Dear [Redacted]

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (File # NR-99-2017)

On July 23, 2018 the Department of Natural Resources received your request for access to the following records/information:

Please provide any information/briefing/decision notes, reports, studies, or analysis, provided to the Minister, Deputy Minister, ADMs, Director of Communication, or Executive Assistant regarding the subject of Rate Mitigation.

You advised that the timeframe for your request was January 1, 2017 to present.

On August 10, 2018 the department received approval from the Office of the Information and Privacy Commissioner to extend the timeline for your request by 5 business days.

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 27 (1)(a), 27(1)(c), 27(2)(a), 29(1)(a), 30(1)(a), 35(1)(d), 35 (1)(g) and 35(1)(f) of ATIPPA, 2015 as follows:

27(1)(a) In this section, “cabinet record” means advice, recommendations or policy considerations submitted or prepared for submission to the Cabinet

27(1)(c) In this section, "cabinet record" means a memorandum, the purpose of which is to present proposals or recommendations to the Cabinet;

27(2)(a) The head of a public body shall refuse to disclose to an applicant a cabinet record

P.O. Box 8700, St. John's, NL, Canada A1B 4J6 t 709.729-1466
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.

30. (1)(a) The head of a public body may refuse to disclose to an applicant information that is subject to solicitor and client privilege or litigation privilege of a public body;

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.

We have redacted in full three documents under S. 27(1)(a) and S.27(2)(a), as they are records of cabinet or were created while preparing a submission to cabinet. These documents represent pages 1 to 50 of the responsive record package binder 1.

We have also redacted in full pages, 1 to 12 in responsive record package binder 2; pages 10, 11 and 13 along with the Information Note titled “NR2017-019 Supplementary Information #2” which represents pages 15 to 17 in responsive record package binder 3; pages 3 to 28 in responsive record package binder 4 which is an as yet unsigned and still under negotiation draft agreement, and page 19 in responsive record package binder 5 using S.29(1), 35(1)(d), 35(1)(f) and 35(1)(g).

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 is as follows:
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 http://www.atipp.gov.nl.ca/info/index.html.

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

Sincerely,

Rod Hynes
ATIPP Coordinator
Key Messages
Rate Management for Muskrat Falls Project Costs

- This government is committed to mitigating the impact of the Muskrat Falls Project on electricity rates in the Province. While we inherited this project from the previous administration, our government is focused on controlling costs and ensuring the project is managed effectively. That is why we retained external consultant, EY, to conduct an independent review of the cost, schedule, and associated risks for the project, and have followed through on all of EY’s recommendations.

- We also appointed an experienced electric utility leader, Stan Marshall, as Nalcor CEO and appointed qualified members to the Board of Directors via government’s Independent Appointments Commission.

- Our government has directed Nalcor Energy to source $210 million to lower electricity rates starting in 2020/21 with this preliminary rate reserve growing to $245 million in subsequent years. Government has also directed that revenue from surplus power, including that from the Muskrat Falls project, be used to help reduce electricity rates.

- In addition, Natural Resources, Nalcor, and other key government departments have formed a working group to develop further options for rate mitigation.

- Since coming into office, our Government has also been working diligently with our federal colleagues to secure the commitment of an additional and enhanced federal loan guarantee in support of the Muskrat Falls Project. As a result, on November 3, 2016 the Province announced that it had secured a commitment from the Government of Canada to provide an enhanced loan guarantee for the project up to an additional $2.9 billion. This will help lower borrowing costs and lead to savings for ratepayers.

- Some of the existing programs or initiatives that can help Newfoundlander and Labradorians manage electricity rates are:
  - Newfoundland Power’s Equal Payment Plan, which assists customers in budgeting for their electricity bills by averaging monthly bill payments over 10 or 12 months so customers pay the same amount each month.
  - The takeCHARGE program, a partnership of Newfoundland and Labrador’s two electricity utilities, provides energy saving tips and offers customers rebates when making efficient choices for home and business.
  - The Home Energy Savings Program is a provincial initiative designed to assist low incomes households who consume 15,000kWh of electricity annually in making energy efficient retrofits to their homes. The program assists clients with retrofits that will make their homes more affordable and reduce greenhouse gas emissions that contribute to climate change.
  - The Turn Back the Tide campaign was launched by the Government of Newfoundland and Labrador to increase awareness and understanding of climate change and energy efficiency in the province. This campaign includes information, tools and resources to help save energy at home, cut back on the amount of waste generated and be more fuel-efficient on the road.
• We are also working to reduce overall system supply costs by reducing remote diesel system costs in partnership with Newfoundland and Labrador Hydro, private industry and community leaders. One of the ways we are doing this is by working to leverage relevant federal funding opportunities. Any supply savings found in this process could further assist in reducing rates in addition to lowering greenhouse gas emissions.
Proposed information to provide the Department of Finance in drafting a response to CFIB April 12, 2018 letter

- Applications for changes to electricity rates in this province must be submitted to the Board of Commissioners of Public Utilities (PUB) to scrutinize and are subject to a public hearing process where interested parties can carefully examine applications and related evidence. In this manner, the PUB is the responsible authority to assess the evidence and set electricity rates based the applicable legislation, most notably the **Electrical Power Control Act, 1994** and the **Public Utilities Act**.

- In Newfoundland and Labrador Hydro’s (NLH) 2017 General Rate Application (GRA) to the Board of Commissioners of Public Utilities (PUB), NLH sought a 6.6% rate increase in January 2018 and 6.4% rate increase in January 2019. Due to delays in the required PUB hearing, the PUB did not approve the new rates for January 2018. In addition, NLH’s Holyrood thermal generating station fuel costs have also changed since last year. To address the GRA delay and fuel cost changes, NLH has applied to the PUB to approve an interim rate increases of 7.5% in July 2018 and 9.4% in July 2019. These increases do not seek to recover any Muskrat Falls capital costs. The PUB is continuing to review the 2017 GRA.

- NLH’s 2017 GRA also seeks approval to use off-island sources of power to reduce Holyrood thermal generating costs and accumulate savings in a Deferral Account for future use to smooth the transition to absorbing Muskrat Falls Project costs into rates.

- These rate increases and the proposal deferral account are subject to approval by the PUB, through a public process where parties may be granted intervenor status to express their views to the PUB on specific aspects of electricity rates. The independent regulated PUB review process will ensure all views are considered with respect to electricity prices.

- Please be assured that this government shares your concerns about increasing electricity rates. This is why we directed Nalcor Energy to source $210 million to lower electricity rates starting in 2020/21 with this preliminary rate reserve growing to $245 million in subsequent years.

- We successfully negotiated a new enhanced federal loan guarantee up to an additional $2.9 billion to reduce borrowing costs for Project cost overruns.

- Further, we have instructed Nalcor to sell surplus Muskrat Falls’ power and use associated revenue to mitigate potential increases in electricity bills.

- In addition, Government officials from the Departments of Natural Resources and Finance are working with Nalcor to develop further options that can support rate management.

