

Our File: 115064

January 19, 2015

The Board of Commissioners of Public Utilities  
Prince Charles Building  
120 Torbay Road, PO Box 21040  
St. John's, Newfoundland & Labrador A1A 5B2

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

Dear Ms. Blundon:

**Re: The Board's Investigation and Hearing into Supply Issues and Power Outages on the Island Interconnected System ("Public Review") – Motion by Newfoundland and Labrador Hydro ("Hydro") with respect to the Grand Riverkeeper Labrador, Inc's ("GRK") Requests for Information ("RFIs") GRK-NLH-087-092**

We are counsel for Hydro. By correspondence dated January 12, 2015, the GRK filed RFIs GRK-NLH-076 to 092. GRK-NLH-076 to 086 deal with matters related to the first phase of the Public Review. GRK-NLH-087 to 092, however, are in relation to the Muskrat Falls development and are in Hydro's view clearly out of the scope of the Public Review as such scope has been previously articulated by the Board.

The GRK states, "[w]e have also included a number of RFIs concerning the Muskrat Falls Project Oversight Committee, Committee Report for the period ending Sept. 2014, which contains information not made public previously concerning the risks related to the North Spur. In formulating the RFIs, we have taken into account the Board's comments formulated in P.U. 41 (2014) and elsewhere." Hydro respectfully submits that the GRK has not appropriately taken into account the Board's rulings in this regard and requests that the Board rule that RFIs GRK-NLH- 087 to 092 are out of the scope of this proceeding.

The Board has already ruled that detailed technical information in relation to the North Spur is not relevant to the issues in this proceeding. At page 26 of Board Order P.U. 41 (2014) the Board specifically stated that "[t]his proceeding will not involve an analysis of engineering and construction issues associated with the Muskrat Falls Project" and at page 15 "[t]he Board does not believe that it would be relevant or useful in this proceeding to require the production of detailed technical information in relation to the North Spur at the Muskrat Falls development".

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Each of GRK-NLH-087 to 091 specifically request exactly the type of information which the Board has ruled would not be relevant or useful in this proceeding. GRK-NLH-087 requests information in relation to engineering studies dealing with the incorporation of specific features to ensure the long-term stability of the North Spur. GRK-NLH-088 requests information in relation to engineering studies which addressed the solution for the North Spur. GRK-NLH-089 requests information in relation to the potential liquefaction of sensitive silt/clay in specified circumstances. GRK-NLH-089 requests information in relation to communications regarding stability studies. GRK-NLH-090 requests Reports that are technical studies related to the Muskrat Falls dam and the North Spur. This information is specific to the work to be done to stabilize the North Spur which the Board has already ruled would not be relevant or useful in this proceeding (Order P.U. 41 (2014) page 27).

GRK-NLH-092 requests that Hydro provide estimates of the likelihood of surprises or discrepancies occurring in relation to a quote from the Committee Report that “[d]esigns will be amended if any significant surprises or discrepancies are encountered.” By their nature Hydro cannot estimate surprises or discrepancies and as noted in Hydro’s correspondence of January 14, 2014 to the Board on the GRK’s recent Motion “the Muskrat Falls dam is being designed similar to all other Hydro dam facilities so that the probability of risk of failure is negligible”. Further, the quote in question from the Committee Report derives from the Independent Engineer’s conclusions regarding the North Spur work which confirm the adequacy of the work being done to stabilize the North Spur (see attached page 35 from the publicly available Committee Report).

With respect to the Board’s ruling that information regarding risks associated with the North Spur as such information goes to the provision of the reliable and adequate provision of power may be within the scope of this proceeding (page 15 of Order P.U. 41 (2014)), Hydro submits that none of the above noted RFIs go to this issue, and Hydro has in its response to GRK-NLH-044 already specifically addressed that matter by describing in detail the options available to Hydro in the very unlikely event of a dam breach at Muskrat Falls. A failure of the North Spur would have a similar impact to a dam breach in that the ultimate result could be the loss of all or substantially all of the output from Muskrat Falls.

