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2014-11-20

Ms. Cheryl Blundon  
Newfoundland and Labrador  
Board of Commissioners of Public Utilities  
120 Torbay Road  
St. John's, NL A1A 5B2

Dear Ms. Blundon:

**RE: An Application by Newfoundland and Labrador Hydro for approval of a capital project to supply and install 100 MW of combustion turbine generation, pursuant to section 41 of the ACT.**

Please find enclosed the original and twelve (12) copies my second submission regarding the above-noted matter. Paper copies will follow.

If you have any questions, please do not hesitate to contact me, via email [danny.liberal@gmail.com](mailto:danny.liberal@gmail.com) or (709) 685-5719.

Sincerely yours,

Danny Dumaresque  
Intervenor

Encl.

cc. **NEWFOUNDLAND AND LABRADOR HYDRO**  
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**NEWFOUNDLAND POWER INC.**  
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November 18<sup>th</sup>, 2014

Board of Commissioners of Public Utilities  
Prince Charles Building  
120 Torbay Road, P.O. Box 21040  
St. John's, NL A1A 5B2

Attention: Ms. Cheryl Blundon  
Director of Corporate Services & Board Secretary

Dear Ms. Blundon:

Re: 100 MW Combustion Turbine Generator

The following are the submissions of Mr. Danny Dumeresque regarding the responses received from Newfoundland and Labrador Hydro (NLH) in relation to his Requests For Information (RFI) Numbers 26-50.

In RFI 026 NLH was asked to provide the tender security given by Pro Energy Services LLC. to meet the 10% requirement in the Tender Call. The 10% requirement totaled approximately \$10 million. In RFI 001 it was requested that NLH provide a copy of the contracts and tender documents of Pro Energy Services LLC. NLH responded by providing copies of the contracts including a copy of a cashier's cheque (certified cheque) in the amount of US \$6.4 million. However, there was not any proof of receiving the US \$2.8 million wire transfer as asserted by NLH.

The subsequent response filed respective to RFI 026 does not address this issue any further than to provide an unsubstantiated statement that NLH has received this money. Under the circumstances of this contract there should not be any obstacle to providing a ledger statement or other verifiable evidence that NLH has actually received this money on the date mandated for the payment of the contract security.

In RFI 005 it was requested that a copy of the inspection report on this turbine be made available. On page 6 of that report the inspector noted that the original purchase order and inspection specifications were not available.

Consequently, in RFI 027 I requested that NLH provide me with a copy of the original documents that accompany this turbine. This original documentation should have included the purchase order and specifications. In response, NLH has stated that these documents are too voluminous and not relevant. There are two problems with this response. Firstly, NLH has apparently reserved to itself the right to determine what is relevant and what is not. Secondly, by not providing these documents a proper analysis of what specifications or other value considerations contributed to establishing the fair market value of the turbine cannot be made.

In RFI 028 there was a request for an explanation as to why there was not any professional appraisal undertaken on this turbine to determine fair market value. In response, NLH has provided a completely inadequate answer.

By way of background, in RFI 005 a copy of the Generator Turbine Inspection Report which was provided. This document stated that the only inspection done on this machine was limited to a visual walk around. There was never any internal inspection undertake. Whether or not, as stated n the report, this machine "looked good" is immaterial. Whether or not it was stored property is immaterial. This is a delicate machine that will not function properly unless all its component parts are in working order. NLH cannot answer that question in the affirmative.

This fact goes directly to the issue of fair market value. If the internal components are not in working order, the value of this machine will be substantially less if it is worth anything at all. Further, to assert that fair market value is established through the tenure process is ridiculous. The tender process asserts that one party will sell an item to another party for a fixed price. Whether or not the items are of the value assigned can only be determined by a proper appraisal.

The final point on this issue is that the walk around inspection carried out on this turbine was performed by AMEC Americas Ltd.. NLH has also extensively engaged AMEC Americas Ltd. to provide various consulting services in relation to local projects. Essentially, this was not an independent analysis of the unit by a disinterested party. It is submitted that the ongoing relationship between NLH and AMEC Americas Ltd. should be considered a conflict of interest in matters requiring independent analysis.

RFI 029 was specifically targeted at the inspection, if any, carried out on the internal components of this generator. The above comments in relation to RFI 028 should be incorporated into this response. However, it should also be noted that the acceptance of the assertion that there is not any problems with this generator because of the fact it was allegedly kept using proper storage and original packaging is simplistic. This unit is seven years old. Moisture or any other unknown contaminants may have infiltrated this packaging and cause damage. NLH has left the people of this province in the position of not knowing any of this until after the unit is installed and fired up. Only then will we know if this unit works or not.