- Government is committed to ensure electricity rates are competitively-priced compared to the rest of Atlantic Canada.
Binder 3
Information Note
Department of Natural Resources

Title: Hearing Schedule for Newfoundland and Labrador Hydro’s 2017 General Rate Application

Issue: To provide an overview of the key issues and schedule for Newfoundland and Labrador Hydro (NLH) 2017 General Rate Application (GRA).

Background and Current Status:
- The GRA process establishes base electricity rates that utilities can charge their customers in rates to recover costs. Utilities typically submit GRAs every 2-5 years as significant costs change. Between GRAs, rates may be adjusted annually in relation to fuel cost variations from forecast through the Rate Stabilization Plan (RSP) mechanism.

- NLH filed its latest GRA on July 28, 2017 with the Board of Commissioners of Public Utilities (PUB) proposing that new electricity rates effective January 1, 2019, with an interim rate to be effective January 1, 2018. The public hearing portion of the GRA had been scheduled to begin January 30, 2018.

- On January 4, 2018, however, on the basis of its concerns with the proposed cost of service study underpinning the GRA, particularly as it related to the off-island purchases deferral account, the Consumer Advocate (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.

- 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. 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.

- NLH filed the required additional information on March 22, 2018, allowing the hearing process to proceed (schedule attached as Annex 1).

- The PUB has advised that adjournment of the hearing by April 26, 2018 is necessary as the CA is not available after that date, and the PUB’s Automobile Insurance Review is scheduled to be completed over the period between mid-May to end of June 2018. Accordingly, the GRA hearing will resume in July/August 2018.

- Since the delay, intervenors in NLH 2018 Capital Budget Application have given rise to a discussion around data centres and electricity supply in Labrador that they have suggested should actually be addressed as part of the hearings for NLH 2017 GRA. The PUB has advised that issues related to the Labrador Interconnected system will not be addressed in April 2018.

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 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'.

- However, 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, as may be argued by the CA. If this were to occur, there would be no revenue arising from off-island purchases that would be able to be used to fund future rate management.

Prepared by/Reviewed by: M. Janes / NOT REVIEWED
Approved by: NOT APPROVED
Annex 1 – NLH's 2017 GRA Hearing Schedule

March 29, 2018 - Filing of Requests for Information (RFIs) on the additional information

April 3, 2018     -     Responses to the RFIs
April 4, 2018     -     Notice of the hearing start to published
April 5, 2018     -     Preliminary motions to be filed; Counsel/Expert meeting
April 10, 2018    -     Written submissions filed in relation to preliminary motions
April 11, 2018    -     Replies to motions
April 12, 2018    -     Counsel meeting and/or oral submissions on motions (if required)
April 16, 2018    -     Hearing start date
April 26, 2018    -     Hearing adjourns
July/August 2018  -     Hearing resumes until completed
Information Note
Department of Natural Resources

Title: Prioritization of the use of Recapture Power

Issue: To provide an overview of the considerations associated with which customers of Newfoundland and Labrador Hydro (NLH) have priority for using Recapture Power.

Background and Current Status:
- NLH receives 525 MW of power at below-market prices from Churchill Falls (Labrador) Corporation (CFLCo) under a “Renewal Contract” expiring in 2041 that renewed key terms of the 1969 Power Contract between CFLCo and Hydro-Quebec (HQ). The
  - The Renewal Contract provides CFLCo with rights to “recapture” 300 MW of power (Recapture Power) generated at the Churchill Falls power plant. Under the terms of a Power Purchase Agreement (PPA) between NLH and CFLCo (NLH-CFLCo PPA), NLH purchases approximately 300 MW 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 Natural Energy Marketing (NEM) to sell in export markets on NLH’s behalf.
  - CFLCo also receives a separate 225 MW block of power entitlement under the CFHQ Renewal Contract for sale exclusively in Labrador West. CFLCO supplies this “Twinco Block” to NLH under a PPA at approximately 2 cents per kWh. The arrangement is known as the Twinco Block.
  - The Labrador Transmission Assets (LTA) and the Labrador-Island Link (LIL) components of the Muskrat Falls Project (MFP) will make it possible to deliver Recapture Power to the island and potentially help manage MFP-related rate increases.

Analysis:

- During the course of NLH’s ongoing 2017 General Rate Application (GRA), a Request for Information submitted by Newfoundland Power asked NLH to “provide the legislative, contractual or any other basis for electricity requirements on the Labrador Interconnected System having first priority in the use of Recapture [Power]."
• The Renewal Contract for supplying Recapture Power to CFLCo did not contemplate the imminent interconnection of the Island and Labrador systems, which raises questions about prioritization of low-cost Recapture Power for Labrador versus the Island customers.

• OC2013-343 stipulates that all costs associated with the Muskrat Falls Project (MFP) “shall be recovered in full by Newfoundland and Labrador Hydro in Island interconnected rates.”

• During GRA hearings on April 16, 2018, the CEO of NLH, Jim Haynes, indicated that it is NLH’s intention to use Recall Power “to serve Labrador needs first and any excess, which right now is exported out of the province through Nelcor, would now be imported and brought to the Island to displace fuel.”

S. 29 (1) (a)
S. 35 (1) (d)
S. 35 (1) (f)
35 (1) (g)
Action Being Taken:

- None: Government may wish to consider its options to address this potential issue such as an O&C to clarify Reappraisal Block priorities and MFP impacts other than cost recovery.

Prepared by / Approved by: M. Janes / NOT APPROVED
Ministerial Approval Received from: NOT RECEIVED
Information Note
Department of Natural Resources

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 steam, 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 displace 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:
- 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
Title: Maximizing net Benefits of Electricity Resources and Rate Mitigation

Decision Required:
- Whether to engage a consultant to provide a comparative valuation of energy market options.

Background and Current Status:
- Minister Coady’s Mandate letter requires maximizing the net benefits from in-province use versus export of energy.
- In Nalcor’s June 23, 2017 update on the Muskrat Falls Project (MFP), it indicated that unmitigated island residential electricity rates would increase to 22.89 cents (plus HST) per kilowatt hour (kWh) in 2021 – over double the current rate for this rate class.
- Reducing the projected impact of the MFP on electricity rates is a key priority for the Government of Newfoundland and Labrador (GNL). A working group comprising Department of Natural Resources (NR), the Department of Finance (FIN) and Nalcor officials are developing options for rate mitigation.
- In addition, GNL is poised to provide reference questions to the Board of Commissioners of Public Utilities (PUB), seeking input on options for rate mitigation that will be referred back to GNL for consideration.

Analysis:
- Delivering on the goals outlined above requires understanding export market value in comparison to in-province energy use. Otherwise, it is not possible to evaluate the net benefits of domestic versus export options, or the best ways to mitigate rates.
- The energy export market comprises a variety of product options ranging from energy (whatever is available whenever it is available) to firm-capacity (definitely available on demand), and other related energy services.
- What sorts of products Nalcor is able to export, however, is directly related to in-province energy use. To illustrate, if a new industrial customer required 50MW of firm capacity, that would reduce Nalcor’s ability to sell into the firm-energy market.
- Determining the best options for NL ratepayers and taxpayers requires GNL to understand both the value of exporting electricity and of foregoing export. GNL must also apply this lens to the PUB’s pending rate mitigation recommendations.
The Guidelines also specify that Department must provide *Terms of Reference* (ToR) to external consultants. [A draft ToR for this project is attached as Annex 1.]

