

1 Q. **Reference: 2018 Cost of Service Methodology Review Report, p. 6 (17 pdf)**

2

3 Citation:

4 **2.4 Export Sales**

5 Hydro forecasts that export revenues will result from available Recapture Energy,
6 ponding activities, exports to avoid spill, and due to the fact that its current
7 forecast load requirements from Muskrat Falls generation are less than its
8 contacted entitlement provided in Schedule 2 of the Muskrat Falls PPA Schedule 2
9 [sic]. The sharing of the net revenues from these exports need to be considered in
10 the cost of service methodology. The cost of service methodology does not deal
11 with other rate mitigation funds that may be provided from other sources.

12

13 a) Please specify, for each of the various categories of exports mentioned in the citation, if
14 the energy to be exported belongs to Hydro, to Muskrat Falls Corporation (MFC), or to
15 other entities.

16

17 b) For categories in which the energy does not belong to Hydro, please explain whether it
18 is Hydro's understanding that the Board has jurisdiction with respect to the resulting
19 revenues, and how these revenues would be applied to Hydro's revenue requirements
20 in the cost of service methodology.

21

22

23 A. a) In each of the category of exports mentioned in the citation above, the energy to be
24 exported belongs to Newfoundland and Labrador Hydro ("Hydro").

25

26 b) Hydro provides the following explanation as to the Board of Commissioners of Public
27 Utilities (the "Board") jurisdiction over the categories of energy listed. The Board has
28 jurisdiction over some, but not all, of these revenues.

1 With respect to Recapture Energy, where (as has occurred historically) Hydro sells that
2 energy to Hydro-Quebec, those transactions and revenues are exempt from the Board’s
3 jurisdiction by virtue of paragraph 7(1)(b) of the Churchill Falls (Labrador) Corporation
4 Limited (Lease) Act, 1961, SNL 1961 c 51. Where Hydro sells Recapture Energy to Nalcor
5 Energy Marketing Corporation, those energy sales are exempt from the Board’s
6 jurisdiction by virtue of an Exemption Order OC2015-193, provided as LAB-NLH-009,
7 Attachment 1.

8
9 With respect to energy from Muskrat Falls that is exported because Hydro’s contracted
10 entitlement is excess of its native load needs, these revenues are exempt from the
11 Board’s jurisdiction pursuant to section 4(1)(a) of OC2013-342 (the Muskrat Falls
12 Exemption Order, provided as LAB-NLH-009, Attachment 2).

13
14 With respect to ponding activities and exports to avoid spill, these are within the
15 Board’s jurisdiction and are both dealt with in Board Order No. P.U.49(2018). Under
16 that Order, amounts received through these activities will be collected in a deferral
17 account that has been approved for these purposes.



*Certified to be a true copy of a Minute of a Meeting
of the Committee of the Executive Council of Newfoundland and
Labrador approved by His Honour the Lieutenant-Governor on*

2015/09/30

OC2015-193

MC2015-0133. NR2015-004. EPC2015-016.

Under the authority of section 4.1 of the Public Utilities Act, the Lieutenant Governor in Council is pleased to make the Order re: the Exemption of Exported Surplus Recapture Energy, a copy of which is on file with the Clerk of the Executive Council.

Clerk of the Executive Council

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**NEWFOUNDLAND AND LABRADOR
REGULATION 120/13**

Muskrat Falls Project Exemption Order
under the
Electrical Power Control Act, 1994
and the
Public Utilities Act
(O.C. 2013-342)

(Filed November 29, 2013)

Under the authority of section 5.2 of the *Electrical Power Control Act, 1994* and section 4.1 of the *Public Utilities Act*, the Lieutenant-Governor in Council makes the following Order.

Dated at St. John's , November 29, 2013.

Julia Mullaley
Clerk of the Executive Council

REGULATIONS

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Short title

1. This Order may be cited as the *Muskrat Falls Project Exemption Order* .

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Interpretation

2. (1) In this Order

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- (a) "LiL" means the transmission line and all related components of the Muskrat Falls Project described in section 2.1(1)(a)(ii) of the *Energy Corporation Act* , and for greater certainty "all related components" in that subparagraph includes converter stations, synchronous condensers, and terminal, telecommunications, and switchyard equipment;
 - (b) "LilParty" means Labrador-Island Link Holding Corporation, the Labrador-Island Link General Partner Corporation, the Labrador-Island Link Limited Partnership, or Labrador-Island Link Operating Corporation, or any combination of them as the context may require;
 - (c) "LTA" means the transmission facilities of the Muskrat Falls Project described in subparagraph 2.1(1)(a)(iii) of the *Energy Corporation Act* ;
 - (d) "LTACo" means the Labrador Transmission Corporation;
 - (e) "MFCo" means the Muskrat Falls Corporation;
 - (f) "Muskrat Falls " means the hydroelectric facilities of the Muskrat Falls Project as described in subparagraph 2.1(1)(a)(i) of the *Energy Corporation Act* .
- (2) In this Order, references
- (a) to a public utility or an activity being "exempt" means the public utility or the activity is exempt from the application of
 - (i) the *Public Utilities Act*, and
 - (ii) Part II of the *Electrical Power Control Act, 1994* ; and
 - (b) to a corporation or limited partnership, where the corporation or limited partnership does not exist as of the date of this Order coming into force, shall be valid upon the creation of the corporation or limited partnership under the *Energy Corporation Act* and the *Corporations Act* or the *Limited Partnership Act* .

