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Via Electronic Mail & Courier

Newfoundland and Labrador Board
of Commissioners of Public Utilities
Suite E210, 120 Torbay Road
P.O. Box 21040
St. John's, NL A1A 5B2

Attention: Ms. G. Cheryl Blundon
Director of Corporate Services and Board Secretary

Dear Ms. Blundon:

Re: Muskrat Falls Review – Comments of the current Island Industrial Customers

These are the comments of the current Island Industrial Customers, Corner Brook Pulp & Paper Limited, North Atlantic Refining Limited, and Teck Resources Limited, on the Muskrat Falls Review.

As noted in the course of the Review, the industrial load represents approximately 17% of Newfoundland and Labrador Hydro's total Island load in the 2010 Nalcor load forecast. The current Island Industrial Customers have an obvious interest in the cost and reliability of the supply of electrical power to the Province, both in terms of maintenance of their current operations and plans for future activity in the Province.

The current Island Industrial Customers have noted the concerns expressed about the magnifying of forecast risks due to the length of the Review period of 2010-2067. The current Island Industrial Customers acknowledge that in light if these risks there could be an apparent attraction to the incremental approach of adding generation capacity to the Island by various (relatively) smaller hydro and thermal generation projects, as needed. The attraction to this approach would appear to stem from the view that (a) the Island's energy needs may be substantially less than the Nalcor forecast over the Review period of 2010-2067 and/or (b) that the risks inherent in the choice between the Infeed Option and the Island Isolated Option may be significantly reduced by postponing that choice.

The current Island Industrial Customers understand that Nalcor's load forecast assumes no significant additional industrial load during the Review period, after the addition of the anticipated load for the Vale Long Harbour facility. Positing a significant decrease in Island load from the Nalcor forecast reflects what the current Island Industrial Customers expect to be an overly pessimistic view of the Island's economic prospects over the whole of the Review period, including prospects for continuing and new industrial activity. In saying this, the current Island Industrial Customers acknowledge that there is the possibility of volatility in industrial load requirements over the Review period. However, the current Island Industrial Customers expect, and believe that the Province's citizens would expect, that the Provincial Government will over the Review period pursue policies that promote the maintenance and expansion of industrial activity on the Island, as a vital component of the Province's economy.

The current Island Industrial Customers accept that the postponement of the choice between the Infeed Option and the Island Isolated Option is not likely to significantly reduce, over the mid-and-long terms, the risks raised by the inherent uncertainty of oil price and load forecasts and regarding future greenhouse gas emissions regulation. It appears to the current Island Industrial Customers that the Manitoba Hydro International (MHI) report confirms that when subjected to various sensitivity tests in relation to oil price and load forecasts (and the risk of project cost overruns), the Infeed Option continues to maintain a margin of preference over the Isolated Island Option as least cost generation over the Review period of 2010-2067.

The current Island Industrial Customers have previously expressed concern, in the context of Hydro's recent annual Capital Budget Applications before the Board, about the prospect of overinvestment in the Holyrood thermal generation facility, in light of the strong preference expressed in the Province's Energy Plan to develop an Infeed Option which would replace Holyrood generation. The current Island Industrial Customers would have an equal concern about overinvestment in Island Isolated generation capacity by the incremental addition of Island hydro and thermal generation capacity, in a scenario which postpones the choice between the Infeed Option and the Isolated Island Option. In the view of the current Island Industrial Customers, unduly delaying the choice between the Infeed Option and the Isolated Island Option, and in the interim proceeding with significant "stop gap" capital investments in Island generation capacity, is not the least cost option.

Having said this, the current Island Industrial Customers do believe that, in the context of the present Review, the identification of the Infeed Option as the least cost option for the supply of power to the Island for the Review period ought not to represent the end of the Board's regulatory mandate in relation to the sanction of the Infeed Option. In the view of the current Island Industrial Customers, there remains the opportunity, prior to making the decision to sanction (Decision Gate or DG3) the Infeed Option, to address certain areas of concern raised by MHI in its report.

