for 2018 and 2019 that reflect the use of the ML and LIL to source off-island power, it is also clear that the PUB expects NLH to be able to supply such information based on 'reasonable assumptions'.

• The PUB has not indicated it opposes using a deferral account for off-island supply savings. However, it is not clear how this would provide more certainty for ratepayers or NLH over what NLH has currently proposed, which has been a consistent intervenor criticism off-island purchases deferral account.

• It is not certain that if NLH were to submit a cost of service study for 2018 and 2019 that was satisfactory to the PUB, that the PUB would indeed permit NLH to collect revenue based costs that reflect the use of Holyrood and not off-island purchases. It is conceivable the PUB could order that any reduction in costs should be passed immediately on to ratepayer during the period in which the savings accrue. If this were to occur, there would be no revenue for savings accumulated to fund future rate management.

Action Being Taken:
• The Department of Natural Resources (NR) will consult with the PUB to determine how the schedule for the GRA will be affected.

• NR will consult with NLH to determine how it intends to comply with the PUB’s Order.

Attachments: Annex 1 – Background Information

Prepared/Reviewed by: M. Janes / C. Snook / J. Cowan
Ministerial Approval: Received from Hon. Siobhan Coady

January 28, 2018
Annex 1 – Background

- On January 4, 2018, on the basis of its concerns with the proposed cost of service study, particularly as it related to the off-island purchases deferral account, the CA applied to the PUB for an Order to delay the schedule for the GRA (including settlement discussions, negotiations, the filing of issues lists and witness lists, the motions day, and the commencement of public hearings) until additional information is provided by NLH. The public hearing portion of the GRA had been scheduled to begin January 30, 2018.

- The CA's Application included the following concerns, that the:
  o Deferral account is not a rate mitigation plan but a proposal to over-charge customers by basing rates on a cost of service study that NLH forecasts will over collect revenues (and when and how the funds are to be allocated to customers in the future);
  o Deferral account lacks transparency as NLH has not submitted a procurement plan for off-island purchases;
  o Deferral account lacks a definition, (including whether NLH can legally collect these costs prior to the commissioning of the Muskrat Falls Project);
  o Costs for using the Labrador Transmission Assets (LTA) and the Labrador Island Link (LIL) appear “exorbitant”;
  o GRA does not specify how deferral account funds will be allocated to the various customer classes.

- In order to address these concerns the CA sought to have NLH file:
  o A 2019 test year cost of service study based on the expected supply scenario with off-island purchases over the LIL and ML;
  o A proposal for a supply cost adjustment mechanism to complement the cost of service study (given the uncertainties brought of the off-Island purchases);
  o NLH’s power procurement plan for off-Island purchases over the LIL and ML;
  o NLH’s plan for sales of power over the LIL and ML;
  o A vetting program for both sales and purchases over the LIL and ML to assist parties and the PUB in determining if customers are receiving optimum value;
  o An open access transmission tariff including how the open access regime will work;
  o A Newfoundland Power (NP) wholesale rate better reflecting forecast marginal costs.

Newfoundland Power's (NP's) Response
- NP's January 15, 2018 response noted that it agrees with certain CA points, including the fact that the evidence filed in support of the off-Island purchases deferral account does not appear to be sufficient. NP however, also noted that "the Board should, in the circumstances, give due regard to Hydro’s assertion of its right to proceed with its 2017 GRA as filed."

Island Industrial Customers' Response
- Island Industrial Customers' January 15, 2018 noted their primary concern is rate certainty and delaying the current GRA would raise the "prospect of an extended period under interim rates and consequent rate uncertainty in 2018 and likely extending into 2019."

- This group also noted that if the deficiencies in NLH’s GRA evidence asserted by the CA are borne out in the GRA hearing, it is NLH that bears the risk of its off-island purchases deferral account proposal not being approved in the PUB’s ultimate GRA order.
CA's Reply to Intervenors

• In its January 18, 2018 reply, the CA maintained its position that the GRA should be delayed until NLH files additional information supporting its off-island purchases deferral proposal.

• The CA has also stated that OC2013-343 stipulates that no costs "in respect of each" of Muskrat Falls, the Labrador Transmission Assets (LTA) or the Labrador-Island Link (LIL) "shall be included as costs, expenses or allowances in [NLH's] cost of service calculation or in any rate application or rate setting process, and no such costs, expenses or allowances shall be recovered by [NLH] in rates...until such time as the project is commissioned or nearing commissioning and Newfoundland and Labrador Hydro is receiving services from such project." OC2043-343 in its entirety is appended as Annex I.

• In the CA's view, which NP shares, OC2013-343 may prevent NLH from recovering costs associated with use of the LTA/LIL to source off-island purchases, such as recall power. NLH's proposed off-island purchases deferral account proposes that operating and maintenance costs associated with the use of the LIL would be charged to ratepayers, thus reducing the potential deferral account savings balance. (It is important to note that NLH has not proposed capital cost recovery from the LIL/LTA.)

• A January 22, 2018 media article stated, "Newfoundland Power says cabinet order 2013-343 specifically says the LIL's owners can't charge ratepayers for using the link until the Labrador power project is completed." In fact, NP's response to the CA application was less unequivocal, which stated "...it is unclear whether the [off-island purchases deferral account] conforms to provincial Cabinet directives. Order in Council OC2013-343, which governs recovery of Muskrat Falls project costs, specifically prohibits the recovery of Labrador Island Link ("LIL") costs until the project is "commissioned or nearing commissioning." The article did not acknowledge that NP disagreed with the CA's request to delay the entire GRA to address deferral account questions.

• The CA has noted it was unable to fully examine the deferral account issues in the context of a rate hearing as it did not have the information required to undertake a thorough examination. The CA has noted, "a comprehensive assessment of rate mitigation plans for Muskrat Falls is an important matter, but one that should be undertaken separately [from the current NLH GRA] and involve Hydro, NP and all intervenors."
Information Note
Department of Natural Resources

Title: Optimizing Regulated and Unregulated Electricity Assets

Issue: To provide an overview of issues pertaining to optimizing regulated and unregulated electricity assets.

Background and Current Status:
- In June 2016 Nalcor undertook organizational changes resulting in Newfoundland and Labrador Hydro (NLH) operating as a regulated utility with no direct role in the completion or operation of the unregulated assets comprising the Muskrat Falls Project (MFP). Completion and operation of the unregulated MFP assets were segregated into Nalcor Power Development, which is responsible for the completion and operation of MFP generation assets, and Nalcor Power Supply, which is responsible for MFP transmission assets.

- These changes were undertaken to help ensure MFP completion in a timely and cost effective manner, while allowing NLH to focus on its regulated utility operations.

- After MFP enters service, the ability to manage rates will directly relate to achieving maximum value from all of Nalcor and its subsidiaries’ electricity assets. This will require each of these subsidiaries cited above, as well as Nalcor Energy Marketing, to work in concert with each other. Achieving this requires additional operational changes and arrangements among these subsidiaries.
see the additional revenue generated through optimization accruing to regulated NLH, thus subjecting the use of those revenues to PUB oversight and direction.

- A similar scenario is currently unfolding in NLH’s 2017 General Rate Application (GRA) to the PUB, which included a proposal to use cheaper off-island electricity purchases while continuing to charge higher rates based on Island electricity sources including Holyrood thermal generation, to accrue revenues that would be used for future rate management.

- Opposition to NLH’s off-island purchases proposal, particularly on behalf of the Consumer Advocate (CA), has resulted in the PUB ordering NLH to file additional information, but has not yet resulted in the PUB disallowing the proposal.

- While the CA has raised concerns regarding the specific approach to the proposed off-island deferral account, neither the CA nor its expert witness for this GRA has disputed the prudence of raising additional funds from rate payers for rate management, or that rate management is not a fundamental regulatory consideration. In fact, the CA has called for a more comprehensive rate management plan to be presented. Furthermore, when faced with the arguments made by the CA, the PUB could have simply disallowed the off-island purchases proposal, but it has not elected to do so up to now.

- While there is uncertainty about the off-island purchases deferral account proposal, neither the PUB nor the intervenors in NLH’s 2017 GRA seem averse to the need to manage increases in electricity rates in NL.

- While Nalcor has presented high-level descriptions of the options, NR has advised the crown corporation that GNL does not generally favour removing any regulatory oversight as the independent expert review process of the PUB is a critical step to ensuring effective, evidence-based, open and transparent electricity policy.

**Action Being Taken:**
- NR requires more detailed information on each of the options to effect optimization, and how each is affected by the role of the PUB.

Prepared by: Reviewed by: M. Janes / C. Snook

Approved by: NOT APPROVED

6 April 2018
Information Note
Department of Natural Resources

Title: Newfoundland and Labrador Hydro 2018 Rate Stabilization Plan Adjustment Application

Issue: To summarize Newfoundland and Labrador Hydro’s (NLH) 2018 Rate Stabilization Plan (RSP) adjustment application.

Background and Current Status:

- On April 13, 2018, NLH will file its annual RSP adjustment application with the Board of Commissioners of Public Utilities (PUB). The application proposes rate changes effective July 1, 2018 including RSP fuel cost adjustments and additional interim rate changes in relation to delays in implementing NLH’s last 2017 General Rate Application (GRA).

