

1 **Q. CA 15.0 NP**

2
3 **Reference: Exhibit NP-1 (Tax Settlement between Newfoundland Power Inc. and**
4 **the Minister of National Revenue dated June 1, 2005)**

5
6 **When were the terms of the Tax Settlement reached as opposed to when they were**
7 **formalized by the written agreement dated June 1, 2005?**

8
9 A. The tax settlement (Exhibit NP-1) was signed on behalf of Newfoundland Power on
10 June 1, 2005. The settlement evolved following completion of pre-trial discoveries in
11 relation to the dispute.

12
13 By the end of February 2005, the required discovery processes related to the tax dispute
14 were effectively concluded. At that time, the Company expected that a time would be
15 fixed on March 28, 2005 for a fall 2005 hearing of the dispute in the Tax Court of
16 Canada.

17
18 In March and April 2005, there were the typical discussions between counsel for
19 Newfoundland Power and the Minister of National Revenue relating to trial. These
20 discussions began, over time, to indicate a possibility of settlement. While this
21 possibility was explored, the pace of developments was moderate.

22
23 Counsel for the Minister of National Revenue wrote to the Tax Court of Canada on
24 April 22, 2005 to request deferral of the setting of a trial date to accommodate
25 negotiations (see Attachment A). The characterization of the negotiation as "...serious
26 but difficult..." and presenting "...a good possibility..." for settlement is a fair indication
27 of the state of matters at that point in time. The letter requested the Tax Court hold the
28 matter in abeyance until June 30, 2005, which is a fair indication of the then current
29 expectation of timing associated with a possible resolution.

30
31 It was in the month or so following April 22, 2005 that the actual terms of the tax
32 settlement which is Exhibit NP-1 were settled by Newfoundland Power and the Minister
33 of National Revenue through their respective counsel.

34
35 The possible resolution of the tax dispute was explored, and ultimately negotiated, over a
36 period of approximately 3 months prior to the signing of the tax settlement. While the
37 negotiation was conducted in good faith with a view to resolution, it was conducted on a
38 without prejudice basis to both Newfoundland Power's and the Minister of National
39 Revenue's formal positions on the dispute before the Tax Court of Canada.

40
41 Given the way in which negotiations developed, the Company was not confident final
42 agreement would be reached until May 2005.

**Letter Dated April 22, 2005 from
Counsel for the Minister of National Revenue**



Department of Justice
Canada

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April 22, 2005

Mrs. Louise Rivard
Coordinator of Hearings
TAX COURT OF CANADA
Centennial Towers
200 Kent Street
Ottawa (Ontario)
K1A 0M1

Re: Newfoundland Power Inc. v. Her Majesty The Queen
T.C.C.No: 2003-39(IT)G, 2003-42(IT)G
Our file: 3-186465, 3-186466

Dear Madam,

The purpose of this letter is to confirm our telephone conversation of Wednesday April 20th.

First, I wish to extend my excuses to the Court for overlooking the March 28th date specified in the June 23, 2004 order of the Court.

I will assume full responsibility for the oversight.

We respectfully request that the Court holds these two files in abeyance until June 30, 2005.

The parties are involved in serious but difficult negotiations and we are confident that there exists a good possibility of an out of court settlement.

The additional delay will allow both parties to focus entirely on their negotiations without being distracted by an upcoming trial date.

On Thursday April 21 we discussed the general terms of this letter with Me Guy Gagnon whom represents the Appellant. Me Gagnon agreed with the general contents of this letter and indicated that he would write to the Court only if something needed to be added.

Yours truly,

A handwritten signature in cursive script, appearing to read "Daniel Marecki", written over a horizontal line.

DANIEL MARECKI
Counsel