In Hydro’s submission, the GRK is seeking exactly the type of information that the Board has already ruled would not be relevant or useful in this proceeding.

In Order P.U. 15 (2014) dealing with the request for Intervenor status made by the GRK the Board noted as follows:

“The Board has determined that it would address adequacy and reliability of the Island Interconnected system following the interconnection with Muskrat Falls. The Board agrees with Newfoundland Power, Hydro and the Consumer Advocate that the issues in the matter should not be extended to the construction, legal, contractual and physical risks of the Muskrat Falls development, as raised by Grand Riverkeeper Labrador, Inc.”

The Board then went on in that Order to state as follows:

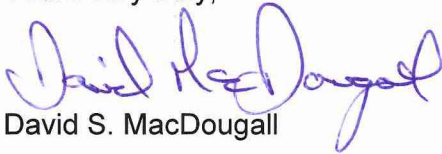
“To ensure an efficient and effective proceeding all parties must respect the parameters and scope of the issues which have been established and must

restrict the evidence in submissions filed to matters which may be of assistance to the Board in determining these issues. The investigation and hearing cannot be allowed to be complicated by issues and evidence which are not relevant and helpful to the Board in its determination. To that end the Board will be diligent in ensuring that only matters that are relevant are raised and will exercise its discretion, either on its own or in response to motion from a party, to strike out any matters which are irrelevant or may tend to prejudice, embarrass or delay the proceeding upon its merits.”

Hydro submits that the RFIs noted above are beyond the parameters and scope of the issues which have been established by the Board, and the requirement to provide responses to those RFIs will act to complicate the Public Review and would not be relevant or helpful to the Board in making its final determinations. Hydro requests that the Board so determine.

All of which is respectfully submitted.

Yours very truly,



David S. MacDougall

cc: Interested Parties

## The Independent Engineer (IE) has reviewed Nalcor's design in detail and commented as follows:

"Concerns have been raised during earlier project reviews about potential liquefaction of the sensitive silt/clay strata during the design earthquake. In the fall of 2013 the IE and other reviewers commented that the stability studies had not considered the special liquefaction and strength loss strength properties under earthquake loadings and that further studies were needed to deal with this issue. New studies to address these issues were subsequently carried out during the first half of 2014. Nalcor and SNC presented the results of the studies in a meeting on July 20, 2014. This presentation was based on the following reports, which were submitted to the IE at that time.

- Report No. 1: "Earthquake Hazard Analysis - Muskrat Damsite, Lower Churchill, Labrador", issued by Gail M. Atkinson Ph. D., on May 22, 2014.
- Report No 2: "Three Dimensional (3D) Hydrogeological Study for the North Spur", Report no. H346252-0000-00-124-0001, Rev A, issued by Hatch on June 16, 2014.
- Report No. 3: "North Spur Stabilization Works – Dynamic Analysis Study – Phase 2", Nalcor Doc No. MFA-SN-CD-2800-GT-RP-0007-01, Rev A1, issued by SNC-Lavalin in May 2014.

The geotechnical assessments and dynamic studies were reviewed by Professor Idriss and Dr. Serge Leroueil. Professor Idriss is an internationally renowned expert of seismic hazard analyses and dynamic analyses of earthworks and civil structures. Dr. Leroueil is recognized for his expertise in dealing with sensitive soils, particularly the slopes of the St. Lawrence Valley in Quebec. With the involvement of these two experts, Nalcor can rest assured that analytical work of the North Spur has been done to a world class standard.

The IE considers that the various geotechnical concerns for the North Spur have generally been satisfied by the studies described above. These studies confirm that the designed remediation and stabilization works are adequate and that there is no significant hazard from stability problem-related seepage, strength losses in sensitive soils and/or earthquake shaking during construction or operation of the project. The IE also agrees with the plan that further geotechnical observations will be made as the remedial works progress and as new geotechnical monitoring is performed. These observations will be calibrated against the expectations of the various analysis reports. Designs will be amended if any significant surprises or discrepancies are encountered".