

IN THE MATTER OF An Investigation And Hearing
Into Supply Issues And Power Outages On The
Island Interconnected System.

**GRK AMENDED REPLY - MOTION TO ORDER COMPLETE RESPONSES TO REQUESTS FOR INFORMATION
AND TO SUSPEND GRK DELAYS UNTIL COMPLETE RESPONSES ARE PROVIDED**

**Board of Commissioners of Public Utilities
Prince Charles Building
120 Torbay Road, P.O. Box 21040
St. John's, NL
A1A 562**

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

January ~~22~~15, 2015

1. On December 22, 2014, GRK filed a motion concerning inadequate responses provided by NLH to a number of RFIs, and concerning missing responses to GRK-NLH-60, -63 and -67 (“the Motion”).
2. On January 6, 2015, NLH provided responses to GRK-NLH-60 and -67, and an explanation regarding why it did not reply to GRK-NLH-63.
3. On January 7, 2015, GRK filed a supplementary motion regarding Hydro’s response to GRK-NLH-60 (the “Supplementary Motion”).
4. On January 14, 2015, Hydro provided its responses to the Motion and the Supplementary Motion.
5. On January 19, 2015, the Consumer Advocate (“CA”) filed its Submissions.
- ~~6.~~ 6. On January 21, 2015, The present document constitutes GRK’s submitted its Reply to these filings.
- ~~7.~~ 7. On January 22, 2015, NLH submitted a letter protesting the inclusion of RFIs in GRK’s Reply.
- ~~8.~~ 8. In response, GRK submits this amended Reply.

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GRK-NLH-21

9. The new response, GRK-NLH-021 (Rev. 1), is responsive, in part, to the RFI. However, it is vague and ambiguous. The added paragraph states:

If Nalcor's interpretation of the renewal of the Churchill Falls Contract is not upheld, then depending on the finding of the court and the response by Hydro Quebec to such finding, the manner in which water will flow down the Churchill River from the Churchill Falls plant and thus the timing of when energy is produced at Muskrat Falls could be impacted. It could therefore impact the degree which Hydro can influence the timing of delivery of energy to the Island Interconnected System to maximize the efficient use of the water resources it has control over. This would not impact system reliability but could impact how Hydro utilizes the resources available to it at any given time to meet system requirements. Hydro would evaluate the circumstances arising at the relevant time and run its system accordingly. Please refer to Hydro's response to GRK-NLH-044 for options available to Hydro. (underlining added)

10. It is unclear how a contract can affect "the manner in which water will flow down the Churchill River".

7.—Furthermore, it fails to "explain in detail the implications for the Scheduling, Production and Delivery Mechanics of the WMA", as requested. GRK-NLH-044, to which reference is made, fails to shed any further light on this question.

11. That said, GRK is was optimistic that a more complete response can could be obtained by means of follow-up RFIs. However, the letter from NLH dated January 22, 2015 makes clear that this is not necessarily the case. GRK therefore suspends its request with respect to this RFI, and instead submits GRK-NLH-93 through GRK-NLH-96, attached.

8-12. For these reasons, GRK reiterates its request that Hydro be ordered to provide a full and complete response to GRK-NLH-021.

GRK-NLH-24

9-13. Hydro has submitted a revised response, GRK-NLH-024 (Rev. 1). The only modification is the addition of a reference to GRK-NLH-021 (Rev. 1).

10-14. The CA submits that this revised reply responds to the questions raised by the RFI in question. GRK respectfully disagrees. The revised response remains inadequate.

11-15. Our comments at paragraph 8 of the Motion remain valid:

In its response, Hydro did not a) confirm or correct the affirmations in the preamble, or b) explain how the WMA could have its desired effect if, at any given moment, Hydro-Quebec has access to all of the power and energy generated at Churchill Falls, except for the 225 TwinCo Block and the 300 MW Recall Block.

12-16. For greater clarity, GRK wishes to emphasize that it is not asking Hydro to comment on the validity of Hydro-Québec's claims, which will be determined at a later date by the courts. In the first

sentence of the RFI, it is simply asking Hydro to confirm or correct GRK's summary of the nature of those claims.

~~13-17.~~ For this reason, GRK reiterates its request that Hydro be ordered to provide a full and complete response to GRK-NLH-024.

GRK-NLH-45

~~14-18.~~ The primary question posed by GRK-NLH-045 is of a "yes-or-no" nature:

"Have any studies been performed including a progressive failure analysis in the North Spur?"

~~15-19.~~ GRK respectfully submits that responding either "yes" or "no" to this question would not "require the production of detailed technical information in relation to the North Spur", nor would it "involve an analysis of engineering and construction issues associated with the Muskrat Falls Project", as Hydro's Reply suggests.¹

~~16-20.~~ The CA states that "Hydro should answer the specific question of whether any studies including progressive failure analysis in the North Spur have been completed and if not/ why not."

~~17-21.~~ As no valid reason has been put forward for failing to answer the RFI, GRK reiterates its request that Hydro be ordered to do so.

GRK-NLH-46

~~18-22.~~ Like GRK-NLH-045, the primary question posed by GRK-NLH-046 is of a "yes-or-no" nature:

"Has NLH or its parent company evaluated the risk of retrogressive spreads, downhill progressive landslides or "bottleneck slides" at the North Spur site?"