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Public utilities

3. LilParty, LTACo and MFCo are acknowledged to be public utilities under the *Public Utilities Act* for the purpose of this Order.

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Exemption

4. (1) Newfoundland and Labrador Hydro is exempt in respect of
- (a) any
 - (i) expenditures, payments, or compensation paid to MFCo by Newfoundland and Labrador Hydro relating to the purchase and storage of electrical power and energy, the purchase of interconnection facilities, ancillary services, and greenhouse gas credits,
 - (ii) obligations of Newfoundland and Labrador Hydro in addition to subparagraph (i) to ensure MFCo's and LTACo's ability to meet their respective obligations under financing arrangements related to the construction and operation of Muskrat Falls and the LTA, and

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- (iii) expenditures, payments, or compensation paid to MFCo and revenues, proceeds or income received by Newfoundland and Labrador Hydro relating to the sale of electrical power and energy acquired from MFCo to persons located outside of the province

whether under one or more power purchase agreements or otherwise;

- (b) any activity relating to the receipt of delivery, use, storage or enjoyment by Newfoundland and Labrador Hydro of any electrical power and energy, interconnection facilities, ancillary services, and greenhouse gas credits under paragraph (a);
- (c) any expenditures, payments, or compensation paid to LilParty and claimed as costs, expenses or allowances by Newfoundland and Labrador Hydro relating to the design, engineering, construction and commissioning of transmission assets and the purchase of transmission services and ancillary services, electrical power and energy, from LilParty or otherwise with respect to the LiL, under one or more transmission services agreements, transmission funding agreements, or otherwise; and
- (d) any activity relating to the receipt of delivery, use, storage or enjoyment by Newfoundland and Labrador Hydro of any transmission services and ancillary services, electrical power and energy, with respect to the LiL under paragraph (c).

(2) MFCo is exempt in respect of any activity, and any expenditures, payments or compensation, or any revenues, proceeds or income, relating to the following:

- (a) the design, engineering, planning, construction, commissioning, ownership, operation, maintenance, management and control of Muskrat Falls ;
- (b) producing, generating, storing, transmitting, delivering or providing electric power and energy, capacity, ancillary services, and greenhouse gas credits, to or for Newfoundland and Labrador Hydro or any other person or corporation for compensation;
- (c) any activity required or related to an agreement under section 5.4 or 5.5 of the *Electrical Power Control Act, 1994* ;
- (d) negotiating, concluding, executing and performing any and all agreements for any activity referred to in paragraph (a), (b) or (c);
- (e) raising and securing financing necessary to conduct any activity in paragraph (a), (b), (c) or (d), including without limitation the negotiation, conclusion, execution and performance of any and all agreements and security documentation with any lender providing that financing; and
- (f) any agreements, contracts or instruments necessary or incidental to any activity described in this exemption, including agreements with LTACo.

(3) LilParty is exempt in respect of any activity, and any expenditures, payments or compensation, or any revenues, proceeds or income, relating to the following:

- (a) the design, engineering, planning, construction, commissioning, ownership, operation, maintenance, management and control of the LiL;
- (b) producing, generating, storing, transmitting, delivering or providing electric power and energy to or for Newfoundland and Labrador Hydro or any other person or corporation for compensation;
- (c) negotiating, concluding, executing and performing any and all agreements for activities referred to in paragraph (a) or (b);
- (d) raising and securing any financing necessary to conduct any activity in paragraph (a), (b) or (c), including without limitation the negotiation, conclusion, execution and

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performance of any and all agreements and security documentation with any lender providing that financing; and

(e) any agreements, contracts or instruments necessary or incidental to any activity described in this exemption, including agreements between one or more LilParty.

(4) LTACo is exempt in respect of any activity, and any expenditures, payments or compensation, or any revenues, proceeds or income, relating to the following:

- (a) the design, engineering, planning, construction, commissioning, ownership, operation, maintenance, management and control of the LTA;
- (b) producing, generating, storing, transmitting, delivering or providing electric power and energy to or for Newfoundland and Labrador Hydro or any other person or corporation for compensation;
- (c) negotiating, concluding, executing and performing any and all agreements for activities referred to in paragraphs (a) and (b);
- (d) raising and securing any financing necessary to construct the LTA, including without limitation the negotiation, conclusion, execution and performance of any and all agreements and security documentation with any lender providing that financing to the projects; and
- (e) any agreements, contracts or instruments necessary or incidental to any activity described in this exemption, including agreements with MFCo.

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