- The GRA process establishes base electricity rates that utilities can charge customers in to recover costs. Utilities typically submit GRAs every two to three years as costs change. NLH’s 2017 GRA is currently before the PUB with hearings to begin on April 16, 2018.

- Between GRAs, rates may be adjusted each year on July 1 based on NLH’s actual versus forecast fuel costs for generating electricity at the Holyrood Thermal Generating Station, which is a function of the price per barrel of fuel, the amount of electricity used by customers, and annual rainfall that determines hydroelectric generation. This mechanism is the RSP, which was created to ensure that rates reflect actual costs of generation from year to year, rather than risk much larger rate changes over longer periods between GRAs.

- NLH’s 2017 RSP adjustment application forecasted the annual RSP adjustment to increase more than 18 per cent for most customers due to the costs associated with the amount of fuel used at Holyrood. A PUB response to the application noted that the annual rate impacts for retail customers associated with the RSP have historically been in the range of +/-10 per cent and that the proposed 18 per cent increase could be argued to cause customer rate shock. The PUB ordered NLH to look at options to mitigate such an increase.

- NLH is working on several rate mitigation options. Following a full review, the PUB ordered NLH to transfer its RSP Load Variation balance (a balance of approximately $50.7 million that accumulated as a result of over recovery in relation to the operation of Holyrood since 2013) to mitigate the 2017 RSP adjustment rate increase. The PUB approved a final rate increase of 9.1 per cent with additional costs to be recovered by NLH at a future date.

- Given this, NLH’s 2018 RSP factors in the additional costs that were not recovered by NLH in 2017 in addition to the fuel, hydrology and oil price normally factored into the RSP.

- NLH’s 2018 RSP adjustment application also requests interim electricity rates for 2018. NLH notes that Additional Cost of Service Information was filed with the PUB on March 22, 2018, and that the continuation of 2015 Test Year base rates is forecast to result in a revenue deficiency between $43.4 and $53.8 million.

- If increased base rates are not implemented in 2018, the revenue deficiency for the 2018 calendar year would need to be recovered from customers upon the establishment of final customer rates in 2019. NLH’s RSP application also notes that as the GRA hearing process may not be completed until late summer or early fall, it is possible that final rates resulting from the 2017 GRA may not be implemented until later than January 1, 2019. Given this, future rates would need to include recovery of both 2018 (full year) and 2019 (part of the year) revenue deficiency.
In total, NLH's 2018 RSP application requests a July 1, 2018 rate increase of 7.5 per cent (4.7 per cent of this increase is due to the RSP adjustment and the remaining 2.8 per cent accounts for NLH's request for an interim rate) or an additional 0.9 cents/kWh. For the average homeowner on the island, this would be an increase of about $13/month on their electricity bill (based on average consumption of 1,517 kWh/month).
Action to be Taken

- NR staff will monitor media reports and intervener filings on the application, and attend the upcoming GRA hearings.

Prepared/Approved by: L. MacDonald / C. Snook / J. Cowan

Ministerial Approval:

April 16, 2018
Information Note
Department of Natural Resources

Title: Newfoundland Hydro 2017's General Rate Application Hearing

Issue: To highlight the key discussion points of Newfoundland Hydro’s (NLH) 2017 General Rate Application (GRA) hearing on April 16 and 17, 2018.

Background and Current Status:
• The GRA process establishes base electricity rates that utilities can charge their customers to recover costs. Utilities typically submit GRAs every 2-5 years as significant costs change. Between GRAs, rates may be adjusted annually through the Rate Stabilization Plan.

• NLH estimates customer rates in 2018 and 2019 will increase on the island by 0.7 cents per kW/h in 2018 and 0.8 cents per kW/h in 2019. Customers on the Labrador Interconnected System will see 0.2 cents per kW/h increase in both years. Customers on the Isolated Labrador and In L’Anse au Loup systems will see increases of 0.4 cents per kW/h in 2018 and 0.5 cents per kW/h respectively in 2019.

• During the April 16-17, 2018 GRA hearing, Jim Haynes, President of NLH, was the witness from NLH and Liam O’Brien, outside counsel for Newfoundland Power (NP) asked all the questions.

• At the beginning of the session, Darlene Whalen, Chairman and CEO of the PUB introduced the panel having responsibility for the GRA, and staff assisting with the hearing. The panel included the Chairman, Commissioner Dwanda Newman the new Vice Chair of the PUB and Commissioner Jim Oxford.

• Upon request from the Chairman, Maureen Green, Hearing Counsel for the PUB, informed the house about the parties granted intervener status, followed by a brief introduction of attendees. (See Annex 1- List of Interveners).

• Hearing Counsel told the house that on January 4, 2018 the Consumer Advocate filed a motion with PUB to delay the start of the hearing until additional requested information was filed by NLH. The additional information was filed by NLH on March 23, 2018.

• Counsel for NP, noted that NP is NLH’s largest customer. It purchases over 85% of NLH’s annual production of electrical energy for resale to NP’s customers on the island. NP generates only 7% of its own electricity requirements and is mandated by law to purchase the remainder from NLH. In 2017, NP’s purchases were approximately $440M.

• The Consumer Advocate said that NL had a reliable and affordable electricity system that has been destroyed by the Muskrat Falls project.

• Counsel for the CA referenced OC-343 as giving clear direction about the current issue of the proposed Off Island Purchase Deferral Account. The OC prohibits recovery of Muskrat Falls project costs until it is commissioned or near commissioning, and the most recent forecast for the project’s commissioning is 2020.
• NP Counsel asked the President of NLH on how the proposed rates were communicated to public. The witness replied that the rates were communicated through press releases.

• The President of NLH also testified that there is a Rate Mitigation Committee comprising of NLH and Government departments of NR and Finance. The Committee is working to explore options to mitigate rates, to possibly avoid post Muskral Falls rate shock.

• In response to a question regarding load requirements for data centres, the President of NLH reported that NLH will require to upgrade transmission and distribution assets if there is request for major loads. He told that NLH intends to deal with data centres on a case by case basis.

• The President of NLHs also noted that one of the objectives of reorganization of NLH was to achieve efficiencies and control costs. There was no negative impact of reorganization of the company. NLH is cutting costs in every department to achieve efficiencies.

• NP Counsel asked about the involvement of Nalcor in NLH Budget preparation. Mr. Haynes replied that NLH's proposed budget goes to Nalcor and NLH Board of Directors for approval.

Analysis
• Consistent with the PUB’s usual sitting schedule the hearing will proceed four days each week, from 9:00 a.m. -1:00 p.m. The hearing days will be as follows:
  o April 16, 2018 (Monday)
  o April 17, 2018 (Tuesday)
  e—April 19, and 20, 2018 (Thursday & Friday hearings were postponed)
  o April 20, 2018 (Friday)
  o April 23, 2018 (Monday)
  o April 24, 2018 (Tuesday)
  o April 25, 2018 (Wednesday)
  o April 26, 2018 (Thursday)

• The hearing will adjourn on April 26, 2018 and a further schedule will be set upon consultation with the parties

Action Being Taken:
• Note is provided for information purpose only. NR is monitoring the PUB proceedings.

Prepared/Reviewed by: Y. Khan/Mark Janes/C. Snook

Approved by:

April 18, 2018
Annex 1-

List of Interveners- NLH 2017 General Rate Application Hearing April 16-17, 2018

1. Consumer Advocate,
2. Newfoundland Power
3. Industrial Customer Group which comprises Corner Brook Pulp & Paper Ltd., North Atlantic Refinery and Vale
4. Labrador Interconnected Group which includes the communities of Sheshatshiu, Happy Valley-Goose Bay, Wabush, and Labrador City and the Iron Ore Company of Canada.

Table 1- List of Attendees - NLH 2017 General Rate Application Hearing April 16-17, 2018

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<tr>
<th>Name</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Geoffrey Young, Counsel</td>
<td>Newfoundland and Labrador Hydro</td>
</tr>
<tr>
<td>Alex Templeton, Counsel</td>
<td></td>
</tr>
<tr>
<td>Gerard Hayes, Counsel</td>
<td>Newfoundland Power</td>
</tr>
<tr>
<td>Liam O'Brien, Counsel</td>
<td></td>
</tr>
<tr>
<td>Dennis Brown, Q.C.</td>
<td>Consumer Advocate:</td>
</tr>
<tr>
<td>Steven Fitzgerald, Counsel</td>
<td></td>
</tr>
<tr>
<td>Paul Coxworthy, Counsel</td>
<td>Industrial Customers</td>
</tr>
<tr>
<td>Dean Porter, Counsel</td>
<td></td>
</tr>
<tr>
<td>Denis Fleming Counsel</td>
<td></td>
</tr>
<tr>
<td>Jim Haynes</td>
<td>Witness/Witnesses</td>
</tr>
<tr>
<td></td>
<td>President Newfoundland and Labrador Hydro</td>
</tr>
</tbody>
</table>
Information Note
Department of Natural Resources

Title: Newfoundland Hydro's 2017 General Rate Application Hearing

Issue: To highlight the key discussion points of Newfoundland Hydro's (NLH) 2017 General Rate Application (GRA) on April 24, 2018.

