

1 Q. LAB-NLH-64: Re: LAB-NLH-066

2

3 **Citation:**

4 FERC requirements, with regard to market-based rate authorization, govern the
5 ability to import and export energy into/out of U.S. markets. This authority requires
6 that, as a condition of Nalcor Energy Marketing taking transmission service over
7 transmission systems where FERC regulations are followed, Nalcor Energy
8 Marketing's transmission owning affiliates must provide comparable transmission
9 service to third parties, including affiliates of the transmission providers over whose
10 systems Nalcor Energy Marketing takes transmission service. Failure to satisfy this
11 requirement may result in FERC's revocation of Nalcor Energy Marketing's market-
12 based rate authority.

13 a) In order to meet FERC's reciprocity requirements, is it necessary that
14 "comparable transmission service" be provided under an Open Access
15 Transmission Tariff similar to or superior to the pro forma OATT that FERC
16 requires of transmission operators under its jurisdiction?

17

18 b) In order to meet this standard, is it necessary (i) that transmission rates charged
19 to affiliates such as NLH be the same as those charged to third parties, and (ii)
20 that transmission rates be approved by an independent regulatory authority?

21

22 c) Please explain how this standard can be met in light of section 1 of OIC 2013-
23 343.

24

25

26 A. a) The Federal Energy Regulatory Commission (FERC) has held that the reciprocity
27 obligation can be met by either adopting an Open Access Transmission Tariff

1 (OATT) that is equal or superior to FERC’s pro-forma OATT, or, in the alternative,
2 by providing comparable transmission service under a bilateral transmission
3 service agreement.¹

4

5 b) (i) Yes. As part of its standards for non-discriminatory access and service
6 articulated in Order Nos. 888 and 890, FERC requires that an entity charge
7 the same rates for transmission service and provide such service under the
8 same conditions to its affiliates as it does to third parties.

9

10 (ii) The nature of the approval required for transmission rates is a matter of the
11 governing law of the transmission provider’s jurisdiction.

12

13 c) Under the proposed open access regime being developed, all transmission
14 customers, including Hydro, will pay the same transmission rates for the same
15 transmission services. The transmission rates under development will recover
16 the cost of transmission facilities over which transmission service is being
17 provided in a manner that is consistent with OC2013-343. Under OC2013-343,
18 Hydro’s Island Interconnected ratepayers are ultimately responsible for 100% of
19 the Muskrat Falls, Labrador-Island Link, and Labrador Transmission Assets costs.
20 If there is no third party use on these facilities, then Hydro’s Island

¹ See Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), order on reh’g, Order No. 888-A, 62 Fed. Reg. 12,274, at 30,285-86 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), order on reh’g, Order No. 888-B, 81 FERC ¶ 61,248 (1997), order on reh’g, Order No. 888-C, 82 FERC ¶ 61,046 (1998), aff’d in relevant part sub nom. Transmission Access Policy Study Group v. FERC, 225 F.3d 667 (D.C. Cir. 2000), aff’d sub nom. New York v. FERC, 535 U.S. 1 (2002); see also Preventing Undue Discrimination and Preference in Transmission Service, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at P 191, order on reh’g, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), order on reh’g, Order No. 890-B, 123 FERC ¶ 61,299 (2008), order on reh’g, Order No. 890-C, 126 FERC ¶ 61,228, order on clarification, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

- 1 Interconnected customers will pay 100% of the expenses. If there is third party
- 2 use of these facilities, the third party user will pay its share of the expenses
- 3 commensurate with the service taken at the same rates that Hydro pays.