Prepared by/Reviewed by: M. Janes / NOT REVIEWED
Approved by: NOT APPROVED

November 16, 2017
Information Note
Department of Natural Resources

Title: Summaries of Key Expert Evidence

Issue: Key expert evidence submitted to the Board of Commissioners of Public Utilities (PUB) in relation to the Off-Island Purchases Deferral Account proposed as a rate mitigation tool in Newfoundland and Labrador Hydro’s (NLH) 2017 General Rate Application (GRA).

Background and Current Status:
- As part of NLH’s ongoing GRA, the utility has submitted expert evidence from JT Browne in support of its GRA proposal for an off-island purchases deferral account to aggregate savings to offset Muskrat Falls Project-related rate increases in 2020.
- In the JT Browne submission, the expert states his opinion relied on information from NLH about the Muskrat Falls Project (MFP) and the deferral account and that he was not asked to verify this information and did not provide a professional opinion on its validity.
- NLH’s consultant says the deferral account would benefit NLH customers and be consistent with the cost of service standard and principles of rate stability, predictability, intergenerational equity (i.e. costs and benefits for customers affected rather than past or future customers).
- The Office of the Consumer Advocate (CA) submitted expert evidence from C. Douglas Bowman who agreed that deferral accounts can be part of good utility practice and beneficial in the circumstances facing Newfoundland and Labrador Island customers, but questioned the mechanics of how NLHs proposed deferral account would work.

Analysis:
- The primary objection the CA expert expressed on the deferral account is that its valuation is premised on the PUB approving a cost of service in the current GRA that does not reflect NLH’s best forecast of costs in the test year. Meaning, the cost of service that is proposed is intended to reflect greater use of Holyrood than is actually expected to be the case.
- The CA expert notes that NLH “believes” it has demonstrated regulatory precedence for collecting costs upfront to mitigate pending rate increases in citing the Manitoba (MB) Public Utilities Board’s approval of an interim rate increase related to Manitoba Hydro’s Bipole III transmission project. The CA expert notes that the MB approach was to add a fixed percentage increase over a rate that reflected an actual cost of service whereas the approach proposed by NLH is based on implementing a rate that is based on an inflated cost of service, allowing an over-collection of revenue by an unknown and unknowable amount.
- Ultimately, the CA expert recommends that Newfoundland and Labrador follow MB’s approach where ratepayers are clearly informed of what costs their rate reflects and what is being added to that rate in order to fund future rate mitigation.
- The CA expert notes that NLH has not proposed aggressive cost-cutting or cost-control to mitigate pending rate increases and questions the appropriateness of fixing NLH’s rate of return in legislation (OC2009-063). The CA expert asserts that this can lead to inefficiency and less attention to regulatory commitments and directives, reduced customer satisfaction, reliability of service and cost control. The testimony concludes that with customers facing a “near triple digit rate increase”, consideration should be given to repealing OC2009-063 in an effort to “reduce Hydro’s return and spread the pain.”

- The testimony ultimately concludes there are, “...far too many gaps in the record for the Parties and the Board to make an informed decision on this Application,” and that a “more complete picture of the rate mitigation plan is needed.”

- The CA expert report is attached as Annex 1 with key sections highlighted on the off-island deferral proposal.

- It is unknown how the PUB will weigh the NLH expert opinion against that of the CA expert’s opinions that NLH has not provided sufficient information on costs relating to the off-island deferral proposal or on its rate mitigation plans. The PUB could ultimately accept or reject the off-island deferral account proposal.

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

- The public hearing portion of the GRA, including NLH and expert testimony and cross examination will begin January 30, 2018.

- The PUB will begin writing its GRA order following the hearing. The order can be expected to be implemented July 1, 2018.

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

**December 14, 2017**
Annex 1:

Expert Evidence - CA - C. Douglas Bowman - 2017-12-04
December 4, 2017

Via Email and Courier

Board of Commissions of Public Utilities
120 Torbay Road, P.O. Box 2140
St. John's, NL A1A 5B2

Attention: G. Cheryl Blundon, Director of Corporate Services / Board Secretary

Dear Ms. Blundon:

RE: Newfoundland and Labrador Hydro-2017 General Rate Application

Further to the above-captioned, enclosed please find enclosed the original and thirteen (13) copies of the Expert Evidence Report of C. Douglas Bowman.

Yours truly,

[Signature]

Dennis Browne, Q.C.

Encl.

/bb

cc: Newfoundland & Labrador Hydro
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Communities of Sheshatshiu, Happy Valley-Goose Bay
Webush and Labrador City

Stevewang Luk (sluk@zdilaw.com)
THE BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

IN THE MATTER OF
the Electric Power Control Act, 1994, SNL 1994,
Chapter E-5.1 and the Public Utilities Act,
RSN 1990, Chapter P-47 (the "Act");

AND

IN THE MATTER OF
a General Rate Application (the "Application")
by Newfoundland and Labrador Hydro to

PRE-FILED EVIDENCE
OF
C. DOUGLAS BOWMAN

December 4, 2017
PRE-FILED EVIDENCE
OF
C. DOUGLAS BOWMAN

Evidence Outline

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List of Exhibits

Exhibit CDB-1-C. Douglas Bowman Background and Qualifications
THE BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

IN THE MATTER OF the Electric Power Control Act, 1994, SNL 1994, Chapter E-5.1 and the Public Utilities Act, RSN 1990, Chapter P-47 (the "Act");

AND

IN THE MATTER OF a General Rate Application (the "Application") by Newfoundland and Labrador Hydro to establish customer electricity rates for 2018 and 2019.

PRE-FILED EVIDENCE OF C. DOUGLAS BOWMAN

My name is Doug Bowman. This document was prepared by myself, and is correct to the best of my knowledge and belief. I have been retained by the Government appointed Consumer Advocate to provide expert advice and evidence to the Consumer Advocate in response to Newfoundland and Labrador Hydro's ("Hydro's") 2017 General Rate Application.

A summary of my background and qualifications is provided in Exhibit CDB-1. I have both a B.S. and an M.S. in Electrical Engineering from the State University of New York at Buffalo and 39 years of experience in the electricity services and consulting industry. My primary expertise includes electricity services costing and pricing, and power sector restructuring, regulation and market design. I am an independent Energy Consultant working out of my office located in Warrenton, Virginia.