Background and Current Status:
- The Public Utilities Board (PUB) is a quasi-judicial body with full legislated authority to make decisions regarding the setting of electrical rates charged by utilities to consumers in NL. The GRA process includes public hearings, filing of evidence and testimony by the applicant as well as various interveners with the PUB.

- The GRA process establishes base electricity rates that utilities can charge their customers to recover costs. Utilities typically submit GRAs every 2-5 years as significant costs change. Between GRAs, rates may be adjusted annually through the Rate Stabilization Plan.

- NLH estimates customer rates in 2018 and 2019 will increase on the island by 0.7 cents per kWh in 2018 and 0.8 cents per kWh in 2019. Customers on the Labrador Interconnected System will see 0.2 cents per kWh increase in both years. Customers on the Isolated Labrador and in L'Anse au Loup systems will see increases of 0.4 cents per kWh in 2018 and 0.5 cents per kWh respectively in 2019.

- The witnesses on April 24, 2018 were NLH President, Jim Haynes (President), and VP of Regulatory Affairs & Corporate Services, Dawn Dalley (VP). The discussions with the president involved recovering costs; an HVDC engineering report; forecast recall periods for Labrador; recapture power for the 2018/19 period; rate shock; Nalcor compensations and oversight; cost efficiency for 2018/19 test years; performance incentive contracts and corporate targets; the off Island purchases deferral account; rate mitigation committee; end consumer performance; and Exploits assets. The VP began with an overview of her work history at Nalcor and NLH then spoke to her current role and reporting scheme before the hearing adjourned at 1:30pm.

- When questioned by hearing counsel Maureen Greene (Counsel) on the relationship between NLH and government, the president stated that NLH provides information as required or requested but that most contact is made via the VP. In relation to the GRA, he said that no direction was provided by government nor was there any information provided to form part of the GRA. Regarding costs and compensation for NLH, The president stated that the only time NLH was asked by government to look in to the matter was when all ABCs were asked to cut costs. There was also no formal direction given by government in regards to employee compensation for 2017 and 2018.

- The president stated that the off-island purchases deferral account concept came to his attention from his regulatory affairs division to help with rate mitigation so as to ease consumers' rate shock once Muskrat Falls comes online. It would be in the rate payers' best interests to smooth rates in as it would be more burdensome if step increases are not controlled. There is an imminent cost that will have to be paid which will possibly be a combination of what can be provided by NLH and Nalcor, with government covering any shortfalls, but ultimately it will be the taxpayers and ratepayers that have to address this issue.
• It was also noted that government created a Rate Mitigation Committee to generate a plan to start putting monies aside to help with rate increases. He said that government promoted 17/18 cents kWh and that seemed like a reasonable number to work with when Muskrat Falls comes online but that is subject to change based on what happens afterwards.

• Counsel questioned why NLH would ask the PUB how to come up with a rate mitigation strategy when there is already a committee looking at the bigger picture. The president stated that NLH proposed a “business-as-usual” case whereby rate payers continue to pay the same costs as burning oil at Holyrood so that the extra revenue can be put in to an account to decrease the inevitable rate shock that will come with Muskrat Falls power. The president also stated that NLH is open to any other options to assist with the rate stabilization plan.

• In regards to informing rate payers on the validity of a deferral account, the president stated that more communication would be required to inform that it is not the rate itself but the progression to the eventual rate that is important.

• Questions also arose about the current status of the Exploits Generation Assets (Assets). The president stated that while nothing has been formalized to date, NLH anticipates they will continue to buy power at 4 cents kWh as per the Purchase and Power Agreement until government makes a decision on asset disposition. The president stated he is unaware of any timeline pertaining to this decision.

Analysis:
• The deferral account, as discussed by the president, cannot be pursued by NLH alone as they do not have the legislative authority. NR agrees that cooperation is required between Government, NLH and Nalcor in order to advance this concept.

• A timely decision would enable NLH to continue to operate the Assets on behalf of Government so there is no interruption in the 4 cents per kWh which benefits ratepayers as it is a lower cost than Holyrood generation.

Action Being Taken:
• This note is for informational purposes only.
• NR continues to monitor the PUB proceedings.

Prepared/Approved by: R. Montague /

Ministerial Approval:

April 25, 2018
Title: Newfoundland and Labrador Hydro's 2018 Rate Stability Plan Adjustment and Application for Interim Rates

Issue: To provide an update on Newfoundland and Labrador Hydro's (NLH) 2018 Rate Stability Plan Adjustment and application for interim rates.

Background and Current Status:
- On April 13, 2018, NLH filed its 2018 Utility Customer Interim Rates Application (the Application) with the Board of Commissioner of Public Utilities (PUB). The application sought approval of a Rate Stabilization Plan (RSP) adjustment and an interim base rate increase in NLH's Utility Customer rates - to be effective July 1, 2018.

- NLH amended the application on April 20, 2018 and advised that an error in the initial application overstated revenue by $8 million, thus requiring a slightly higher rate.

- Island electricity rates have two primary components: a GRA-approved base rate and an annual fuel cost RSP adjustment. NLH applies to the PUB for new base rates every 2-4 years in a General Rate Application (GRA) that presents a forecast of costs for the subsequent year. NLH submitted its latest GRA in 2017 based on forecast of costs in 2018 and 2019. The GRA requested new base rates effective January 1, 2018 and January 1, 2019 to begin recovering its costs, but due to ongoing GRA process delays, the PUB has not yet approved new base rates. As a result, present rates do not cover NLH's estimated costs in 2018.

- To ensure NLH can fully recover its costs, the legislation allows the PUB to approve interim rates pending completion of the GRA. This allows the utility to charge higher rates in advance of the GRA conclusion, but if the PUB ultimately disapproves of any of those costs, the utility will have to return to ratepayers any excess revenue it collected from the interim rates.

- The RSP is in place to address cost variance over which NLH has no control. For example, if a lack of rainfall causes increased reliance on thermal generation and therefore increases fuel costs, the RSP provides for recapture of these costs. The opposite situation can also occur, and result in an accumulation of funds which reduce future rates or rate increases. The RSP is subject to PUB oversight.
**GRA Delay-Related Interim Rate Increases**

- The requested interim rates reflect that under its current GRA, NLH expected to be collecting new rates on January 1, 2018 that reflected its 2018 cost of service as forecast in its 2017 GRA. However, GRA hearing delays have delayed implementation of rates that reflect NLH’s current costs, thus resulting in a revenue deficiency for NLH.

**RSP Adjustment**

- The RSP adjustment comprises four distinct rate adjustment impacts: 1) the end of 2017 rate mitigation measures; 2) an increase in forecast fuel prices; 3) a decrease in forecast fuel consumption; and 4) a balance in favour of ratepayers in the overall RSP account.

- In its 2017 RSP Adjustment, NLH sought an 18% increase. Given the magnitude of this increase and the fact that funding existed in the load variation component of the RSP account to mitigate this increase, the PUB directed NLH to apply this RSP balance to the rate increase, thereby reducing the rate increases. The funding available in the account for this reduction has now been expended.

- Customer rates reflect currently a forecast price of C$61.40 per barrel at a forecast consumption of 2.6 million barrels per year. NLH’s latest forecast indicates the fuel price will be $85.55 CDN per barrel for the 12-month period from July 2018 to June 2019.

- NLH’s RSP proposal includes calculating the RSP fuel rider reflecting it expects only 1.3 million barrels of consumption, versus 2.6 million forecast in the 2017 GRA. This reduction reflects NLH’s Off-Island Purchases Deferral Account proposed in the 2017 GRA to use off-island sources of power to displace more expensive Holyrood thermal generation. The deferred savings would accumulate in an account to reduce anticipated rate increases associated with the Muskrat Falls project entering service. NLH states this RSP approach to the off-island savings does not affect the off-island deferral proposal in the GRA.

**Analysis:**

- These rates are subject to approval by the PUB and are only imposed on an interim basis. Accordingly, if the PUB finds that these interim rates have resulted in an over collection of revenue for electricity customers, the PUB can order that it be returned.

- If these rates are not approved, future rates would need to include recovery both a 2018 revenue deficiency and a 2019 revenue deficiency. The resulting rate impact would be a larger increase in customer rates in 2019 to permit recovery of the revenue deficiencies related to the costs incurred to provide service in prior periods.

**Action Being Taken:**

- NR will continue to monitor and advise on development related to this issue.

