Q. (Reference response to CA-NLH-34) The response 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. Will there be separate charges for use of the ML and the Province’s grid under the open access tariff? If so, would this constitute rate pancaking and be in violation of FERC requirements? Further, given that Nalcor has free access to ML transmission, does Nalcor have an unfair competitive advantage in the marketplace over other power marketers and would this violate FERC open access requirements?

A. Yes, there will be separate charges for use of the Maritime Link (ML) and the Province's transmission facilities under the open access tariff. The transmission provider for the ML is Emera, whereas the transmission provider for the Province’s transmission facilities will be the Newfoundland and Labrador Systems Operator (NLSO). The ML and the Province’s transmission facilities are treated as separate and distinct for purposes of transmission service. Neither the NLSO nor Nalcor has any role in Emera’s decisions regarding establishment and level of charges for service over the ML. The asset is owned by Emera and subject to the jurisdiction of the Nova Scotia Utility and Review Board.

The establishment of separate rates for the use of the interconnected transmission facilities is a functional result of having two transmission owners or providers, each with a responsibility to recover the costs of the facilities it operates from customers using that facility. Rate pancaking refers to when a transmission customer is charged separate access charges for each utility service territory that the customer’s contract path crosses. The Federal Energy Reserve Commission (FERC) does not have a blanket prohibition on rate pancaking. Rather, FERC has required FERC-jurisdictional utilities and regional transmission organizations to address rate pancaking problems across seams, and has only required pancaked rates to be eliminated where those rates were unjust and unreasonable.

Hydro has been advised that Nalcor does not have "free access" to the ML. Rather, financial consideration for the use of the ML is being provided to Emera via Nalcor's supply of the Nova Scotia Block to Emera. This financial consideration, in the value of energy being supplied through the NS Block, appropriately compensates Emera for use of the Maritime Link and related transmission rights that Nalcor has acquired from Emera as part of the broad suite of Muskrat Falls/Maritime Link agreements between Nalcor and Emera. As appropriate financial consideration is being paid by Nalcor to Emera, there is no violation of FERC's open access principles and Nalcor has not been given an unfair competitive advantage.