~~19-23.~~ GRK respectfully submits that responding either "yes" or "no" to this question would not "require the production of detailed technical information in relation to the North Spur", nor would it "involve an analysis of engineering and construction issues associated with the Muskrat Falls Project", as Hydro's Reply suggests.²

~~20-24.~~ The CA came to a similar conclusion, stating:

Consumer Advocate submits that similar to GRK-NLH-45 Hydro should answer the specific question of whether Hydro or its parent company have evaluated the risk of retrogressive spreads, downhill progressive landslides or "bottleneck slides" at the North Spur site. Given the terms of the Order, there is no requirement to provide detailed technical information or reports related to engineering and construction. However, if Hydro or its parent company have evaluated the risk of retrogressive spreads, downhill progressive landslides or "bottleneck slides" at the North Spur site, it should provide a summary of its conclusions.

¹ GRK reserves its right to make representations in this regard in its reply to Hydro's Motion dated January 19, 2015.

² See note 1 (supra).

~~21-25.~~ As no valid reason has been put forward for failing to answer the yes-or-no question of the RFI, GRK reiterates its request that Hydro be ordered to do so.

GRK-NLH-57

~~22-26.~~ Once again, the primary question posed by GRK-NLH-057 is of a “yes-or-no” nature:

Has the new North Spur stabilization plan been subjected to independent third party review?

~~23-27.~~ Once again, GRK respectfully submits that responding either “yes” or “no” to this question would in no way contravene the limitations set out by the Board in P.U. 41 (2014).

~~24-28.~~ Hydro also points out that the Independent Engineer’s report for the LCP has already been filed, in PUB-NLH-210. It suggests, but does not affirm, that this document, dated Nov. 29, 2013, contains the response to the question asked. This document makes reference (p. 9) to a “Cold Eye” review by Hatch, which was then underway.

~~25-29.~~ Neither the response provided nor the filed document responds directly to this RFI.

~~26-30.~~ In its submission, the CA states:

The Consumer [sic] repeats his comments on GRK-NLH-45 and 46 above and submits that Hydro should answer the specific question of whether the new North Spur stabilization plan has been subjected to independent 3rd party review and if not, whether there are any plans for such a review and if not, why not.

~~27-31.~~ GRK therefore reiterates its request in this regard.

GRK-NLH-60

~~28-32.~~ Hydro writes at page 5 of its January 14 filing:

Regarding the 2nd bullet, in its response Hydro referred, as noted by the GRK in its Supplemental Motion, to Order P.U. 41's statement that it would not be relevant or useful in this proceeding to require the production of detailed technical information in relation to physical risks associated with the Muskrat Falls development and then cross referenced to Hydro's response to GRK-NLH-044. As noted above, Hydro's response to GRK-NLH-044 specifically describes in detail the options available to Hydro in the very unlikely event of a dam breach at Muskrat Falls. Other than to consider a potential dam breach at Muskrat Falls to be very unlikely, Hydro has not assigned a forced outage probability to "events concerning the integrity of the MF reservoir". Hydro likewise does not assign a forced outage probability to catastrophic events concerning the integrity of any of its dams. Hydro notes that the Muskrat Falls dam is being designed similar to all other Hydro dam facilities so that the probability of risk of failure is negligible.

~~29-33.~~ In its Reply, NLH states that “Hydro has not assigned a forced outage probability to ‘events concerning the integrity of the MF reservoir’, nor to “contractual interpretation or the implications thereof”. It further states that the probability of risk of failure is “negligible”.

~~30-34.~~ GRK prays acte of these assertions, ~~and presents RFIs GRK-NLH-097 and GRK-NLH-098 in their regard.~~

~~31-35.~~ The CA submitted that Hydro should file its clarification as a Reply:

The Consumer Advocate submits that Hydro should file an updated Reply to this RFI containing the clarification for the 2nd and 6th bullets in GRK-NLH 60 as set out in its January 14, 2015 correspondence.

~~32-36.~~ GRK respectfully requests that Hydro's response be restated in a revised response to the RFI.

GRK-NLH-66

~~33-37.~~ Hydro clarifies in its Reply that "it does not have a worst-case planning estimate in excess of two weeks for the situation in question".

~~34-38.~~ GRK respectfully requests that this response be restated in a revised response to the RFI, to be formally filed as evidence in this proceeding.

~~35-39.~~ The CA came to a similar conclusion, stating:

Given Hydro's clarification, Hydro should file a revised RFI Reply confirming that it does not have a worst case estimate in excess of two weeks, at which time the Consumer Advocate submits that Hydro will have fully addressed the specific question posed by GRK.

GRK-NLH-69

~~36-40.~~ Hydro indicates in its Reply that its average reserve level "is sufficient to generate 1,000 MW for a period of approximately two (2) months".

~~37-41.~~ GRK accepts this response, but respectfully requests that it be restated in a revised response to the RFI, to be formally filed evidence in this proceeding.

~~38-42.~~ The CA came to a similar conclusion.

GRK-NLH-74

~~39-43.~~ GRK notes and accepts Hydro's indication that it will prepare and file additional information on energy availability.

~~40-44.~~ GRK reserves the right to present additional RFIs in relation to this forthcoming document.

Summary of Conclusions Sought

A. Order NLH to provide full and complete responses to the following RFIs, as detailed above:

[GRK-NLH-21](#)

GRK-NLH-24

GRK-NLH-45

GRK-NLH-46

GRK-NLH-57

GRK-NLH-60

GRK-NLH-66

GRK-NLH-69

- B. Suspend all delays applicable to GRKL until such time as those responses are provided.
- C. Make any Order the Board considers reasonable in the circumstances.

Respectfully submitted,

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