Prepared by/Approved by: M. Janes / C. Snook / J. Cowan
Ministerial Approval: NOT RECEIVED

April 25, 2018

Annexes: Annex 1- Interim Rate Impacts
# Annex 1 – Interim Rate Impacts

<table>
<thead>
<tr>
<th>Category</th>
<th>Type</th>
<th>Demand</th>
<th>Energy</th>
<th>Effective July 1, 2017</th>
<th>Proposed July 1, 2018</th>
<th>Percentage Change</th>
<th>Monthly Bill July 1, 2018</th>
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<td>Island</td>
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<td>N/A</td>
<td>1,517</td>
<td>13.21</td>
<td>14.20</td>
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<td>Interconnected</td>
<td>GS 5-100 kW</td>
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<td>2,095</td>
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<td>GS 110-1200 kVA</td>
<td>180</td>
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<td>GS 6-104 kW</td>
<td>0</td>
<td>645</td>
<td>21.08</td>
<td>23.31</td>
<td>7.5%</td>
<td>444</td>
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<tr>
<td></td>
<td>GS Over 10 kW</td>
<td>15</td>
<td>3,850</td>
<td>24.13</td>
<td>25.94</td>
<td>7.5%</td>
<td>279</td>
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<tr>
<td>Labrador Diesel</td>
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<td>15.30</td>
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<td>GS 6-104 kW</td>
<td>0</td>
<td>645</td>
<td>21.08</td>
<td>23.31</td>
<td>7.5%</td>
<td>444</td>
</tr>
<tr>
<td></td>
<td>GS Over 10 kW</td>
<td>15</td>
<td>3,850</td>
<td>24.13</td>
<td>25.94</td>
<td>7.5%</td>
<td>279</td>
</tr>
<tr>
<td>L'Anse au loup</td>
<td>Domestic (with NSF)</td>
<td>N/A</td>
<td>1,517</td>
<td>7.60</td>
<td>8.18</td>
<td>5.5%</td>
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<td></td>
<td>GS 8-120 kW</td>
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<td>13.62</td>
<td>7.5%</td>
<td>229</td>
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<tr>
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<td>GS 110-1200 kVA</td>
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<td>Interconnected</td>
<td>GS 8-120 kW</td>
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<td>2,500</td>
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<tr>
<td></td>
<td>GS 110-1200 kVA</td>
<td>130</td>
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<td>12.12</td>
<td>13.01</td>
<td>7.5%</td>
<td>3,372</td>
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<td></td>
<td>GS 1000 kVA and Over</td>
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<td>1,290,000</td>
<td>2.87</td>
<td>2.97</td>
<td>0.0%</td>
<td>32,933</td>
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</table>
Title: Newfoundland and Labrador Hydro (NLH) 2017's General Rate Application Hearing

Issue: To highlight the key discussion points of NLH's 2017 General Rate Application (GRA) Hearing.

Background and Current Status:
- Hearings for NLH's 2017 GRA occurred from April 16 to 26, 2018, with testimony by Mr. Jim Haynes, President of NLH and Ms. Dawn Dalley, Vice President, Regulatory Affairs and Corporate Services (See Annex 1 & 2 witness and attendee details).

Off-Island Purchases Deferral Account (the Account)
- In his opening statement, NLH legal counsel, Geoff Young, discussed NLH's Off-Island Purchases Deferral Account GRA Proposal (the Deferral Account) in which off-island power supplies displace costlier Holyrood fuel with savings accumulating to offset future Muskrat Falls-related rate increases. He explained why this is a sound way to manage rates.
- Newfoundland Power (NP) counsel, Liam O'Brien, stated there are legal, technical, and evidentiary issues related to the Deferral Account. Legal counsel for the Industrial Customers Group, Paul Coxworthy, supported NP's argument.
- The Consumer Advocate (CA), Dennis Browne, called the proposed Deferral Account a "Band-Aid" solution having no comparator and stated that NLH keeps changing the expected revenue amount from the Account.
- The CA argued the Deferral Account does not adhere to regulatory principles, such as cost of service, and NLH must adhere to such principles in the proposal. CA legal counsel Steven Fitzgerald noted that OC2013-343 prohibits recovery of Muskrat Falls Project capital costs until all project components are commissioned.
- In response to a NP question regarding the Deferral Account, NLH President Jim Haynes responded it is not based on the actual cost of service. He noted the Deferral Account will benefit customers and the Newfoundland and Labrador Board of Commissioners of Public Utilities (PUB) will decide on its allocation. He also noted that the deferral account proposal came from his regulatory team and not from Government.
- Mr. Haynes noted NLH would consider using recapture power transmitted via the Labrador Island Link (LIL) if the Deferral Account is not approved by the PUB. NP's counsel asked why NLH did not look at other options for rate management. Mr. Haynes responded that NLH considered the Deferral Account as the most effective option.
- In response to a question by Industrial Customers, Mr. Haynes confirmed that revenues from the Account will not bring electricity rates close to 17-18 cents/kWh.
- The CA, in questioning NLH Vice-President, Dawn Dalley, noted the Account has no regulatory precedent. Ms. Dalley stated Manitoba Hydro had a similar account with different mechanisms and NLH expects a similar outcome. The CA advised that Manitoba's case
has more revenue generation certainty, while NLH's proposal is based on assumptions without evidence.

Rate Management
- PUB counsel asked Mr. Haynes about the determination of the 17-18 cents/kWh mitigated rate. He replied that the figure was recommended by Government in various speeches. When asked by PUB counsel about discussion with Government on rate management, Mr. Haynes noted that discussions are underway through the Rate Management Committee, which comprises NLH, Nalcor, the Department of Finance (FIN) and the Department of Natural Resources (NR).
- CA counsel cited OC2013-343 as giving clear direction about the proposed deferral account. The OC prohibits recovery of Muskrat Falls project costs "until such time as the project is commissioned or nearing commissioning." The Muskrat Falls Power Purchase Agreement defines commissioning to mean when all Muskrat Falls Power (MFP) components are commissioned, which is expected to be in 2020, with commissioning of the fourth and final generating unit.
- The CA asked NLH Vice-President, Dawn Dalley, if NLH has other rate management plans. She responded that it is open to rate management discussion and is involved with the Government through the Rate Management Committee. The CA then questioned the transparency surrounding the Rate Management Committee. Ms. Dalley responded that it was a Government initiative and NLH has no control over the composition of the committee.

Unregulated Nalcor Operations
- NP counsel asked the NLH president about his mandate. He replied that his mandate is to fully focus on the regulated side of the business, which is NLH – not Nalcor Power Development (MF generation) or Nalcor Power Supply (MF transmission), which are unregulated. NLH’s President noted that while NLH will continue to scrutinize and challenge unregulated costs, NLH ultimately has no control over these costs.

Analysis:
- The question by counsel for the various intervenors and the CA follow the arguments put forward by the intervenors in their respective expert testimony - no new lines of argument.
- There was relatively broad intervenor opposition to the off-Island purchases account. The CA pointed out there does not yet appear to be a broad plan for rate management.
- The CA appears to hold the opinion that the Deferral Account effectively seeks to recapture capital costs associated with Muskrat Falls in a manner prevented by OC2013-343.

Action Being Taken:
- The GRA hearing was adjourned until July 16, 2018 to allow the PUB to comply with the Government’s request to review automobile Insurance rates in the Province. The GRA hearing will resume on July 16, 2018 and will continue until August 30, 2018 with no sitting on the weeks of July 30, 2018 and August 20, 2018. NR will monitor the upcoming PUB proceedings.
- NLH has asked the PUB to approve interim rate increases effective July 1, 2018 in advance of the GRA conclusion. The PUB is considering the request.
Annex 1

List of Interveners- NLH 2017 General Rate Application Hearing April 16-17, 2018

1. Consumer Advocate,
2. Newfoundland Power
3. Industrial Customer Group which comprises Corner Brook Pulp & Paper Ltd., North Atlantic Refinery and Vale
4. Labrador Interconnected Group which includes the communities of Sheshatshiu, Happy Valley-Goose Bay, Wabush, and Labrador City and the Iron Ore Company of Canada.

Table 1- List of Attendees - NLH 2017 General Rate Application Hearing April 16-17, 2018

| Geoffrey Young, Counsel | Newfoundland and Labrador Hydro |
| Alex Templeton, Counsel |  |
| Gerard Hayes, Counsel  | Newfoundland Power               |
| Liam O’Brien, Counsel  |  |
| Dennis Browne, Q.C.    | Consumer Advocate:                |
| Steven Fitzgerald, Counsel |  |
| Paul Coxworthy, Counsel| Industrial Customers              |
| Dean Porter, Counsel   |  |
| Denis Fleming Counsel  |  |
| Jim Haynes             | Witness/Witnesses                  |
|                       | President Newfoundland and Labrador Hydro |
Annex 2

List of witnesses for NLH’s 2017- GRA Hearing

In the 2017 General Rate Application Hearing, NLH provided the PUB with a list of the witnesses appearing in the following order. The witnesses will speak to the associated topics.