Prior to becoming an independent consultant, I was employed by KEMA Consulting, Nexant Inc., Pace Global Energy Services, International Resources Group, CSA Energy
Consultants and Ontario Hydro. I have taken part in the regulatory process in the Province of Newfoundland and Labrador on behalf of the Consumer Advocate since 1996, and have submitted testimony before this Board ten times previously as an expert witness on cost of service and rate design at Newfoundland Power’s 1996 Application by Petition for Approval of Certain Revisions to its Rates, Charges and Regulations, at Newfoundland and Labrador Hydro’s 2001 General Rate Proceeding, at Newfoundland and Labrador Hydro’s 2003 General Rate Application, at Newfoundland and Labrador Hydro’s 2006 General Rate Application, at Newfoundland Power’s 2007 General Rate Application, at Newfoundland and Labrador Hydro’s 2009 Application concerning the Rate Stabilization Plan components of the rates to be charged Industrial Customers, at Newfoundland and Labrador Hydro’s 2013 General Rate Application, at Newfoundland and Labrador Hydro’s Amended 2013 General Rate Application, and at the Board’s Investigation and Hearing into Supply Issues and Power Outages on the Island Interconnected System. I have also appeared twice before the Nova Scotia Utility and Review Board as an expert witness on cost of service and rate design, and while at Ontario Hydro, I was involved with the regulatory process in the areas of generation and transmission planning, demand/supply integration, operations, rate design and customer service.

Section 1 of my Pre-filed Evidence includes summary of the key points in the Application relating to rates and cost of service; Section 2 includes a summary of issues for the Board’s consideration, and Section 3 includes my recommendations.
1. Application

The cover letter accompanying Hydro's 2017 General Rate Application indicates that a primary purpose of the application is to manage cost increases for customers (page 2 of cover letter). Hydro states "It is well known that the impact of the Muskrat Falls Project on customer rates will be significant. Hydro has been working with its parent company, Nalcor Energy (Nalcor), and the Government of Newfoundland and Labrador, to determine potential options to help mitigate and manage these cost increases for customers" (pages 1 and 2 of cover letter). Hydro proposes that its revenue requirement and rates be based on "the continued supply of power to the Island Interconnected System from existing Island generation" (page 2 of cover letter), and that an Off-Island Purchases Deferral Account be established to include savings resulting from off-island purchases relative to the costs that would have occurred had the energy been supplied from Holyrood. Hydro proposes that the savings that accumulate in the deferral account be used to "mitigate future rate increases after the full commissioning of the Muskrat Falls project" (page 2 of cover letter).

Hydro indicates that rates are expected to almost double as a result of the Muskrat Falls project (Application Volume 1 (rev 3), page 5.6, lines 4-6). Few, if any, jurisdictions have had to deal with such a large rate increase brought on by a single project (CA-NLH-196), so there is little in the way of regulatory precedence to guide the Board and the Parties on what has worked or not worked in other jurisdictions facing a challenge of this magnitude.

Hydro acknowledges that its cost of service study for the 2018 and 2019 test years does not account for off-island purchases over the new Labrador-Island and Maritime Links, so
does not reflect its best forecast of costs in the 2018 and 2019 test years (LAB-NLH-8).

Under Hydro's best forecast of costs in the 2018 and 2019 test years, the availability of
off-island purchases over the new transmission links is "anticipated to keep rates flat, or
potentially reduce rates slightly" (Application Volume I (rev 3), page 1.11, lines 19-20).¹

Hydro received a rate increase just five months ago on July 1, 2017 (NP-NLH-1 65, rev 1).

Hydro states (LAB-NLH-36) "The Provincial Government has indicated that it plans to
keep rates at par with the forecast Atlantic Canada average of 17 cents per kWh." It is not
clear what the Atlantic Canada Provinces average of 17 cents per kWh means for Island
residential customers, but it appears the rate increase would be much lower than the post
Muskrat Falls figure of 22.89 cents/kWh (exclusive of HST) estimated by Nalcor
(Application Volume I (rev 3), page 5.6, lines 4-6). Currently, Island residential customers
are paying 11.7 cents/kWh (exclusive of HST) (Application Volume I (rev 3), page 5.6,
lines 4-6).

Neither Nalcor nor the Provincial Government have endorsed Hydro's proposed rate
mitigation plan, but neither is there correspondence indicating their disagreement with
Hydro's proposed plan (CA-NLH-186). Further, Hydro indicates that it (CA-NLH-6) "has
been informed that rate mitigation actions or plans beyond what Hydro has proposed in
the 2017 GREA Hydro will be a policy decision of government." Hydro states that the Off-
Island Purchases Deferral Account is "one component of a number of rate mitigation
initiatives that will be required to limit the required increase in customer rates" (NP-NLH-
245).

¹ CA-NLH-25, rev 1 states that the use of Recapture Energy on the Island in 2019 provides $78.1 million in
savings equating to 12.0% of the 2019 Island revenue requirement of $648.7 million.
2. Issues for the Board's Consideration

1) It would appear that the Provincial Government and the Atlantic Provinces, rather than the Board, may be setting rates for Island customers both pre- and post-Muskrat Falls given that "The Provincial Government has indicated that it plans to keep rates at par with the forecast Atlantic Canada average of 17 cents per kWh" (LAB-NLH-36), and given that "rate mitigation actions or plans beyond what Hydro has proposed in the 2017 GRA Hydro will be a policy decision of government" (CA-NLH-6). If this is the case, it might be better to divert time from this Application to the numerous other regulatory filings that Hydro has on its plate as outlined in CA-NLH-161.

2) Hydro forecasts that the amount that will accumulate in the Off-Island Purchases Deferral Account by August 31, 2020 is $174.3 million (NP-NLH-115, rev 1). However, this amount may be understated as it:

a. Includes LILILTA transmission costs of $27.3 million in 2018 and $52.9 million in 2019 (CA-NLH-50). This equates to 7.0 cents/kWh in 2018 and 5.8 cents/kWh in 2019 (CA-NLH-177), and compares to the proposed 2019 wheeling rate of 0.9 cents/kWh for the entire Island Interconnected transmission system (CA-NLH-82, rev 1). The current rate for Island residential customers of 11.7 cents/kWh (exclusive of HST) (Application Volume 1 (rev 3), page 5.6, lines 4-6) includes the cost of generation, transmission and distribution. The LILILTA estimate includes only O&M costs (no capital-related expenses), so appears to be extraordinarily high.
Hydro indicates (CA-NLH-177) that it is "currently reviewing the forecast operating and maintenance costs for LIL and LTA."

b. Excludes purchases over the Maritime Link (CA-NLH-193) owing to "the confidential nature of negotiations" (CA-NLH-65).

c. Excludes sales of power and energy to off-island purchasers over the Maritime Link because "the focus of Hydro's market activities in 2018 and 2019 will be to displace thermal generation at the Holyrood Thermal Generating Station (CA-NLH-179)."

3) The scenario that Hydro has modelled in the cost of service study will result in rates that are expected to substantially over-collect the revenue requirement. The "savings" that Hydro indicates would accumulate in the Off-Island Purchases Deferral Account are not savings at all, but rather the difference in costs between the actual cost of supply and the cost of supply under a fictitious scenario that does not reflect the future operation of the system. The cost of service study clearly does not reflect the lowest cost of supply consistent with maintaining reasonable levels of supply reliability. Hydro could make its so-called savings look even greater if it were to base the cost of service study on an even more costly supply scenario; i.e., if it were to assume that Holyrood would operate at full availability over the entire 2018 and 2019 test years.

