October 4, 2018

Dear [Redacted]:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (File # NR-175-2017)

On September 28, 2018, the Department of Natural Resources received your request for access to the following records/information:

I am seeking copies of the following notes as outlined below

Update on Quebec electricity issues

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 record. The records is attached.

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

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

35. (1) (d) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose information, the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in significant loss or gain to a third party;

35. (1) (f) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose positions, plans, procedures, criteria or
instructions developed for the purpose of contractual or other negotiations by or on behalf of the government of the province or a public body, or considerations which relate to those negotiations

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

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:

Office of the Information and Privacy Commissioner
2 Canada Drive
P.O. Box 13004, Stn. A
St. John’s, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

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

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

For further details about how an access to information request is processed, please refer to the Access to Information Policy and Procedures Manual at 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
Title: Update on Quebec electricity issues

Issue: To provide an overview of current electricity issues relevant to Newfoundland and Labrador’s relationship with and Quebec.

Background and Current Status:
• Newfoundland and Labrador (NL) and Quebec (QC) have a longstanding relationship concerning electricity. Below are current electricity issues relevant to this relationship.

Analysis:
Open Access
• Completion of the Labrador Transmission Assets and the Labrador-Island Link will connect the Island to the Labrador electric system, and the Maritime Link already connects the Island to NS. Collectively, these assets create an electricity loop or circuit enabling the transfer of electricity from NS to QC via NL.

• This interconnection presents new opportunities and responsibilities for trading electricity. Fundamentally, NL must offer service on its high voltage transmission to neighbouring jurisdictions that is comparable to the service neighbouring systems provide to NL, which is known as reciprocity. Since Nalcor has negotiated transmission service through QC and the Maritimes, NL must ensure that it can offer reciprocal service in this province.

• This spring, Bill 2, An Act to Amend the Electrical Power Control Act and the Public Utilities Act was introduced into the House of the Assembly and received royal ascent on May 31, 2018. This legislation creates an open access transmission system in NL, which satisfies the reciprocal requirements on neighbouring jurisdictions, as well as those of the United States’ Federal Energy Regulatory Commission (FERC).

• Nalcor Energy Marketing (NEM) holds rights to a 265 MW firm transmission service booking through QC. In 2017, NEM realized $47.23 million in gross energy sales, while incurring $24.39 million in transmission marketing fees. NEM profit for 2017 was $14.7 million on energy sales. According to Nalcor’s 2017 Annual Report, these profits were realized through the sale of approximately 1.6 terrawatt hours (TWh) of energy. This translates into a sale price of approximately 3 cents per kilowatt (kWh), netting approximately 1 cent per kWh in profit.

Canadian Free Trade Agreement (CFTA)
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The CFTA states that its rules on electricity transmission will enter into force if NL or QC provides written notice of such entry into force no earlier than 24 months, but no later than 36 months, after the effective date of the agreement, which was July 1, 2017.

Churchill Falls Ownership

- Churchill Falls (Labrador) Corporation Limited (CFLCo) operates a hydroelectric generating plant and transmission facilities in Labrador. The generation capacity is 5,428 megawatts (MW). NLH holds 65.8% of CFLCo shares while Hydro Quebec (HQ) owns 34.2%.

- Effective June 18, 1999, the two shareholders of CFLCo, NLH and HQ, entered into a Shareholders' Agreement which provided, among other matters, that certain of the strategic operating, financing and investing policies of CFLCo be subject to joint approval by representatives of NLH and HQ.

- CFLCo has effectively two customers: HQ and NLH. A power contract with HQ dated May 12, 1969 (the Power Contract) provided for the sale of a significant amount of the energy from CFLCo until its 40-year term expired August 31, 2016. It was followed by a Renewed Power Contract with HQ for an additional 25 years beginning September 1, 2016. The rate was predetermined in the Power Contract and was 0.25426 cents per kWh. The rate during the term of the Renewed Power Contract is 0.2 cents per kWh.