COMPANY WITNESSES

Jim Haynes
- Policy and Company Decisions
- Corporate Structure
- Cost of Off-Island Supply
- Intercompany Policies
- Interconnection to the North American Grid
- Muskrat Falls
- Operating Costs
- Rate Management
- Rates General

Dawn Dalley
- Operating costs as it relates to Customer Service, Regulatory Affairs, Safety, Health, Human
- Resources & Labour Relations, Environmental Services and Corporate Communication
- Corporate Structure
- Human Resources and Labour Relations
- Customer Service & Customer Satisfaction
- Intercompany Charges related to Human Resources, Safety, Health & Environment
- Rates General
- Regulatory Affairs

Technical Panel (Jennifer Williams, Ron LeBlanc, Terry Gardiner)
- Operating costs as it relates to Production, Transmission & Rural Operations & the NLSO, and
- Engineering Services & Information and Operations Technology
- Fuel Costs
- 2017 General Rate Application
- Fuel Forecast
- Intercompany Charges as it relate to Production, Transmission & Rural Operations & the NLSO, and Engineering Services & Information and Operations Technology
- Interconnection
- Load Forecast
- Network Additions
- Open Access/NLSO/Transmission Tariff
- Operating Costs
- Operations
- Planning
- Production
- Project Execution
• Reliability
• Rural Deficit Cost Management
• System Operations
• When to Access Off-Island Supply

Lisa Hutchens
• Operating costs as it relates to Financial Services
• Debt Guarantee Fee
• Depreciation (along with expert)
• Financial Performance
• Financing Costs
• Insurance
• Intercompany Policies
• Productivity Allowance
• Rate Base
• Revenue Deficiency

Kevin Fagan
• Additional Cost of Service Information
• Cost of Service Issues (along with expert Bruce Chapman)
• Customer Rate Impacts
• Off-Island Purchases Deferral Account (along with expert John Browne)
• Rate Design
• Rate Stabilization Plan
• Rates
• Revenue Deficiency Recovery
• Supply Cost Deferral Accounts

EXPERT WITNESSES

John Browne
• Off-Island Purchases Deferral Account and its consistency with established regulatory practices

Bruce Chapman
• Cost of Service Issues
• Labrador Rates Issues
Information Note
Department of Natural Resources

Title: Intervenors' position on Newfoundland and Labrador Hydro’s 2018 Rate Stability Plan Adjustment and Application for Interim Rates

Issue: To provide an update on Intervenors’ submissions to the Board of Commissioner of Public Utilities (PUB) in relation to Newfoundland and Labrador Hydro’s (NLH) 2018 Rate Stability Plan Adjustment and application for interim rates.

Background and Current Status:
- On April 13, 2018, NLH filed its 2018 Utility Customer Interim Rates Application (the Application) with the Board of Commissioner of Public Utilities (PUB). The application sought approval of a Rate Stabilization Plan (RSP) adjustment and an interim base rate increase in NLH’s Utility Customer rates - to be effective July 1, 2018. (See BN-9686 for details).
- In its 2017 GRA, NLH sought a 6.6% average rate increase on January 1, 2018. As a result of delays in the GRA and the annual RSP adjustment for fuel costs, NLH has now applied for an interim rate increase of 7.5% effective July 1, 2018. For 2019, following the 2017 GRA and subsequent RSP, and interim rate applications, NLH is proposing that rates in July 2019 will increase 9.4%. The rate for 2019 that had been sought under the initial 2017 GRA filing, before inclusion of the RSP and revenue overstatement was 6.4%.

Analysis

- The CA however supported the proposed changes to the RSP, but noted that NLH’s GRA should reflect the same fuel costs and those on which the RSP adjustment is based. What is meant here, is that the CA believes that the 2017 GRA rates should be based on the same 1.3 million barrels of forecast fuel consumption on which the RSP adjustment is based. This is opposed to the 2.6 million barrels of fuel on which the 2017 GRA rates are based – an assumption which stems from the proposed Off-Island Purchases Deferral Account, which seeks to base rates on Holyrood costs, but to undercut those costs by using cheaper sources of power.
• The CA argues that under NLH's current proposal customers will see a rate increase of 7.5% on July 1, 2018 and 8.6% on January 1, 2019, resulting in a compound rate increase of 16.1% excluding GST, over the six-month period.

• The CA does not accept NLH's argument that an interim rate increase will reduce the required rate increase in 2019 and argues that there is lack of clear understanding of ultimate cost to ratepayers related to the Muskrat Fall project and its components.

• The CA maintains that in order to plan for their own future, consumers require correct rate signal, which is generally understood to mean that rates reflect the cost or pending cost of electricity. In the current NL context, passing the savings from off-island purchases directly on to ratepayers, immediately, and not deferring them to be applied to future increase related to the Muskrat Falls Project (MFP) would not be consistent with the need to convey "correct rate signals." This stems for the fact that a notable drop in electricity prices in advance of MFP costs being incorporated into rate would not appropriately prepare consumers to accommodate those rate increases, and would ultimately exacerbate the rate shock that will occur when those costs come online.

• The CA argues that unlike NLH's proposed Off-Island Purchases Deferral Account, a rate rider or surcharge would guarantee the availability of a specific amount of funds for future rate mitigation, and the costs and benefits associated with this approach would be clear to ratepayers.

• It is not clear, however, whether or not a rate rider would be viewed by the PUB to be in conflict with OC2013-343 which prevents recovery of MFP costs until commissioning. This is also the source of and internal inconsistency in the CA's arguments through the course of the 2017 GRA and the current interim rates application, where he has at time asserted that OC2013-343 likely would prevent approval of the Off-Island Purchases Deferral Account.

Action being taken
• NR will continue to monitor and advise on developments related to this issue.

Prepared by/ Reviewed by: Y. Khan / M. Janes /
Ministerial Approval:
May 8, 2018
Title: Nalcor Energy 2017 Transparency and Accountability Performance Report

Issue: To provide an overview of Nalcor Energy’s draft 2017 Transparency and Accountability Performance Report

Background and Current Status:

- Under the Transparency and Accountability Act, the Nalcor Board of Directors is required to submit an Annual Performance Report to the Minister of Natural Resources. NR has received a draft of the 2017 report. Newfoundland and Labrador Hydro (NLH) has its own legislation and Board of Directors and will table a separate Performance Report for 2017. Therefore, Nalcor’s report focuses primarily on unregulated activities.

- The report is structured with an introductory “Overview” section. A second section called “Shared Commitments” details the company’s work with NR, FIN, and other departments and public bodies. There is a third section called “Outcomes of Goals and Objectives” and a fourth called “Opportunities and Challenges.”

- The 2017-2019 Strategic Plan for Nalcor highlighted three strategic issues around which goals and objectives were established. In the “Outcomes of Goals and Objectives” section, Nalcor reports on related accomplishments during 2017.

  o Electricity Supply
    - From 2008-2017, $399 million was invested in Churchill Falls to upgrade or replace assets with annual capital expenditures increasing during the period by greater than tenfold to $70.2 million in 2017.
    - For the Muskrat Falls Project, the intake and powerhouse structures are almost completed, work continued on the four generating units inside the powerhouse, South and North Spur dams were complete and 40% of the North dam is completed – first power is expected late 2019. Construction of the Labrador Island Link was completed and all electrical equipment has been delivered and installation started. Power from Labrador to the Island is expected in mid-2018. Interim agreements related to pre-MF commercial arrangements between NLH and Nalcor Energy Marketing for the import of energy were completed.
    - During the 2018-2019 planning period, Nalcor will continue to manage the Churchill Falls assets with forecasted strategic investments of $132 million. The 2018-2022 capital plan for Churchill Falls was reviewed and updated in 2018 and subsequently validated by third party consultant. Nalcor will also advance the Muskrat Falls Project by meeting key milestones for generation and transmission portions of the project and preparing for commissioning of Muskrat Falls assets.

  o Value from Electricity
    - Nalcor is a member of the Rate Mitigation Committee chaired by DNR and is continuing to explore and assess opportunities in export markets that could bring value to the province from the sale of surplus energy. In 2017, Nalcor delivered 99% of available surplus recapture to market and claimed to exceed the New York energy price benchmark by 52% by timing deliveries towards higher priced hours with energy directed to higher priced markets.
• Two unrelated court cases were still ongoing in 2017. One related to the 1969 Power Contract was heard before the Supreme Court of Canada and a decision is still pending. The second sought a Declaratory Judgement from Quebec Courts – a court date has yet to be assigned to the Quebec Court of Appeal.

• Objectives and indicators for 2018 pertain to advancing opportunities to extract maximum value from the province’s electricity resources through exports, rate management, legal proceedings and industrial customer opportunities.

○ Oil and Gas Interests, Exploration and Development

• Additional resources were discovered through the drilling of the A-78 well in the North West White Rose region; the White Rose Extension project was sanctioned; the Hebron platform was successfully completed and first oil was produced at Hebron. A 9,800 km$^2$ 3D seismic survey was completed and over 21,000-line km of 2D seismic was completed.

• During the 2018-2019 planning period, Oil and Gas will continue preparations to be separated from Nalcor as a stand-alone Crown Corporation. In addition, Oil and Gas will continue to advance its multiyear exploration strategy.

Analysis:

• Nalcor does not list the Public Utilities Board (PUB) as one of the entities it works with nor does it mention Newfoundland Power, which would likely be reflected in the forthcoming NLH report.

• Nalcor reports having a gender mix of 28% female and 72% male employees. There are no statistics on other diversity or inclusion efforts. Nalcor reports that it is currently implementing a multi-year action plan to support gender equity, diversity and inclusion; however, no targets or other details of the action plan are provided.

