

November 19, 2018

Board of Commissioners of Public Utilities
120 Torbay Road
P.O. Box 21040
St. John's, NL A1A 5B2
Attn: Maureen Greene, QC.

Dear Ms. Green:

RE: Disclosure – Rate Mitigation Options and Impact

On September 5, 2018, the Government of Newfoundland and Labrador ("**Government**") instructed the Public Utilities Board ("**Board**") to, amongst other things, report to the Minister of Natural Resources on:

"Options to reduce the impact of MFP costs on electricity rates up to the year 2030, or such short period as the Boards fit, including cost savings and revenue opportunities with respect to electricity, including generation, transmission, distribution, sales, and marketing assets and activities of Nalcor Energy and its Subsidiaries, including NLH, Labrador Island Link Holding Corporation, LIL General Partner Corporation, LIL Operating Corporation, Lower Churchill Management Corporation, Muskrat Falls Corporation, Labrador Transmission Corporation, Nalcor Energy Marketing Corporation and the Gull Island Power Company (together the "Subsidiaries" and collectively with Nalcor Energy, "Nalcor")."

Nalcor has been working closely with consultants retained by the Board with respect to the Reference Question and extensive disclosure has been provided over the last six weeks.

For the purpose of the Reference Question and given that Churchill Falls (Labrador) Corporation Limited ("CF(L)Co"), Twin Falls Power Corporation Limited ("TwinCo") and Lower Churchill Development Corporation ("LCDC") are not expressly listed as Subsidiaries, Nalcor has been considering whether each is a subsidiary of Nalcor and therefore within scope of the Reference Question.

The Energy Corporation Act ("**ECA**") defines a Nalcor subsidiary at section 13. It states:

Subsidiaries of corporation

13. (1) A company is considered to be a subsidiary of the corporation [Nalcor] if

(a) it is controlled by

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- (i) the corporation [Nalcor],
 - (ii) the corporation [Nalcor] and one or more companies, each of which is controlled by the corporation [Nalcor], or
 - (iii) one or more companies, each of which is controlled by the corporation [Nalcor]; or
- (b) it is a subsidiary of a company which is a subsidiary of the corporation [Nalcor].
- (2) For the purposes of this section, a company shall be considered to be controlled by the corporation [Nalcor] or one or more companies if
- (a) shares of the first-mentioned company carrying more than 50% of the votes for the election of directors are held, otherwise than by way of security only, for the benefit of the corporation [Nalcor] or other companies; and
 - (b) the votes carried by the shares are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned company.

Notwithstanding NL Hydro being a wholly owned subsidiary of Nalcor, the board of NL Hydro is appointed by Government pursuant to section 6(2) of the *Hydro Corporation Act* (NL). Since Nalcor does not elect the NL Hydro board, Nalcor does not "control" NL Hydro and as such NL Hydro and any subsidiaries of NL Hydro are not subsidiaries of Nalcor as defined in the ECA. If CF(L)Co, TwinCo and LCDC are not subsidiaries of Nalcor and are not expressly listed in the Reference Question as presented by Government, it is our opinion that neither is within the scope of the PUB Reference Question.

Nalcor asks that you review the Reference Question in light of this letter and advise if the PUB holds a different view from those provided above. We thank you in advance for your attention to this request.

Yours truly,

McInnes Cooper

Greg Connors

Cc: Peter Hickman
Rob Hull