4) Hydro has provided what it believes is regulatory precedent for collecting costs up-front to mitigate upcoming rate increases. Hydro states (Application Volume 1 (rev

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2 It is not clear if Hydro intends for profits from sales over the Maritime Link to be included in the Off-Island Purchases Deferral Account.
3), page 1.12, lines 4 to 12) "In Order 73/15, 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 when the Bipole Transmission Reliability Project (Bipole III) comes into service in 2018/19. In Order 73/15, the Manitoba regulator stated that, "Because very significant rate increases will be needed at that time, the Board sees a compelling policy reason to gradually increase rates to avoid rate shock for consumers three years from now. The funds set aside in the Board-ordered deferral account will be used to smooth the significant rate increases that may otherwise be required when the Bipole III is completed, helping to mitigate the resulting rate shock." In the Manitoba example, a fixed rate adder of 2.15% was approved for funding rate mitigation. As stated in CA-NLH-45 "Based on Hydro's interpretation of Order 73/15, the funds set aside to smooth future rate increases were derived based on a fixed percentage rate increase over and above the amount determined to be required to provide reasonable cost recovery for Manitoba Hydro". Hydro on the other hand is proposing that the Board approve a cost of service study that does not reflect its best forecast of costs in the test year along with an open-ended deferral account to fund rate mitigation. The two approaches are not the same.

5) Hydro states (Application Volume 1 (rev 3), page 5.6, lines 22-25) "The Board's approval of the proposed Off-Island Purchases Deferral Account will begin the transition to customer rates that will provide an opportunity to achieve reasonable recovery of Muskrat Falls Project costs. The current proposal is a critical step to
set the foundation for the broader approach for rate mitigation to be successful."

However, Hydro did not survey customer preferences on its proposed rate mitigation plan (CA-NLH-27). Hydro indicates that it "values the opinions of its customers", and that a survey into customer preferences could be conducted, but "believes that this present matter can be well addressed in the present proceeding, which includes intervenors representing a range of customers" (CA-NLH-222).

Since it is the customers who are facing a near doubling of rates, a survey on customer preferences on rate mitigation would provide valuable insights to the Board and the Parties to this Application.

6) Hydro states that the objective of the Off-Island Purchases Deferral Account is to (Application Volume 1 (rev 3), page 56, lines 22-25) "begin the transition to customer rates that will provide an opportunity to achieve reasonable recovery of Muskrat Falls Project costs". However, Newfound land Power is forecast to receive a cumulative rate increase of 50.9% over the 18-month period from July 1, 2017 to January 1, 2019, while Island Industrial Customers are forecast to receive a 20.3% rate increase over the same period (NP-NLH-165, rev 1). Both customer classes are served from the same generation and transmission system, so it would seem that rate increases for the two customer classes should be comparable. Otherwise, it has the appearance that rate mitigation is being funded on the backs of Newfound land Power customers.

7) While the Parties might be amenable to rate mitigation, they may have difficulty granting Hydro an open-ended deferral account that is expected to accumulate hundreds of millions of dollars (NP-NLH-1 15, rev 1) including purchases over the
Maritime Link that are sourced from confidential negotiations (NP-NLH-115, rev 1) lacking transparency, and negotiated by an entity, Nalcor Energy Marketing, that is apparently not under Board jurisdiction (LAB-NLH-37). Neither has Hydro proposed a methodology for re-allocating the funds to mitigate rate impacts on the different customer classes. When asked what guidance Hydro can provide the Board on how to allocate the proceeds of the proposed Off-Island Purchases Deferral Account (CA-NLH-190) Hydro responded "The Board has broad power with respect to deferral accounts; in this case to determine a reasonable approach to allocate the net savings among customer classes." Apparently, Hydro is leaving it up to the Board to decide at some future date how best to allocate funds to the different customer classes for rate mitigation. Hydro has indicated a willingness to discuss alternative approaches to rate mitigation with interveners (CA-NLH-47), and suggests that this take place during the settlement discussions scheduled in January 2018 as part of this GRA (CA-NLH-185). The Board and the Parties need more details before a decision is rendered on Hydro's proposed Off-Island Purchases Deferral Account, so the settlement discussions are likely to prove useful.

8) The new transmission lines that are coming into service, the Labrador-Island Link (LIL) and the Maritime Link (ML), open the door to imports that could provide significant benefits to customers (NP-NLH-115, rev 1). However, even though the Maritime Link is expected to be in service less than two months from now:

a. A power procurement plan for purchases over the Maritime Link does not appear to be in place (NP-NLH-115, rev 1),
b. A plan for sales of capacity and energy over the Maritime Link does not appear to be in place (CA-NLH-179),

c. A regulatory review process for power procurement and sales that ensures customers are gaining optimal value from the interconnections is not in place (CA-NLH-176), and

d. An open access transmission tariff has neither been filed, nor approved (CA-NLH-161). Hydro states (PUB-NLH-109) "Based on the current in-service date of the Labrador-Island Link (LIL) and the Labrador Transmission Assets (LTA), anticipated to be July 1, 2018, in order to obtain the full benefits of LIL and the LTA, the necessary processes for the open access regime will need to be proposed for approval by July 1, 2018." Further elaboration of this statement is necessary as it is not clear what additional benefits are gained from an approved open access regime both with respect to LIL/LTA and the Maritime Link, particularly during the pre-

Muskrat Falls period.

As stated in the Liberty report to the Board dated August 19, 2016 (Page 113, VI-12) "Given that the Maritime Link will be in service in about one year, there does not appear to be suitable progress in resolving issues relating to market transactions, such as responsibility, rate treatment, open access, and avoidance of conflicts between marketing and operations." More than a year later, this statement remains relevant, except there is greater urgency now since the scheduled in-service date for the Maritime Link is less than two months away (PUB-NLH-17).
9) The response to CA-NLH-34 indicates that Nalcor is not required to pay for transport of power and energy on the Maritime Link, but other entities might be so required. The response to CA-NLH-181 indicates that the Maritime Link will not be included in Hydro's open access transmission tariff because it is owned by Emera, so who pays for the Maritime Link, and how, falls "within the purview of the Nova Scotia Utility and Review Board". The response to CA-NLH-182 indicates that Nalcor does not have "free access" to the Maritime Link—Nalcor is in effect paying for use of the Maritime Link as part of the "broad suite of Muskrat Falls/Maritime Link agreements between Nalcor and Emera". In the same response, Hydro indicates that there is "no violation of FERC open access principles and Nalcor has not been given an unfair competitive advantage". While this may not violate FERC principles, it may be detrimental to Island customers. For example, Nalcor would have a competitive advantage for supply to Hydro if other marketers were required to pay for use of the Maritime Link. The advantage would be significant if the tariff for use of the Maritime Link is comparable to the costs Hydro has submitted for use of the ULLTA transmission that are likely more than 6 cents/kWh when capital is included (CA-NLH-177). For comparison purposes, the real-time spot market price at the New York ISO on Friday, December 1, 2017 averaged about 3.2 cents/kWh. It may be that Hydro is "required" to purchase energy through Nalcor Energy Marketing, but in any case, it does not bode well for Island customers as Hydro would be more or less "stuck" buying from

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1 Average price of 2.5 US cents/kWh converted using an exchange rate of 1 Can$ = 0.79 US$. See http://www.nyiso.com/public/markets_operations/market_data/graphs/index.jsp.
Nalcor Energy Marketing, thus reducing both its competitive options and transparency owing to the confidential nature of negotiations and the fact that Nalcor Energy Marketing is not under Board jurisdiction (LAB-NLH-37).