• Nalcor notes that capital expenditures at Churchill Falls have increased by tenfold from 2008-2017 to $70.2 million in 2017 and $132 million in 2018-19. The report is silent on the reason for the sharp increase in capital investment.

Action Being Taken:

• For information purposes only. No action be taken.

Prepared/Approved by: R. Bales/C. Snook

Ministerial Approval: May 10, 2018
Information Note
Department of Natural Resources

Title: Overview of the proposed Off Island Purchases Deferral Account

Issue: To provide an overview of Newfoundland Hydro’s (NLH) proposed Off Island Purchases Deferral Account as a tool for Rate Management

Background and Current Status:
- Nalcor estimates the Muskrat Falls Project (MFP) will increase residential electricity rates from 11.7¢/kWh in 2017 to 22.89¢/kWh in 2020. Given negative impact on ratepayers, efforts are underway to identify and implement methods to reduce this increase.

- NLH’s ongoing 2017 General Rate Application (GRA) to the Board of Commissioners of Public Utilities (PUB) proposes a rate management mechanism referred to as the Off-Island Purchases Deferral Account. (The PUB oversees the independent regulatory process for setting electricity rates.)

The Off Island Purchases Deferral Account:
- NLH anticipates that the Labrador-Island Link (LIL) and the Maritime Link (ML) will be available in 2018 and 2019 to provide off-island power purchases and surplus recapture power from Churchill Falls to reduce the generation required from the Holyrood Thermal Generating Station. This presents an opportunity to reduce the use of costly Holyrood generation by using lower-cost off-island supply in 2018, 2019, and 2020. The estimated value of this approach, as presented by NLH is appended as Annex 1.

- NLH has proposed to establish the Deferral Account as a means to manage future rate increases. Through the proposed Deferral Account, NLH proposes to continue charging customers rates based on Holyrood generation costs, but to actually source cheaper off-island electricity, in part, via the LIL/LTA to serve a portion of customer electricity demand that would otherwise be served by Holyrood. The difference between the higher price that customers would pay and the lower cost NLH would actually incur would fund the proposed Deferral Account, which would be used later to fund rate management efforts when MFP comes online, and its costs become payable by island electricity ratepayers.

Regulatory Precedent:
- In expert evidence submitted in support of its 2017 GRA, NLH indicated that Manitoba Hydro had recently used a similar deferral account. In Order 73115, Manitoba’s Public Utilities Board approved an interim rate increase for Manitoba Hydro of 3.95%. The revenues from 2.15% of that rate increase are to be placed in a deferral account to mitigate expected rate increases from the Bipole III Project.

Analysis:
- Intervenors in the 2017 GRA hearing have broadly opposed the deferral account. The Consumer Advocate (CA) argues that the mechanics of Manitoba Hydro’s deferral account, presented as regulatory precedent, are different than the NLH proposed Deferral Account.

- The CA has argued that OC2013-343, the Muskrat Falls Exemption Order, may preclude the proposed Deferral Account, given that the account, in the CA’s view, is accumulating funds before the commissioning of the MFP that will ultimately be used to pay MFP costs.
• It is unknown how the PUB may rule on the proposed off-island purchases deferral account. While the PUB has indicated it is sympathetic to the challenges of preparing cost of service studies that reflect the use off-island power, it is also clear that the PUB expects NLH to be able to supply such information based on 'reasonable assumptions'.

• If the PUB ultimately does not approve the proposed Deferral Account, any savings realized through off-island supplies would likely be passed on to rate payers in the year in which the savings are realized. This would cause electricity prices actually drop before MFP costs come to affect rates in 2021, if indeed the off island purchase scenario is less costly than Holyrood. In this case, the savings would not be available to assist with future rate increases and there would be an even wider gap between rates pre- and post-MFP entering service.

Key Messages:
• The proposed Deferral Account has been a publicly announced part of the Nalcor's plan for rate management.
• Government is satisfied that this proposal is being fully tested and examined by the PUB, the Consumer Advocate, and other intervenors.
• This is an appropriate process for matters that affect electricity rates.
• Whether or not the proposed Deferral Account is appropriate and useful for its intended purpose is an important question for the PUB to consider.

Action Being Taken:
• This note has been provided for information purposes only.

Approved by: Received from Hon. Siobhan Coady

May 11, 2018
Annex 1

Table 1: Off Island Purchase Deferral Account (OIPDA) Estimated Net Credit & Balance 2018 through 2020 ($,000) ¹

<table>
<thead>
<tr>
<th>Year</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fuel Cost Savings</td>
<td>40,454</td>
<td>129,934</td>
<td>109,601</td>
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<tr>
<td>Impact on Return From Lower Fuel Inventory</td>
<td>43</td>
<td>169</td>
<td>2,541</td>
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<tr>
<td><strong>Total</strong></td>
<td>40,497</td>
<td>130,103</td>
<td>112,142</td>
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<tr>
<td>Cost of Off-Island Purchases</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recapture Power</td>
<td>886</td>
<td>1,946</td>
<td>260</td>
</tr>
<tr>
<td>OpEx LTA/LIL</td>
<td>27,300</td>
<td>52,900</td>
<td>35,700</td>
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<tr>
<td><strong>Total</strong></td>
<td>28,186</td>
<td>54,846</td>
<td>35,960</td>
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<td>Return on Average Balance</td>
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<td><strong>Net Credit to OPDA</strong></td>
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<td>78,117</td>
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<tr>
<td><strong>Net Balance in OPDA</strong></td>
<td>12,717</td>
<td>90,834</td>
<td>174,338</td>
</tr>
</tbody>
</table>

¹ Newfoundland and Labrador Hydro Off Island Purchases Deferral Account Expert Evidence by John T, Brown Consulting
Decision Note
Department of Natural Resources

Title: Addressing Data Centre Demand for Electricity Service

Decision Required:

Background and Current Status:
- NLH has advised that it has received several outstanding formal requests from data centres for electricity service in Labrador: for Labrador East there are eight totaling 31.4 megawatts (MW); Labrador West has three totaling 41.25 MW; and three totaling 200MW for Churchill Falls; for an overall Labrador total of 272.65 MW. NLH has also received several other requests for information from data centre proponents. Annex 1 provides more information on different types of data centres (such as cryptocurrency miners), their relative lack of job creation, their business risks, overall mobility, and the challenges they pose to electricity systems.

Issues Arising from NLH's 2018 Capital Budget Application
- Concerns about potential data centre impacts on electricity rates and supply arose during the PUB proceedings for NLH's 2018 Capital Budget Application, which sought approval to construct the Muskrat Falls to Happy Valley Interconnection Project (the Project).

- Costing approximately $20 million (2018: $17.7 million; 2019: $2.3 million), the project comprises transmission upgrades to the Upper Lake Melville area. In the Capital Budget Application, NLH forecasted the load for the area will grow from 79.9 MW in 2017 to 104.0 MW in 2042, and the capacity of the transmission system must be increased to support loading levels beyond its current 77 MW limit.

- The PUB deferred the project and requested further supporting information, finding that NLH did not demonstrate that the project was "necessary and consistent with the least-cost provision of service".

- As Intervenors in the PUB proceeding, the Iron Ore Company of Canada and the Labrador Interconnected Customers Group (LICG) - comprising the towns of Wabush, Labrador City, Happy Valley-Goose Bay, and Sheshatshiu - opposed the project, viewing it as primarily a response to data centre load growth in the region and not overall reliability. Their respective submissions to the PUB argued that all customers will be forced to bear rate increases precipitated by infrastructure upgrades required to serve only one type of customer.

- In response, PUB Order P.U.9 (2018) on March 23, 2018 directed NLH to file proposals in relation to Labrador East service reliability in 2018/19, and the process and timelines to further consider the project. The PUB noted in its order that it would not relieve NLH of its
duty to serve customers and would not approve the project until NLH addresses the issues around reliable and least cost supply to Labrador East.

- On May 31, 2018 NLH responded with an application to the PUB to create a new service rule under section 71 of the Public Utilities Act. The Application requests approval for a 100 kW maximum limit for new service requests in Labrador East a Temporary Restriction until the availability of long-term capacity in Labrador East has been addressed.

- NLH’s May 31 PUB filing indicates this is a measure to address electricity demand in winter 2018/19, which does not suggest this is intended as a long-term solution. NLH has not yet finalized a long-term approach to deal with the issue of Labrador data centre load growth.

- On June 7, 2018 NLH also submitted an application to the PUB relating to a Labrador West data centre named Blocklab. The application sought PUB approval for a Temporary Service Agreement to provide 7.75 MW to the company. The company had requested 20 MW, but NLH responded that it could provide only 7.75 MW temporarily due to distribution system constraints in Wabush. NLH’s application seeks to ensure it can revoke the temporary service to ensure no impact on NLH’s ability to supply the “Power on Order” requirements of Labrador Industrial customers, which includes 55 MW for Tacora Resources to re-open Wabush Mines. Tacora is using approximately 0.3 MW and expects to require its full 55MW by the end of 2019. The PUB is reviewing the application.

- It is also important to note that Alderon Iron Ore Corp continues to pursue development of its Kami mine project in Labrador West, which would require 100-120 MW of power as noted in the company’s 2011 environmental assessment registration.

