

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

RESPONSE TO NLH LETTER OF 1 OCTOBER 2014

**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**

October 25, 2014

Ms. Blundon:

I am writing in response to Hydro's letter of October 23, in which it seeks to avoid responding to GRK-NLH-63 (formerly GRK-NLH-58).

Hydro has already contested this RFI, in its letter of October 1, arguing that it is "covered by the subject matter" of its earlier motion. Hydro now abandons that argument, to which we have already responded, and presents a new one, alleging that the RFI is vague and "calls for a legal interpretation that would need to be fully analysed in the specific context and cannot be properly or helpfully answered in the case of a vague hypothetical situation".

The RFI is indeed hypothetical, but it is not vague.

The RFI asks,

If Muskrat Falls were to be unable to provide the Base Block Energy in one or more years due to the unavailability of the power and energy foreseen under the Water Management Agreement in the event of a judicial decision modifying, abrogating or interfering with the expected operation of said Agreement, would this be considered to be a Force Majeure event, under section (e) of the definition? If not, please explain how such an event would be treated under the PPA.

The relevance of this has already been recognized by the Board in P.U. 41 (2014), where it wrote:

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Nevertheless, the Board acknowledges that the consequences of an unfavourable ruling in relation to this litigation [Hydro-Quebec's legal challenge to Nalcor's interpretation of the renewal clause of the Churchill Falls Power Contract] may be relevant to the issue of reliable and adequate power on the Island Interconnected System. (p. 23)

The RFI does ask Hydro to explain its interpretation of one aspect of the Muskrat Falls PPA. Given the central role of that PPA in providing reliable and adequate power on the Island Interconnected System and presuming that Hydro understands the contract, requesting an interpretation is, in our view, entirely reasonable.

Respectfully yours,

(s)

Charles O'Brien