(10) It seems Hydro has expended a great deal of effort defending the assumptions in a cost of service study that does not reflect its best forecast of costs. For example, Hydro provides justification for Holyrood fuel costs and the Holyrood fuel conversion factor used in the cost of service study when it plans to place Holyrood in standby mode beginning the second quarter of 2018 (PUB-NLH-68). Standby mode means the station will not operate for energy production purposes, but rather for capacity purposes only; i.e., during emergencies such as the failure of a transmission line. In fact, Holyrood Unit 3 will not be producing energy at all, being relegated to synchronous condenser mode of operation as of April 1, 2018 (PUB-NLH-68). In the cost of service study, the assumed Holyrood capacity factor in the 2019 test year is 38.2%, (CA-NLH-168), but owing to the availability of off-island purchases over the Labrador-Island Link, the actual Holyrood capacity factor in 2019 is forecast to be 16.7% (CA-NLH-168), and this may be overstated since it does not incorporate purchases over the Maritime Link that would result in further decreases in Holyrood production. Holyrood fuel costs and conversion factor are of less consequence than the power procurement plan and regulatory review process for off-island purchases over the Maritime Link for which very little information is on the record.

It is not clear why Hydro has committed to taking Holyrood Unit 3 out of service before exploring the possibility of capacity sales over the Maritime Link (CA-NLH-179).
II) Basing the revenue requirement on a fictitious future means that cost allocations to customer classes are unfair because the cost of service study is not reflective of the costs that the different customer classes are expected to impose on the system. For example, by setting rates to over-collect revenues from Newfoundland Power customers while setting rates to collect the correct forecast amounts from Labrador Interconnected Customers, an inappropriate amount of the rural subsidy is allocated to Newfoundland Power Customers. Further, since Rural and Isolated Customer rates are pegged to Newfoundland Power rates which would be over-collecting, they would also be over-charged and the rural subsidy deficit amount would be less than it would be if Newfoundland Power rates reflected the costs it is expected to impose on the system.

12) With one exception, Hydro proposes no changes to the cost of service allocations (IC-NLH-108). In CA-NLH-90, the Consumer Advocate asks Hydro to show the impact on cost allocations and rates if 10%, 20%, 30%, 40% and 50% of the costs of the new TL267 transmission line were classified as energy. Hydro responds "The approach since the implementation of the cost of service methodology approved in the 1993 Cost of Service Report by the Board, is that all functionalized transmission assets are classified as 100% demand related." Hydro indicates in its October 19, 2017 letter to the Board (challenging a number of requests for information submitted by the Consumer Advocate) that issues relating to the cost of service methodology are more efficiently addressed in the proposed 2018 hearing on the cost of service methodology (page 2). However, as the Board states (page 4, lines 27-31, P.U. 36(2017) "TL267 is a significant asset which is being added to the rate
base as of 2018 for which customers will begin to pay in rates arising from this proceeding. As such the Board acknowledges that the fair classification and allocation of costs for the TL267 transmission line may be an issue which the parties may wish to argue should be addressed in this proceeding in advance of the scheduled cost of service hearing.” The Board goes on to direct Hydro to provide a response to the question (page 4, lines 42-44). In spite of Hydro’s belief that cost of service issues are more efficiently addressed at the proposed hearing on the cost of service methodology, Hydro proposes to change the methodology for allocation of specifically-assigned operating and maintenance costs on the Island system. Hydro makes this proposal without referencing another jurisdiction that uses its proposed methodology (NP-NLH-161). CA-NLH-84 indicates that "while other utilities utilize approaches with some features similar to Hydro’s methods, none can be said to utilize Hydro’s current or proposed methods". Hydro indicates it intends to start tracking actual operating and maintenance costs for specifically assigned assets beginning in 2018, but several years of history are needed before the new methodology can be properly implemented (PUB-NLH-78). It is not clear why Hydro is proposing a change to the methodology for allocating specifically-assigned operating and maintenance costs when the existing methodology has been vetted before the Board, but opposes changes to the classification of the costs of a new transmission line that it expects to recover in this Application, and that has never been vetted before the Board. This is especially concerning because the proposed methodology transfers costs from the Island Industrial Customers to Newfoundland Power whose rates are proposed to increase 50.9% over the 18-
month period from July 1, 2017 to January 1, 2019, compared to 20.3% for Island
Industrial Customers over the corresponding period (NP-NLH-165, rev 1). It is not
clear why Hydro is proposing any changes at all when the cost of service study does
not reflect the expected supply scenario and its best estimate of future costs (LAB-
NLH-8).

13) Hydro proposes a tail-block energy rate for Newfoundland Power of 14.141
cents/kWh in 2019 based on a forecast No. 6 fuel cost of $87.11 per barrel ($Can)
for the 2019 Test Year (Application Volume 1 (rev 3), page 5.18, lines 3 - 11).
Hydro's justification for this approach is that it is consistent with the currently
approved method, and it can be given further consideration at a rate design review
scheduled to occur subsequent to this GRA (Application Volume 1 (rev 3), page
5.17, lines 8 - 23). However, the proposed rate is expected to be in place through
2020, a period during which Holyrood production costs will no longer reflect
marginal costs owing to the availability of off-island purchases. In CA-NLH-81,
Hydro indicates that the annual average marginal energy cost forecast for 2019 is
5.0 cents/kWh. Therefore, Hydro is proposing that Newfoundland Power respond
to a price signal of 14.141 cents/kWh when it should be responding to a price signal
of 5.0 cents/kWh. Clearly, this will not promote efficient consumption decisions,
and is inconsistent with Board direction with respect to the Newfoundland Power
rate that "marginal costs should be considered in the future design of the wholesale
rate" (Application Volume 1 (rev 3), page 5.17, lines 10 - 11).

14) Hydro has not proposed aggressive cost-cutting or cost-controlling measures as a
means for mitigating the upcoming rate increases. For example, Hydro proposes to
continue with the capacity assistance agreements even though the new transmission lines will address any capacity concerns in the 2018/19 winter. The table in CA-NLH-165 shows a reserve margin of 306 MW without the capacity assistance agreements, well above the 240 MW reserve requirement (if it were short capacity, Hydro would not be relegating Holyrood Unit 3 to synchronous condenser operation). Further, Hydro's rate of return continues to be fixed by legislation via OC2009-063. This can lead to inefficiency and less attention to regulatory commitments and directives, and reduced customer satisfaction, reliability of service and cost control. With customers facing a near triple digit rate increase, consideration should be given to repealing OC2009-063 in an effort to reduce Hydro's return and spread the pain.