Analysis:
Broader Issues Arising from Data Centre Demand
- The concerns that have been expressed by all stakeholders in the context of NLH’s 2018 Capital Budget Application indicate a long term response to data centre demand is likely required.
• QC's framework is comprised of three elements (Press Release attached as Annex 3):
  - A ministerial order temporarily suspending data centre applications;
  - Direction to the QC regulator (the Régie de l'énergie) from the Government of QC on the
    factors that should be considered when serving data centres; and,
  - An application to the Régie de l'énergie, proposing a selection process for data centres
    projects in light of the concerns expressed by the Government of QC in its direction.

• Media reports indicate that the QC electricity regulator (Régie de l'énergie) authorized utility
  HQ to charge 15 cents per kilowatt hour to "blockchain companies" (i.e. cryptocurrency
  miners), approximately three times the current rate. Media also reported that this rate does
  not apply to existing clients and their operations, which account for about 120 MW of demand

• On June 21, 2018 HQ released a proposed a selection process for 500 MW it has decided to
  allocate to the blockchain Industry, subject to approval from the Régie de l'énergie. According
  to the news release a prospective proponent would have to: propose a price per kWh for the energy,
  with a minimum increase of 1 cent per kWh over the previous price; outline how economic spinoffs
  will be maximized for QC; identify the number of direct jobs per MW; identify the total payroll of direct jobs in QC per MW, and indicate investments per MW. The process would also require that customers be able to decrease their electricity use
  for a maximum of 300 hours per year, particularly during the winter peak period.
It should be noted also that NLH will be filing a transmission planning study for the Labrador Interconnected system in the fall of 2018. This will further inform decision-making around data centre supply policy.

Alternatives:
Prepared/Approved by: M. Janes / C. Snook / J. Cowan
Ministerial Approval: Received from Hon. Siobhan Coady

June 29, 2018
Annex 1 – Data Centre Challenges

- A data centre is a facility used to house computer systems, however, there are various uses for which data centres may be employed. For example, a data centre may be used to provide storage for large institutions that must manage large amounts of information, like Google or Facebook. Alternatively, a data centre may also be used to provide processing services to support cryptocurrencies (a digital asset designed to work as a medium of exchange) such as Bitcoin and Ethereum – this activity is referred to as cryptocurrency mining.

- All data centres are electricity-intensive operations, thus proponents are interested in establishing operations in jurisdictions with sufficient and competitively-priced electricity.

- All data centres however, are not subject to the same business risks. Those involved in cryptocurrency mining derive their earning from the value of the cryptocurrency which they are mining. As cryptocurrencies exhibit extreme volatility compared to other asset classes and business sectors, the earnings and overall profitability of data centres engaged in cryptocurrency mining are directly exposed to this volatility.

- Further, data centres generate few economic spin-offs and employment opportunities compared to industries with similar electricity requirements.
Annex 2 – Labrador Supply

Recapture Power
- NLH receives 525 MW of power at below-market prices from Churchill Falls (Labrador) Corporation (CFLCo) on long term arrangements expiring in 2041.

- The 1969 contract between Hydro-Quebec (HQ) and Churchill Falls (Labrador) Corporation (CFLCo) affords CFLCo rights to "recapture" 300 MW of power (Recapture Power), at a 90% load factor (i.e. average of 270 MW), generated at the Churchill Falls (CF) power plant.

- Under the terms of the Power Purchase Agreement (PPA) between Newfoundland and Labrador Hydro (NLH) and CFLCo (the NLH-CFLCo PPA), NLH is able to, and does, purchase approximately 300 MN of Recapture Energy from CFLCo, at 0.2¢ per kWh, for use outside of Quebec (QC). NLH currently uses Recapture Power to supply its customers in Labrador (the Labrador Load), and provides the remaining surplus to Nalcor Energy Marketing (NEM) to sell in export markets on NLH’s behalf.

- While Recapture Power has only been able to be used in Labrador, the Labrador Transmission Assets (LTA) and the Labrador-Island Link (LIL) will make it possible to use this power on the island and potentially help manage rate increases associated with the Muskrat Falls Project. Opting to serve Data Centre load could limit or eliminate this possibility.

TwinCo Power
- CFLCo also supplies a separate 225 MW block of power to NLH at approximately 2 cents per kWh for sale in Labrador West only under long term contract expiring 2041. The arrangement is known as the Twinco Block. The low-cost Twinco Block dedicated to Labrador Industrial Customers in their 239 MW Development Block entitlement.

Labrador East
- As part of its 2018 Capital Budget Application to the Board of Commissioners of Public Utilities (PUB), NLH sought approval to upgrade the transmission line from Muskrat Falls to Happy Valley-Goose Bay. In the Application, NLH explained the load for the area is forecast to grow from 79.9 MW in 2017 to 104.0 MW in 2042, and the capacity of the transmission system must be increased to support loading levels beyond its current 77 MW limit.

- NLH advised NR there is potential for Labrador East load growth with Canadian Forces Base Goose Bay likely to convert from oil to electric boilers adding 12-15 MW of demand and various data centre requests totaling more than 30MW.

- NLH’s 2018 Capital Budget Application proposes to increase to 104 MW the total capacity of Labrador East transmission system by investing $20 million in system improvements. Load growth beyond this proposed level could occur quickly with new large data centers or other customer growth.

Labrador West
- NLH advises that Labrador West customer load is 326 megawatts (MW) with 245 MW required to serve IOC, 0.3 MW for Wabush Mines in its idled state, and 81 MW for communities in the region. This load is served by two 230 kilovolt transmission lines capable of delivering up to 345 MW with all equipment in operation (i.e. non-firm), 257 MW with one line in the winter (i.e. firm) and approximately 190 MW with one line in the summer (firm).
• NLH has also advised it has entered into an agreement with Tacora Resources, which intends to restart Wabush Mines, to provide up to 55MW within the next three years.

• In its 2017 General Rate Application (GRA), NLH stated that Labrador West transmission is nearing capacity limitations. Government directed NLH in February 2014 to construct a new 230 kV transmission line between Churchill Falls and Lab West to support Alderon's Kami project at a cost of approximately $330 million. The project was suspended in September, 2014.

• NLH has advised that it is assessing new Labrador West supply options including a new transmission line at 230kV or 315kV, synchronous equipment, and demand management thus freeing up more supply.


Montreal, June 7, 2018- The Government of Quebec announces a new framework for the category of electricity consumers relating to the cryptographic use applied to block chains. This guidance is necessitated by unprecedented demand from companies in this fast-growing business sector.

The requests go beyond the short and medium-term capabilities of the Crown Corporation, hence the urgency and importance of action.

The Québec government and Hydro-Québec intervene jointly in three stages:

- A ministerial order temporarily suspends the processing by Hydro-Québec of any request made by consumers in this category in order to allow the Société du Québec to continue to fulfill its distribution obligations throughout Québec;

- A ministerial decree informs the Régie de l'énergie that the conditions governing the sale of electricity to businesses in this sector should be considered in the light of the following concerns:
  o the definition of a new category of electricity consumers for the blockchain sector and a tariff reserved for this category;
  o the establishment of a block of energy reserved for this category of consumers;
  o the opportunity to maximize Hydro-Québec's revenues;
  o the possibility of maximizing economic spinoffs in Québec, particularly through job creation;
  o taking into account the issues related to the winter peak.

- Over the next few days, Hydro-Québec will file an application with the Régie de l'énergie, which will propose a selection process for blockchain sector projects in light of the concerns expressed by the Québec government in its decree. In particular, the request will consider the urgency of proceeding to seize the opportunities offered by this sector.

The joint intervention of the government and Hydro-Québec therefore targets the companies with the best economic spinoffs for Québec in terms of investments and jobs, while maximizing revenues for the Crown Corporation.

Quotes:
What we are aiming for by the measures announced today is to allow us to welcome, in a responsible, prudent and pragmatic way, the best companies in the field of blockchain technology, to contribute to the economic development of other sectors that have spinoffs throughout Quebec, and to ensure the supply of energy to all Quebecers.
- Pierre Moreau, Minister of Energy and Natural Resources
The block chain sector is a promising sector for Hydro-Québec. However, frameworks are necessary to ensure that the development of this sector maximizes spinoffs in Québec while avoiding price increases for our customers. We will participate actively in the Régie de l'énergie process in order to obtain quick supervision.

- Éric Fillon, President Hydro-Québec Distribution
Title: Supplemental Settlement Agreement -- 2017 General Rate Application

Issue: To provide an overview of the supplemental settlement agreement among parties to Newfoundland and Labrador Hydro's (NLH) 2017 General Rate Application (GRA).

