

Our File: 115064

December 2, 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") Phase 2 – Lower Churchill River Riverbank Stability Report filed by the Grand Riverkeeper Labrador, Inc. ("GRK") on November 26, 2015 (the "Bernander Report")**

We are counsel for Newfoundland and Labrador Hydro ("Hydro"). Hydro is in receipt of the Bernander Report recently filed by the GRK with the Board. The Board has yet to set a formal schedule for the filing of evidence or comments in Phase 2 of the Public Review with which the Bernander Report is apparently in relation. The GRK has simply filed the Bernander Report with no further comments on its proposed status. Having reviewed the Bernander Report, Hydro has the following comments for consideration by the Board.

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".

In Order P.U. 15 (2014) dealing with the request for Intervenor status made by the Grand Riverkeeper Labrador, Inc. the Board noted at page 4 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 at page 4 of 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.”

Subsequently, in relation to a request by Messrs. Ronald Penney and David Vardy that the Board instruct its consultants to undertake an independent review of the North Spur, the Board ruled by letter dated February 26, 2015 as follows:

“In relation to your request for the Board to instruct its consultants to undertake an independent review of the North Spur, the Board reiterates that this proceeding will not involve a study of the engineering or construction of the Muskrat Falls project. Nalcor and the Muskrat Falls Project have been exempted from the oversight of the Board. The Muskrat Falls Project is relevant in this matter to the extent that it has the potential to impact the reliable and adequate supply of power by Newfoundland and Labrador Hydro on the Island Interconnected system. Whether the North Spur is a risk to the supply of power and, if so, how Hydro has addressed this risk may be an issue but the Board does not believe that it is necessary for purposes of this proceeding to engage its experts to undertake an independent review of the North Spur.”

Hydro submits that the Bernander Report filed by the GRK is exactly the type of information which the Board has already ruled on three prior occasions is not the subject matter of the Public Review. The Report speaks specifically and throughout to geotechnical engineering analysis and the Conclusion section of the Executive Summary (page 3) concludes with a statement “in the opinion of this engineer”. The information presented in the Report is clearly beyond the parameters and scope of the issues for this proceeding which have been repeatedly established by the Board for over a year. The admission of this material into the record will act to complicate the ongoing review, would not be relevant or helpful to the Board in making its final determinations, and would likely delay the proceeding on its merits.

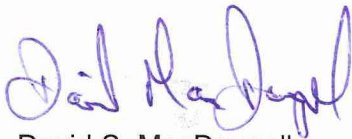
With respect to the Board’s review of system reliability post-Muskrat Falls, Hydro has in its response to GRK-NLH-044 already specifically addressed that matter by describing in detail the options available to Hydro in the very unlikely event of a dam breach at Muskrat Falls. A failure of the North Spur 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.

Accordingly, as the Board has already ruled well over a year ago that “this proceeding will not involve an analysis of engineering and construction issues associated with the Muskrat Falls Project” and that it “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”, Hydro respectfully requests that the Board confirm that the Bernander Report is beyond the scope of

the ongoing proceeding and shall not form a part of the record in the proceeding. If the Report were to form part of the record of the proceeding, Hydro would then have to consider the need to potentially reply to the Report which would needlessly complicate and confuse the proceeding, particularly in light of the Board's repeated contrary prior orders in this regard. A timely disposition of this matter will allow the proceeding to otherwise continue in an orderly and efficient manner.

We look forward to hearing from the Board in this regard.

Yours very truly,



David S. MacDougall

cc: Interested Parties