13) The average cost of supply to Rural and Isolated Customers in 2016, the last year for which actual data are available, was about 23.0 cents/kWh (based on a cost to supply of $117.2 million (NP-NLH-55, rev 1) and total energy sales of 508,418 MWh (NP-NLH-58)). This rate is comparable to Nalcor's forecast cost of supply to Island residential customers of 22.89 cents/kWh (compared to 11.7 cents/kWh today) following commissioning of Muskrat Falls (figures exclusive of HST. See Application Volume I (rev 3), page 5.6, lines 4-6). This draws into question the desirability and ability of Newfoundland Power customers to continue funding the Rural Deficit post-Muskrat Falls (and perhaps pre-Muskrat Falls depending on the rate mitigation plan, if implemented). Hydro indicates it has recently provided information on the costs of the rural deficit to Department of Natural Resources
officials, but does not say if any action was recommended, or likely to be pursued (CA-NLH-199).

3. Recommendations

With respect to rate mitigation for Island customers, Hydro indicates it "believes that this present matter can be well addressed in the present proceeding, which includes intervenors representing a range of customers" (CA-NLH-222). I make my recommendations within the context of this statement.

There are far too many gaps in the record for the Parties and the Board to make an informed decision on this Application. A more complete picture of the rate mitigation plan is needed.

I therefore recommend that the Board direct Hydro to undertake the following:

a) File a cost of service study for the Island system for the 2019 test year based on its best forecast of costs including off-island sales and purchases over the Labrador-Island Link, as well as sales and purchases over the Maritime Link; i.e., based on ISO New England spot prices. Only those changes to the cost of service allocations that are necessary to perform the cost of service study should be made; i.e., functionalization of LIL and LTA operating and maintenance costs, and allocation of the costs of off-island purchases (CA-NLH-169).

b) Propose a deferral account to protect Hydro from the uncertainties brought on by variations in hydro generation, fuel costs and off-island purchases and sales.

c) Propose a rate mitigation plan based on the format referenced in Manitoba with a fixed rate adder over and above any required rate increase (if a rate increase is indeed required). The rate mitigation plan should explain how the funds that accumulate in the rate mitigation account will be applied to different customer
classes and over what period of time; i.e., 50% in the first year post-Muskrat Falls, 35% in the second year and 15% in the third year. The proposed rate mitigation plan should address implications relating to allocation of the rural deficit.

d) Propose a power procurement plan for off-island purchases and explain how the regulatory vetting process will work to ensure customers are receiving optimum value.

e) Propose a plan for sales of capacity and energy surplus to the needs of the Island customers and explain how the regulatory vetting process will work to ensure customers are receiving optimum value.

f) Propose an open access transmission tariff including an explanation of the facilities included in the tariff, how Hydro foresees the open access regime will work, which entities will be under Board jurisdiction, and how open access can be leveraged to provide optimum value to Island customers.

g) Propose a wholesale rate for Newfoundland Power that better reflects the marginal cost forecast.

h) Provide justification for the continued offering of capacity assistance and curtailable load.

The enormous cost escalation brought on by the Muskrat Falls Project and its resultant burden on Island customers requires that these matters receive top priority. I suggest that the settlement negotiations proceed as scheduled in January 2018 with intervenors working.

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5 Hydro intends to file its open access transmission tariff with the Board before the end of the first quarter of 2018 (CA-NLIH-161).
with Hydro to expedite and improve the efficiency of the undertaking in order to bring the 2017 GRA to a successful and timely conclusion.

This concludes my pre-filed evidence.
Draft Decision Note
Department of Natural Resources

Title: 

Decision Required: S. 29 (1) (a) S. 35 (1) (d) S. 35 (1) (f) 35 (1) (g)

Background and Current Status:
- The Muskrat Falls Project Exemption Order (OC2013-343) exempts all Muskrat Fall Project (MFP) costs from the provisions of the Public Utilities Act (PUA) and the Electrical Power Control Act (EPCA).

- GNL established the exemption to comply with provisions of the November 20, 2012, Federal Loan Guarantee (FLG1) requiring GNL to ensure revenue certainty for repaying MFP loans.

- The MFP exemption and the Power Purchase Agreement between Nalcor subsidiaries Muskrat Falls Corporation and Newfoundland and Labrador Hydro (NLH) enable all MFP costs to be charged to NLH for recovery from ratepayers without independent oversight.

- By comparison, practically all other NLH costs require PUB review, consistent with Section 3(b)iii of the Electrical Power Control Act (EPCA) which requires that power be delivered to consumers in the province at the lowest possible cost consistent with reliable service.

- Nalcor has effectively segregated all of its MFP-related costs into a newly-created unregulated entity named Nalcor Power Supply ("Power Supply"), which has its own structure including staff, executive team, and operating and maintenance costs. Nalcor’s regulated electricity operations are segregated entirely within NLH.

- No independent or transparent process has been established or proposed to assess whether Nalcor’s unregulated operations and structure adhere to principles of the EPCA. O&M costs are significant components of the anticipated MFP-related rate increases.

Analysis:
- Providing continued oversight of unregulated electricity operations has two primary and related benefits:
  1) Controlling these costs is beneficial to ratepayers and/or taxpayers;
  2) Minimizing rates helps ensure electricity demand, which helps ensure the revenue stream required by FLG1.
Prepared/Approved by: M. Janes / C. Snook / Ministerial Approval:

December 27, 2017

Attachments: Annex A: Draft Agreement
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:
  - 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);
  - Deferral account lacks transparency as NLH has not submitted a procurement plan for off-island purchases;
  - Deferral account lacks a definition, (including whether NLH can legally collect these costs prior to the commissioning of the Muskrat Falls Project);
  - Costs for using the Labrador Transmission Assets (LTA) and the Labrador Island Link (LIL) appear “exorbitant”;
  - 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:
  - A 2019 test year cost of service study based on the expected supply scenario with off-island purchases over the LIL and ML;
  - A proposal for a supply cost adjustment mechanism to complement the cost of service study (given the uncertainties brought of the off-island purchases);
  - NLH’s power procurement plan for off-island purchases over the LIL and ML;
  - NLH’s plan for sales of power over the LIL and ML;
  - 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;
  - An open access transmission tariff including how the open access regime will work;
  - 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
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.
4. The Consumer Advocate has numerous concerns with Hydro’s proposed cost of service study and off-island purchases deferral account, based in 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 PUB 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 MFGF 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) relegating 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 an 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.

6. 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.
There is no precedent in this jurisdiction for the rate mitigation initiative proposed by Hydro and the PUB could not endorse any such “plan” based on the information thus far provided by Hydro.

Here, the PUB 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.