- Under the Power Contract and Renewed Power Contract, CFLCo has the right to recall 300 MW (Recall Power) that it sells to NLH. CFLCo also provides an additional 225 MW to NLH, which was known as the Twinco Block.

- CFLCo also has a Guaranteed Winter Availability Contract (GWAC) signed with HQ in 1998 and expiring in 2041. The GWAC establishes terms for Churchill Falls to operate at peak capacity during winter months to accommodate fluctuations in HQ demand during the period.

Churchill Falls Court Cases

- In August 2016, CFLCo received judgment from the Québec Court of Appeal upholding the 2014 Québec Superior Court ruling on the motion filed by CFLCo to address the inequities of the pricing terms of the 1969 Power Contract between CFLCo and HQ (“Good Faith Case”). After that court ruled against CFLCo, the company was granted leave to appeal to the Supreme Court of Canada (SCC), which heard the case in December 2017. A ruling is expected in mid-2018.

Churchill River Water Management

- CFLCo also received a separate Declaratory Judgement from the Québec Superior Court relating to interpretation of the 1969 Power Contract between CFLCo and HQ and the associated Renewal Contract. The Quebec Court again ruled in favour of HQ. CFLCo filed a Notice of Appeal with the Québec Court of Appeal and the appeal hearing has been set for December 4-5, 2018.
Unlike the CFLCo reservoir, Muskrat Falls has very limited ability to store water. Thus, electricity production at CFLCo sends water down Churchill River to Muskrat Falls, where it must then be used to produce electricity, or otherwise be spilled.

As this may not maximize the value of production from Churchill River hydroelectric assets, the Churchill River is intended to be managed under the terms of a Water Management Agreement, established by NL’s Board of Commissioners of Public Utilities pursuant to the Electrical Power Control Act, 1994.

The Agreement is intended to facilitate the optimization of production on the Churchill River while ensuring that no provisions of pre-existing power contracts involving Muskrat Falls or CF(L)Co, including the Churchill Falls Renewal Contract, are adversely affected.

Atlantic Link

Emera Inc’s Atlantic Link is a proposed 1,000 MW, 563 km high-voltage direct current (HVdc) interconnection between NB and Massachusetts (MA) including power supplied by Nalcor. It was proposed in response to the MA Clean Energy RFP that sought 9.45 TWh annually of clean energy including wind and hydro. This amount of energy equates to an average of approximately 1,070 MW of power.

Emera bid to deliver 5.69 TWh of clean energy via the Atlantic Link following a separate process in which Nalcor submitted to Emera a confidential non-binding notice of intent to submit a proposal to supply energy to the Atlantic Link project. On the RFP closing date July 27, 2017, Emera announced its RFP bid included Nalcor hydropower.

The RFP received over 40 bids, including four from HQ, which won the bid. HQ has identified transmission pathway options for its power but has not yet finalized the route.

Regional Electricity Cooperation and Strategic Infrastructure Initiative (RECSI)

Since fall 2016, NL has been working with NRCan and Atlantic government officials and utilities on NRCan’s RECSI. The goal of RECSI is to gain regional consensus on the most promising electricity infrastructure (generation and transmission) projects that could support transition to lower greenhouse gas emissions and the replacement of coal-fired generating capacity in Atlantic Canada.
• A draft RECSI report has now been prepared.

• The July 17, 2018 final version of the RECSI report prepared by Hatch engineering consultants has been provided to NR for discussion and review.

Other
• Nalcor and Hydro Quebec coordinate supply arrangements to meet load requirements in the Labrador/Quebec border region, including the 18 MW Menihek plant which supplies load in Schefferville, QC, and HQ’s supply to L’Anse Au Loup’s mini system.

• QC announced recently that it was taking steps to limit data centre load growth. The NL Public Utilities Board is also considering applications from NLH related to data centre load growth challenges and regional stakeholders have filed numerous submissions expressing concerns relating to cost impacts.

Prepared/Approved by: L. MacDonald and M. Janes / C. Snook / J. Cowan
Ministerial Approval:
August 8, 2018