The current Island Industrial Customers note that the Province's Energy Plan (at page 47) confirmed the importance of the regulatory process as the means of ensuring that electricity supply is adequately planned, in the following words:

> *The regulatory process must continue to protect consumers by ensuring that electricity supply is adequately planned and is provided on a reliable basis at the most reasonable cost.*

The current Island Industrial Customers note that the above statement from the Energy Plan is in effect a condensation of the mandate of the Public Utilities Board as expressed in the *Public Utilities Act* and the *Electrical Power Control Act*, 1994 (the "*EPCA*"). The current Island Industrial Customers would add that section 4 of the *EPCA* says the following about how this mandate is to be implemented:

> *4. In carrying out its duties and exercising its powers under this Act or under the Public Utilities Act, the public utilities board shall implement the power policy declared in section 3, and in doing so shall apply tests which are consistent with generally accepted sound public utility practice.*

The current Island Industrial Customers acknowledge that the above-referenced statement from the Energy Plan was accompanied by a statement that there was a need to consider means of streamlining the regulatory process. The current Island Industrial Customers certainly agree that

streamlining of regulatory processes is possible, while still maintaining transparency and accountability. As examples of streamlining, the current Island Industrial Customers were active participants (together with the Consumer Advocate, Newfoundland Power and Hydro) in the last Hydro General Rate Application in settlement processes which greatly reduced the length and costs of that proceeding, and have also participated in a streamlined process that has eliminated the need for hearings in the last several Hydro Capital Budget Applications. The present Review is another example of a streamlined regulatory process. The current Island Industrial Customers would add that if there are questions that can and should be addressed following the present Review and prior to DG3, then there remains the opportunity for the Board to continue to perform its regulatory role, by an appropriate and, if necessary streamlined, process which maintains transparency and accountability vis-à-vis Hydro's customers.

The areas of concern raised by MHI in its report, and amenable to further regulatory review, include:

1. AC Integration Studies

2. System reliability assessment (probabilistic)

3. Transmission Line Design Criteria

The current Island Industrial Customers have noted that these three areas of concern were extensively addressed in the MHI report and in the presentations to the Board in the present Review, which included questioning of the Nalcor/Hydro panel and of MHI representatives. It appears to the current Island Industrial Customers that these three areas of concern fall broadly under a concern to ensure, in the words of the Province's Energy Plan, that the electricity supply for the Island is adequately planned and is provided on a reliable basis at the most reasonable cost. The current Island Industrial Customers, on review of the MHI report and of the transcripts of the presentations to the Board, are left with the view that these areas of concern could and should all be further addressed before DG3, in a transparent and accountable manner. In the view of the current Island Industrial Customers, the Board is the statutorily-mandated, and wholly appropriate, forum for ensuring such transparency and accountability.

The current Island Industrial Customers make the following comments specific to each of these three areas of concern raised by MHI:

AC Integration Studies

It appears from the presentation to the Board that Nalcor has accepted the MHI recommendation that AC Integration Studies need to be completed before proceeding to DG3. In the view of the current Island Industrial Customers those studies (apparently scheduled to be completed in March 2012) should be filed with the Board, and thereby made available to the public, once completed and prior to DG3.

System reliability assessment (probabilistic)

It appears from the presentation to the Board that while Nalcor may not have rejected the MHI recommendation that probabilistic reliability assessments should be completed for major projects, Nalcor is not prepared to commit to completing such assessment of the Infeed Option prior to DG3 (reference: February 14, 2012 transcript, pp. 126-128). A Nalcor/Hydro panel member speaking to this issue further stated that before proceeding with probabilistic reliability

assessments, Nalcor/Hydro would need to assess the implications of probabilistic reliability analysis with its stakeholders, customers and the Board (reference: February 14, 2012 transcript, p. 127).

In the view of the current Island Industrial Customers, the MHI report presents evidence that probabilistic reliability assessments for major projects are considered to be a generally accepted sound public utility practice by other Canadian utilities (Manitoba Hydro, BC Hydro, Hydro Quebec, Hydro One (Ontario)). The process of consultation with Nalcor's/Hydro's stakeholders, customers and the Board on the implications of probabilistic reliability assessment could be conducted by a streamlined process. It appears to the current Island Industrial Customers that there remains an opportunity to complement the deterministic reliability assessment of the Infeed Option based on Hydro's own experience with a probabilistic reliability assessment, prior to DG3.