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-IC-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 January, 2018.

Per: 

Dennis Browne, 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 equivocal, 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 near 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 I – 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 LiLParty,
   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 LiLParty, 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 in paragraphs (i) and (ii) to ensure the ability of Muskrat Falls Corporation and Labrador Transmission Corporation to meet their respective 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.
Information Note
Department of Natural Resources

Title: Consumer Advocate's Reply to Intervenors

Issue: To provide an overview Consumer Advocate (CA) reply to the intervenor responses to the CA's application to delay proceeding pertaining to 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 intended to fund future rate mitigation efforts, the CA applied to the Board of Commissioners of Public Utilities (PUB) to delay the schedule for the GRA.

- In response to the CA's application, Hydro filed a letter with the PUB on January 12, 2017, and Newfoundland Power (NP) and the Island Industrial Customers Group filed letters with the PUB on January 15, 2018. Those responses are outlined in an earlier briefing note.

Analysis:
- In its reply, the CA maintained its position that the GRA should be delayed until NLH files additional information in support of the proposed off-island purchases deferral account.

- The CA has also placed more emphasis the relevance of OC2013-343 to the off-island purchases deferral account proposal. The OC stipulates that no costs “in respect of each” of Muskrat Falls 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 an Annex 1.

- In the CA’s view, which is shared by NP, OC2013-343 may prevent NLH from recovering costs associated with use of the LTA/LIL to source off-island purchases, such as recall power. This would undermine the proposed off-island purchases deferral account which proposes that costs associated with the use of the LIL would be charged to ratepayers.

- The CA also notes that it is unable to fully examine the proposed off-island purchases deferral account in the context of a rate hearing due to the fact that the CA does not have the information required to undertake a thorough examination in that setting either.

- The CA notes that "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."

Action Being Taken:
- NR will provide an update when the PUB rules on the CA's application. This is expected to occur in the coming days.

Prepared by / Reviewed by: M. Janes / NOT REVIEWED
January 19, 2018
Annex I – 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 LiLParty,
   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 LiLParty, 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 in paragraphs (i) and (ii) to ensure the ability of Muskrat Falls Corporation and Labrador Transmission Corporation to meet their respective 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;
   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 2017 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 refiling 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 delaying 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 Muskat 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 near 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.

S. 29 (1) (a) S. 35 (1) (d) S. 35 (1) (f) 35 (1) (g)
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 put forward several rate mitigation options. Following a full review, the PUB order 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 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.

- 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 Muskrat 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)
  o 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

<table>
<thead>
<tr>
<th>Name</th>
<th>Affiliation</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’Bien, Counsel</td>
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<tr>
<td>Dennis Brown, Q.C.</td>
<td>Consumer Advocate</td>
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<tr>
<td>Steven Fitzgerald, Counsel</td>
<td></td>
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<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>
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Information Note
Department of Natural Resources

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$81.40 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 that 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>Demand</th>
<th>Energy</th>
<th>Effective July 1, 2017</th>
<th>Proposed July 1, 2018</th>
<th>Percentage Change</th>
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<tr>
<td></td>
<td>(cents/kWh) (Inc. tax)</td>
<td>(cents/kWh) (Inc. Tax)</td>
<td>(%)</td>
<td>($) (Inc. Tax)</td>
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<td>1.1 Domestic</td>
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<td>1.517</td>
<td>13.21</td>
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<td>Island Diesel</td>
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<td>1.1D Domestic</td>
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<td>15.30</td>
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<td>21.68</td>
<td>23.31</td>
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<tr>
<td>2.2 GS Over 10 kW</td>
<td>15</td>
<td>3,850</td>
<td>24.13</td>
<td>25.94</td>
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<td>21.68</td>
<td>23.31</td>
<td>7.5%</td>
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<tr>
<td>2.2 GS Over 10 kW</td>
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<td>7.5%</td>
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<td>Labrador Interconnected</td>
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<td>2.2 GS 10-100 kW</td>
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<td>8,850</td>
<td>3.55</td>
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<td>70,000</td>
<td>2.93</td>
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<td>1,380,000</td>
<td>2.57</td>
<td>2.57</td>
<td>0.0%</td>
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</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.

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
Information Note
Department of Natural Resources

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 council asked why NLH did not look at other options for rate management. Mr. Haynes responded that NLH considered the Deferral Account as it is 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.
Prepared/Reviewed by:  Y. Khan / Mark Janes / C. Snook / J. Cowan
Approved by:  Received from Hon. Siobhan Coady

May 3, 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

<table>
<thead>
<tr>
<th>Name</th>
<th>Affiliation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Geoffrey Young, Counsel</td>
<td>Newfoundland and Labrador Hydro</td>
</tr>
<tr>
<td>Alex Templeton, Counsel</td>
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<tr>
<td>Gerard Hayes, Counsel</td>
<td>Newfoundland Power</td>
</tr>
<tr>
<td>Liam O'Brien, Counsel</td>
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</tr>
<tr>
<td>Dennis Browne, Q.C.</td>
<td>Consumer Advocate:</td>
</tr>
<tr>
<td>Steven Fitzgerald, Counsel</td>
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<tr>
<td>Paul Coxworthy, Counsel</td>
<td>Industrial Customers</td>
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<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>
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 LeBianc, 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 rate payers, 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 km² 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, but 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. Bates / C. Snook

**Ministerial Approval:**

May 10, 2018
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 73/15, 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
### Table 1: Off Island Purchase Deferral Account (OIPDA) Estimated Net Credit & Balance 2018 through 2020 ($,000)  

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<th>2019</th>
<th>2020</th>
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<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>Total</td>
<td>40,497</td>
<td>130,103</td>
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<tr>
<td>Cost of Off-Island Purchases</td>
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<tr>
<td>Recapture Power</td>
<td>886</td>
<td>1,946</td>
<td>260</td>
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<td>OpEx LTA/LIL</td>
<td>27,300</td>
<td>52,900</td>
<td>35,700</td>
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<tr>
<td>Total</td>
<td>28,186</td>
<td>54,846</td>
<td>35,960</td>
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<tr>
<td>Return on Average Balance</td>
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<tr>
<td>Net Credit to OPDA</td>
<td>12,717</td>
<td>78,117</td>
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<td>Net Balance in OPDA</td>
<td>12,717</td>
<td>90,834</td>
<td>174,338</td>
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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: S. 29 (1) (a); S. 35 (1) (d); S. 35 (1) (f); 35 (1) (g)

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. S. 29 (1) (a); S. 35 (1) (d); S. 35 (1) (f); 35 (1) (g)

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 (Regie 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:** S. 29 (1) (a) S. 35 (1) (d) S. 35 (1) (f) 35 (1) (g)
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 Etherum – 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 MW 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.

  S. 29 (1) (a) S. 35 (1) (d) S. 35 (1) (f) 35 (1) (g)

- 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 Quebec, 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 Quebec 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 Filion, President Hydro-Québec Distribution
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 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 question 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 is has 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

Ministerial Approval: NOT RECEIVED

July 20, 2018