RFI 030 requested if NLH was familiar or had seen the advertisements relating to the availability of this specific 100 MW Combustion Turbine Generator. Specifically, there were two advertisements relating to the same machine, one posted by Pro Energy Parts Solution and one by CFAS Enterprises Inc.. The simplistic response provided by NLH acknowledges that they had seen the advertisement and included in the response a copy of the internet page referencing the turbine.

NLH indicated that it had received the advertised information from both suppliers in February 2014. CFAS Enterprises Inc. had indicated it could supply this exact unit for US\$23 million as a complete package. By not providing the complete information received from both companies we do not have any ability to compare what could have been received from both suppliers. Our research indicates that the phrase "complete package" includes a gas turbine with components; generator and components; DLN Combustion and balance of plant (electrical and mechanical). By not providing this information we are prevented from completing an accurate analysis of fair market value.

Similarly, to the response provided by NLH to RFI 030, NLH's response to RFI 031 does not provide the detail a proper answer should include. NLH references that the "complete package" allowed for the supply of the core plant equipment but does not explain what core plant equipment includes. The identification of the core plant equipment is critical to establishing the fair market value of this gas turbine generator.

RFI 032 requested that NLH provide a copy of the manufacturer's warranty. In its answer NLH referred back to RFI 022. The response to RFI 022 simply outlined the terms of the general warranty. This is not the manufacturer's warranty. This raises the specter that there may not be any manufacturer's warranty associated with this unit.

RFI 033 asked NLH to confirm whether or not the major components of the generator had been protected by a nitrogen blanket. Nitrogen blankets are employed to prevent moisture from penetrating the unit while in storage.

In its response to this question NLH acknowledged that this unit had not been stored with the assistance of a nitrogen blanket. Again we are referred to the assertion that the unit was stored in accordance with the manufacturers storage guidelines. The problem with this answer is that we do not have the manufacturers guidelines to review and do not know what reference is made to the use of a nitrogen blanket.

This unit is seven years old. Does the length of time for the storage of this unit, in accordance with the manufacturers guidelines, reference the use of a nitrogen blanket after a certain time period? This question is not answered. Further, does the length of storage void the manufacturer's warranty if these procedures are not followed.

Has moisture been allowed to penetrate this unit? As noted in RFI 005 the only inspections on this unit were walk around's. Consequently, it is imperative that we be able to examine the storage requirements.

RFI 036 was a simple question regarding when NLH became aware that the supplier of this unit was under investigation by US authorities. The answer provided by NLH does not address the issue of how or when it became aware of the ongoing investigations into the business deals of ProEnergy Services LLC., internationally. Further, the answer indicates a very cursory investigation of the issue and does not provide proper detail as to what steps were taken under due diligence to assess the risk of dealing with this company.

RFI 037 asked NLH to provide the certification or other documentation showing that Pro Energy Services LLC had clear title of ownership to this turbine when the tender closed on April 21, 2014. This question was intended to obtain information concerning legal title to the combustion turbine generator. NLH has indicated that it feels that any issue on title it is protected by the bond in place. However, it fails to disclose what the nature of this bond is or the terms that would have to be met to secure payment. In RFI 036, NLH admits it is aware of the investigations that ProEnergy Services LLC is currently under. It does not disclose the nature of these investigations. The nature of these investigations and the actual ownership of the combustion turbine generator may have significant impact on whether or not a court would allow NLH to proceed with the commissioning of a turbine it may not own.

In RFI 040 NLH was asked to provide documentation showing where the turbine had been stored and provide the maintenance records from 2007-2009. The response provided by NLH is completely inadequate.

NLH provided the address of a company in Memphis, Tennessee, USA but does not include any record from this company to indicate that the turbine had been stored in their care.

Regarding the provision of storage records, the records start in November 2009 and terminate in October/November 2013. There are not any records at all for the first or second years post assembly of the unit and nothing for the previous 8 to 9 months prior to delivery. The reports provided indicate only cursory "walk around inspections". Some of the documents indicate humidity and temperature ranges as wide as 40% to 30° respectively. When viewed in relation to the lack of recommended storage instructions and the admission that a nitrogen blanket was not employed during storage, this has to raise the question as to whether or not the internal components of this turbine had been compromised.

Clearly, it is evident is that this turbine cannot, under any circumstances, be considered to be certified as ready without there being further investigation.

RFI 041 requested all studies showing the emissions that will result from the operation of this turbine and provide a comparison to the existing admissions from the units currently installed at Holyrood.

The report provided by NLH is based on historical data and is of limited value in assessing the actual levels of emission that this turbine will produce. The emissions levels of this unit have never been tested and were established when the unit was new, seven years ago. According to industry standards, the testing process for emissions is time lined and can take up to approximately four to six weeks. If all things progress exactly as anticipated the unit would not be available to produce electricity for up to four to six weeks after startup. If testing indicates that the results are not exactly as anticipated the time line could be stretched out to eight to ten to twelve weeks. This begs the question as to when it will be available as a reliable producer of electricity. Further, whether or not it is capable of startup remains to be seen.

