

February 3, 2010

Mr. David Schulze
Dionne Schulze
507 Place d'Armes #1100
Montreal, Quebec
H2Y 2W8

Dear Mr. Schulze:

I have been asked by the Board of Commissioners of Public Utilities to reply to your letter of February 2, 2010 addressed to Ms. Blundon.

Please let me briefly review the history of the Nalcor application to the Board for the establishment of a water management agreement pursuant to section 5.5 of the *Electrical Power Control Act*.

The Nalcor application was filed with the Board on November 10, 2009. That filing triggered the requirement in Regulation 7 of the *Water Management Regulations* that the Board has 120 days from the date of the filing to establish the agreement. That time period expires on March 10, 2010.

Publication of notice of the application and distribution of it to potentially interested parties began on November 20, 2009. By December 10, 2009 the Board had learned that the Conseil des Innus de Ekuanitshit was potentially interested in the application and notice was sent directly to Chief Jean-Charles Piétacho on that date. The notices invited intervenor applications to be submitted by December 17, 2009.

A submission from your firm on behalf of the Conseil des Innus de Ekuanitshit was received by the Board on December 15, 2009. It was described as an intervention submission and it included in paragraph 6 a request for an interim order that Nalcor pay the expenses of the Conseil des Innus de Ekuanitshit in connection with Nalcor's application.

The Innu of Uashat mak Mani-Utenam et al. submitted a request for an extension of the time for filing of its intervenor submission, which was granted, and its submission was filed on December 21, 2009. On the next day, December 22, 2009, Nalcor advised the Board that it wished to be heard in respect of the intervenor submissions. On December 29, 2009 the Board wrote the parties, including Nalcor and your firm advising Nalcor and CF(L)Co that they had until January 6, 2010 to make submissions regarding the intervenor applications and that the intervenors would have until January 14, 2010 to reply.

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Nalcor filed its submissions on January 6, 2010. Your client's reply was filed on January 14, 2010. The Board issued Order P.U. 2(2010) on January 22, 2010 granting the applications for intervenor status by the Conseil des Innus de Ekuanitshit, the Innu of Uashat mak Mani-Utenam et al. and Twinco. The intervenors were informed on that date that procedural issues such as the setting of timelines were to be addressed by the Board, that requests for information were to be issued and that time is of the essence in this application. Information requests were issued to the parties, including PUB-CIE-1 to 13 issued to your client, with a request that responses be filed by January 28, 2010.

Your letter of January 25, 2010 repeated the requests made in the intervenor application for "suspension of Nalcor's application" and "granting of intervenor funding" and asked how those issues were to be addressed. On the same day the Board invited submissions from Nalcor and CF(L)Co regarding the request for advance funding and allowed those parties until January 26 to reply. You were informed that any reply from your client was to be filed by January 27, 2010. Late that day you wrote the Board requesting clarification of the issues on which the Board was seeking submissions. Early on January 26 the Board replied to you stating that, "Should there be an evidentiary issue which you feel should be considered you may set this out in your reply and include the evidence in your reply." Nalcor filed its submissions that day. Your client's reply submission was filed by you on January 27, 2010. The Board's Order P.U. 5(2010) was then issued on January 29, 2010.

In the meantime, replies to the information requests were received from Nalcor and CF(L)Co on January 27, 2010 and from the Innu of Uashat mak Mani-Utenam et al. on January 28, 2010.

On January 29, 2010 a procedural schedule was circulated by the Board to all parties.

These procedural steps, and others not detailed above, all form part of the record of this application.

The first issue raised in your letter of February 2, 2010 concerns your client's request for a corrigendum to Order P.U. 5(2010), a request first made in your letter of the previous day in which you expressed your client's views regarding the process leading to Order P.U. 5(2010). In your February 1, 2010 letter you had stated that your client would not seek to appeal Order P.U. 5(2010) or apply for reconsideration of it. The corrigendum requested was to explain "the procedural history of the matter". However, in your letter of February 2, 2010 you referred to the request for a corrigendum as a request for the Board to "correct" its order.

A corrigendum is usually reserved to correct errors of a typographical or editorial nature in a decision. A corrigendum would be issued at the instance of and in the discretion of the decision-maker. The Board does not consider this to be a circumstance in which the issuance of a corrigendum is necessary.

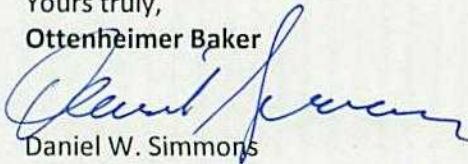
The second issue raised in your letter of February 2, 2010 concerns the timing of replies to the requests for information. Your client's response citing Regulation 15(2) of the *Board of Commissioners of Public Utilities Regulations, 1996* is duly noted. I urge you, however, to take advantage of the opportunity to provide the Board with as much information in support of your client's submissions as possible within the time frame set out in the schedule. Regarding the form in which evidence is presented, you have no doubt noted that the procedure adopted by the Board is more relaxed than that which would apply in a

court. Rule 15 of the Rules of Procedure adopted for this application presumes that evidence will be presented informally, in that supporting affidavits or cross examination of witnesses will only be required if directed by the Board.

The last issue addressed in your letter is the prospect for a motion by your client to suspend the Nalcor application. It is noted that your client has chosen not to bring a motion for such relief at this time, but that it reserves its right to bring such a motion in the future. Please note that if such a motion is brought after the time set out in the schedule, it will be at the discretion of the Board whether the motion can proceed. It is also noted that in the December 15, 2009 submission from your client the request to suspend the Nalcor application was presented as an alternative to the establishment of a water management agreement. It remains, of course, open to your client to argue that point in its final submission to the Board, rather than as a point requiring preliminary determination.

Yours truly,

Ottenheimer Baker

A handwritten signature in blue ink, appearing to read "Daniel W. Simmons", is written over the printed name.

Daniel W. Simmons

DWS/cw