Background and Current Status:
- The GRA process establishes base electricity rates that utilities can charge their customers to recover costs. Utilities typically submit GRAs every 2-5 years as significant costs change. NLH filed its 2017 GRA with the Board of Commissioners of Public Utilities (PUB) on July 28, 2017. Since that time, NLH has file five revisions to its GRA, most recently on July 4, 2018.
- NLH's 2017 GRA proposed to source off-island power to displace more expensive production at Holyrood, while continuing to charge rates based on Holyrood costs. NLH proposed that any savings would accumulate in an Off-Island Purchases Deferral Account to manage rate increases when Muskrat Falls costs enter rates in 2021.
- The Consumer Advocate (CA) criticized the proposal and noted NLH was asking the PUB to approve rates based on a "fictitious" cost of service. While NLH submitted expert evidence supporting the use of regulatory deferral accounts for rate management purposes, the CA noted that there was no precedent for charging rates based on a cost of service scenario that was not actually expected to occur, noting further that other jurisdictions used rate riders (a set percentage rate addition) where there was an identified need for rate management/smoothing.
- On July 16, 2018, parties to the GRA reached a supplemental settlement agreement, in which certain issues pertaining to the 2017 GRA were settled. Most notably, in this settlement agreement NLH abandoned the proposal to establish an Off-Island Purchases Deferral Account. Instead, it was agreed to base the GRA on what is referred to as the "expected supply scenario", which is costs that reflect the use of off-island power, and rates that immediately reflect the use of that power.
- On July 20, 2018, following the settlement agreement, NLH filed additional evidence outlining the rate impact of the settlement scenario. In its application for interim rates that was approved by the PUB on May 28, 2018, NLH received a rate increase of 7.5% effective July 1, 2018. NLH's interim rates application also indicated an additional 9.4% increase would be required January 1, 2019 under the now-abandoned Off-Island Purchases Deferral Account. NLH's settlement evidence now indicates that the projected January 1, 2019 average increase to Newfoundland Power (NP) residential customers will be 1.2%.
- NLH noted in its supplemental evidence that it believes the PUB should consider, as an alternative to the Off-Island Purchases Deferral Account, implementation of a rate stability rider at the time of implementing 2017 GRA final rates as such a rider could prove beneficial in managing the rate increases arising from Muskrat Falls. The rider was not mentioned in the settlement.
• With regard to rate management efforts, NLH noted, "Government has indicated that rate mitigation will occur to reduce the customer rate impacts. However, no defined plan has been released to inform customers on either the projected cost of electricity or the pace at which electricity rates will increase. Government has stated that it wants to be competitive with Atlantic Canadian rates, which it targets to be between 16-18¢ per kWh. Therefore, for illustrative purposes, Hydro has assumed that Government will provide rate mitigation relief for residential rates beyond 18¢ per kWh."

• NLH's supplemental evidence notes that, in recent years, the PUB has approved rate relief measures to limit customer rate increases to 10% for any one increase. NLH notes that continuation of this practice will require "several years" to enable customer rates to increase to the illustrated rate mitigation target of 18¢ per kWh.

Analysis:
• To date, the Off-Island Purchases Deferral Account has been the only measure formally undertaken by Nalcor and/or NLH intended to achieve rate management. Government was not consulted on NLH's abandonment of the Off-Island Purchases Deferral Account.

• On July 23, 2018, NLH provided the following high-level rationales for abandoning its GRA Deferral Account proposal:
  o customer rate increases forecast to occur under the Deferral Account Scenario had increased substantially;
  o delays in receiving PUB approval for interim rate increases, and lower-than-requested rate increases, resulted in lower-than-anticipated revenue in 2018; thus making up the shortfall would require very large customer rate increases in 2019;
  o in order for NLH to accumulate the $170M originally forecast in savings under the Deferral Account Scenario, 2019 customer rates increases of "21.3% for Newfoundland Power (13.7% for residential customers) and 27.8% for Island Industrial Customers" would have to be implemented; and,
  o in addition to revised rate increases, continued pursuit of the Off-Island Purchases Deferral Account would likely result in a protracted 2017 GRA, additional external hearing costs for Hydro and ratepayers, and a delay in NLH's future filings required before the in-service of Muskrat Falls.

• NLH advises that PUB approval of a rate stability rider could result in an additional rate increase of 6.5% (7.7% total) on January 1, 2019. NLH also notes it has filed information with the PUB identifying the potential stepped rate increases that would be required in future if such a rider was applied during the transition to post-Muskrat Falls rates.

• On April 5, 2018, the filed an application with the PUB outlining the CA's position that OC2013-342 and OC2013-343 "purged the Board of its legislated jurisdiction" related to Muskrat Falls related costs, and that these OCs prohibit Muskrat Falls cost before commission or near-commissioning of the project. NLH advises that the CA has maintained this position in recent settlement discussions, and is thus unlikely to support a rate rider.

Action Being Taken:
• The Department of Natural Resources (NR) is seeking further clarification and explanation from NLH on its rationale for settlement and the implications for rate payers and 2020 rate management.

Prepared by/Approved by: M. Janes / C. Snook / J. Cowan
Ministerial Approval: Received from Hon. Siobhan Coady

July 23, 2018
Information Note
Department of Natural Resources

Title: July 2018 hearing for Newfoundland and Labrador Hydro’s 2017 General Rate Application

Issue: To provide a summary of the issues arising during this session of hearings for Newfoundland and Labrador Hydro’s (NLH) 2017 General Rate Application (GRA).

Background and Current Status:
- Hearing related to NLH’s 2017 GRA began on April 16, 2018 and were adjourned on April 26, 2018. Hearings reconvened on July 16 and are ongoing.

Off-Island Purchases Deferral Account
- In its 2017 GRA, NLH proposed to source off-island power to displace more expensive production at Holyrood, while continuing to charge rates based on Holyrood costs. NLH’s intention was to use any savings arising from this approach to fund the Off-Island Purchases Deferral Account, the balance of which would be applied to manage rate increases when Muskrat Falls costs enter rates in 2021.

- This proposal drew criticism from the Consumer Advocate (CA) who noted that NLH was asking the Board of Commissioners of Public Utilities (PUB) to approve rates based on a “fictitious” cost of service. While NLH submitted expert evidence supporting the use of regulatory deferral accounts for rate management purposes, the CA noted that there was no precedent for charging rates based on a cost of service scenario that was not actually expected to occur, noting further that other jurisdictions used rate riders (a set percentage rate addition) where there was an identified need for rate management/smoothing.

- At the hearings on July 16, 2018, the PUB was informed that a Supplemental Settlement Agreement was reached between NLH and intervenors, including the CA, in which certain issues pertaining to the 2017 GRA were settled. Most notably, the settlement agreement included NLH agreeing to abandon the proposal to establish an Off-Island Purchases Deferral Account, and to instead base the GRA on what is referred to as the “expected supply scenario”, which is costs that reflect the use of off-island power, and rates that immediately reflect the use of that power.

- As part of this settlement agreement, NLH will file additional evidence outlining the rate impact of Muskrat Falls costs without any management afforded via the Off-Island Purchases Deferral Account.

General Cost Control and Regulatory Oversight of Operation and Maintenance (O&M) Costs
- Counsel for the various intervenors, primarily Newfoundland Power, questioned witnesses on efforts to control various costs including overall labour costs, travel costs, and minimizing the use of embedded contractors. NLH witness responded that while NLH is seeking to control regulated NLH costs, it believes its practices are consistent with other utilities.
• There were also specific questions about how Nalcor Energy Marketing (NEM) affects the principle of providing least-cost, reliable power. NLH witnesses noted that NLH is not required to use NEM’s services, but that NLH chooses to do so because both entities are able to work together toward the same goal, and, ultimately, it is NLH’s responsibility to source least-cost, reliable power.

• Most notably, there was significant discussion on oversight of O&M costs associated with various components of the Muskrat Falls Project, specifically, the Labrador Island Link (LIL) and the Labrador Transmission Assets (LTA), which GNL has previously exempted from PUB oversight. There does not seem to be clarity among NLH, the PUB or Intervenors regarding the degree to which either NLH and/or the PUB has any oversight of these O&M costs. For its part, NLH indicated that this is not identified any mechanism to hold Nalcor to account for these costs for which NLH is invoiced.

Analysis:
Off-Island Purchases Deferral Account

• In its 2017 GRA, NLH sought a 6.6% average rate increase on January 1, 2018. As a result of delays in the GRA and the annual Rate Stabilization Plan (RSP) adjustment for fuel costs, on April 13, 2018 (revised April 20, 2018) NLH applied for an interim rate increase of 7.5% effective July 1, 2018, and 9.4% effective July 1, 2019. The PUB issued an order on May 28, 2018 approving the 2018 Interim rate.

General Cost Control and Regulatory Oversight of Operation and Maintenance (O&M) Costs

• The Muskrat Falls Exemption Order (OC2013-342) removed PUB oversight of all costs associated with the Muskrat Falls Projects, including O&M on the LIL and LTA. While ensuring revenue certainty is understood to be a necessary for compliance with the terms of the federal loan guarantees, it seems Intervenors and NLH question the utility and necessity of removing all oversight associated with these costs.

Action Being Taken:

• NR has asked NLH to provide a briefing on the Settlement Agreement.
NR will continue to monitor and advise on matter arising from NLH's 2017 GRA hearings.

Prepared by / Approved by: M. Janes / C. Snook / J. Cowan
Ministerial Approval: Received from Hon. Siobhan Coady

July 29, 2018