RFI 043 inquired about the employees who will operate this unit once it is commissioned. NLH responded by advising that the employees will be in place and will be properly trained.

In accordance with the Engineering Procurement Contract (EPC) this unit is scheduled to be in service on December 6, 2014. The training timeline for this turbine is unknown. The EPC provides for training but does not specify when it will take place or for how long. It is submitted that the training required to operate the CTG will be several weeks to months. Further, this machine is scheduled to be in service on December 6, 2014.

In any event, this raises two questions. First, was December 6, 2014 ever legitimately considered to be the startup date? Second, was there ever an intention to train employees or does NLH contemplate awarding a contract to operate this turbine to an outside agency?

RFI 045 requested a breakdown of the expenditures to date on the contract with ProEnergy Services LLC and its Canadian subsidiaries. NLH replied by stating that a breakdown of the project expenditures to date is not useful or meaningful for the Board or the Intervenor to gain an understanding of the issues that are relevant to the present matter before the Board.

On the contrary, the costs associated with this project is tremendously relevant to all issues before the Public Utilities Board. Cost overruns and extras have dramatic effect on the costs of this or any project. In this regard, it has to be remembered that NLH was never directed to purchase a new turbine. However, it has gone ahead, on its own volition, spending upwards to \$120 million that ratepayers will be requested to finance. If this number is higher than the \$120 million anticipated, then it is of primary importance to the Board, Intervenor and citizens of the Province.

RFI 046 requested that NLH provide copies of contracts that have been entered into for the provision of services related to the installation and commissioning of the CTG. Again, the answer provided by NLH is that these contracts are too voluminous and the value too little to be considered important.



Similarly to our comments relating to RFI 045 such an arrogant statement ignores the fact that the issue before the PUB is that NLH has negligently managed its assets and is now asking the consumer to finance an unnecessary purchase of another CTG to cover up that fact. If NLH had done proper maintenance on the existing equipment it would have had the ability to provide the necessary electricity that this unit is meant to produce. Consequently, we need to know all costs associated with this project in order to properly assess its value and determine if such costs are appropriate to charge rate payers.

RFI 047 requested that NLH provide a copy of the contract with the project consultants, indicated in the application to the PUB in April 2014 at an estimated cost of \$1.8 million.

In its answer, NLH indicates that this information is not useful for the Board or the Intervenor in analyzing these issues. Again, the arrogance of this answer is beyond belief. We are simply being told that the management of NLH has made appropriate decisions and we should be happy with those decisions. This is not good enough. This is an examination of whether or not these monies are being spent appropriately. Therefore, these contracts should be provided in order to determine the appropriateness and value to this overall project.

RFI 048 requested copies of quotes that may have been received from other manufacturers of combustion turbine generators. In its answer, NLH advises there were two quotes received one from Whitney Power Systems and one from General Electric Power & Water. Again, there are not any copies provided of these quotes and no realistic method provided to analyze or compare these quotes to the costs associated with purchasing the CGT from ProEnergy Systems LLC. Consequently, there is not any rational means provided to assess the value of the unit purchased.

RFI 049 asked NLH to provide an explanation as to why it chose a seven year old turbine and a five year old generator over new equipment which would have carried a full manufacturer's warranty and had flexibility in using less than 100 MW when required.

NLH again responded by stating that this old unit had been stored properly and in accordance with the manufacturer's instruction. It fails to acknowledge that there is not any manufacturer's warranty. It does not address the issue that there has never been any inspection carried out on the internal components of this unit to determine whether or not it is usable. It fails to acknowledge that there are not any storage reports for the first two years and the last nine to ten months that this unit was in storage.

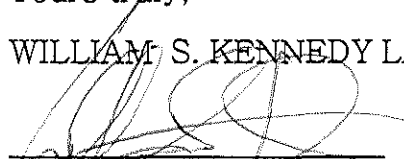
On the issue of the flexibility of the unit in using less than 100 MW when required, it does not provide any schedule of supply that can be given. Additionally, there is not any analysis of the flexibility having the same fuel savings as using four 25 MW units that could be engaged individually. These issues have the potential of creating significant cost savings, or in the alternative considerable costs, for the consumer. All of which NLH is ignoring.

In closing, the only reasonable conclusions that can be drawn from the manner in which NLH has chosen to answer the RFI referenced above is that NLH is not willing to make a complete disclosure of all relevant information. Or, in the alternative, that it does not know or have access to the information required to provide full and complete answers. In either event, the more we delve into the circumstances of the purchase and installation of this turbine the more questions arise. Consequently, the only manner in which this situation can be adequately dealt with is through an open and public hearing and a thorough examination of all the facts.

Trusting you will find the above to be in order.

Yours truly,

WILLIAM S. KENNEDY LAW OFFICE

  
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