Transmission Line Design Criteria

Nalcor has selected a 1:50-year reliability return period for the HVdc transmission line. MHI has identified a 1:150-year reliability return period as the acceptable standard where an alternate supply is available. Nalcor/Hydro, in its presentation to the Board, has continued to strongly reject this MHI recommendation, on the basis that (1) the word "suggested" is used in the applicable standard instead of mandatory language, (2) Hydro's operational experience indicates that a major failure of the HVdc transmission line could be restored within a two-week timeframe, (3) the existing Hydro transmission system is built to a 1:50-year (or less) reliability return period standard and (4) pending repair, the impact of a major failure of the HVdc transmission line could be mitigated by an as-of-yet incompletely defined plan for additional back up thermal generation on the Island (or by the Maritime Link, which however is outside of the mandate of the Review).

In the view of the current Island Industrial Customers, the MHI report has presented evidence that generally accepted sound public utility practice would be to select a greater than 1:50-year reliability return period for a critical transmission line, even if an alternate supply is or becomes available. The evidence is that, in recent Canadian utility experience, HVdc transmission lines, as designed (in Alberta, to a 1:100-year standard; in Manitoba, to a 1:150-year standard) or restored (Quebec, post 1998 ice storm, to 1:500-year standard), exceed the 1:50-year standard, even when an alternate supply is available. Reliance on Hydro's own experience as evidence supporting a lower reliability return period standard for critical transmission lines than that used by these other Canadian utilities is undermined by the fact that Hydro has no experience with transmission line conditions in Alpine areas such as those that will be traversed by the Labrador-Island interconnect. This Province is no stranger to extreme weather conditions like those experienced, for instance, in the 1998 Quebec ice storm.

In the view of the current Island Industrial Customers, the cost saving of $150 million that it is estimated would be achieved by building the HVdc transmission line to a 1:50-year standard instead of a 1:150-year standard may not have been sufficiently weighed against the economic costs to the Province of a major failure of the HVdc transmission line, particularly in the absence, or prior to the establishment, of an adequate backup power supply, or against the costs of establishing sufficient back up power supply and/or retrofitting the HVdc transmission line to a higher standard at some future time, either before or after a major transmission line failure event.

The current Island Industrial Customers are of the view that a process should be established, before the Board, to further examine whether the selection of a 1:50-year reliability return period for the HVdc transmission line is consistent with the Energy Plan objective that the "electricity supply is adequately planned and is provided on a reliable basis at the most reasonable cost", applying the standard of generally accepted sound public utility practice.

The role of the Board

In the view of the current Island Industrial Customers, the Board should have the opportunity under its statutory mandate, by a streamlined process if necessary, to further review the three areas of concern identified by the MHI report and summarized above, before the Infeed Option is sanctioned, in a manner which is transparent and accountable to Hydro's customers.

As well, the current Island Industrial Customers have taken note of the Nalcor policy decision, expressed in response to RFI PUB-Nalcor-87, that Muskrat Falls should never create an environment where rates would be higher than staying with the status quo, and that this policy requires that Nalcor pursue rate management options that ensure Muskrat Falls will not impose a rate shock on Island customers. Nalcor acknowledges that at this point the details of this mitigation strategy have not been identified. It is not clear to what extent rate shock will be managed within the contemplated Power Purchase Agreement between Nalcor and Hydro for Muskrat Falls power, which the current Island Industrial Customers understand is not intended to be subject to review by the Board. The current Island Industrial Customers are of the view that these rate mitigation strategies, and the role of the Board in reviewing them, should reflect due consultation with, participation by, and input from Hydro's customers, including the Island Industrial Customers.

We trust these submissions will be found to be in order.

Yours truly,

Stewart McKelvey

Paul Coxworthy

PLC/kmcd

c: Mr. Geoffrey P. Young, Senior Legal Counsel, Newfoundland and Labrador Hydro
Mr. Thomas J. Johnson, Consumer Advocate
Mr. Gerard Hayes, Newfoundland Power
Mr. Dean A. Porter, Poole Althouse