

1 Q. (Reference 2017 GRA Volume I, page 1.10, 1.2.3) Hydro states “As a result of the
2 *Muskrat Falls Project transmission assets and the ML providing service in advance of*
3 *the full commissioning of the Muskrat Falls project Hydro and Nalcor will be*
4 *expected to provide open access to its transmission facilities.” Under open access*
5 *can Hydro Quebec and/or Emera sell power directly to Newfoundland Power?*
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8 A. No. With the exception of net metering customers, pursuant to section 14.1 of the
9 *Electrical Power Control Act, 1994*, Hydro has the exclusive right to sell power
10 directly to Newfoundland Power and the Island Industrial Customers.¹
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12 Section 14.1 of the *Electrical Power Control Act, 1994*, states:

13 ***Exclusive right to supply, transmit, distribute and sell***

14 ***14.1 (1) Notwithstanding another provision of this Act or another***
15 ***Act,***

16 ***(a) Newfoundland and Labrador Hydro shall have the exclusive***
17 ***right to supply, distribute and sell electrical power or energy to a***
18 ***retailer or an industrial customer in respect of the business or***
19 ***operations of that retailer or industrial customer on the island portion***
20 ***of the province; and***

21 ***(b) a retailer or an industrial customer shall purchase electrical***
22 ***power or energy exclusively from Newfoundland and Labrador Hydro***
23 ***in respect of the business or operations of that retailer or industrial***
24 ***customer on the island portion of the province.***

¹In 2015, the Province issued Order in Council 2015-148 which provided an exemption pursuant to section 14(1) of the *Electrical Power Control Act, 1994*, to facilitate the development and implementation of a net metering program.

1 (2) Notwithstanding another provision of this Act or another Act,
2 a retailer or an industrial customer shall not develop, own, operate,
3 manage or control a facility for the generation and supply of electrical
4 power or energy either for its own use or for supply directly or
5 indirectly to or for the public or an entity on the island portion of the
6 province.

7 (3) Subsection (1) does not apply to an industrial customer if that
8 industrial customer is purchasing electrical power or energy in respect
9 of its business or operations on the island portion of the province
10 exclusively from a retailer to whom subsection (1) applies.

11 (4) Subsections (1) and (2) do not apply to generation facilities
12 owned, operated, managed or controlled by a retailer or an industrial
13 customer where the electrical power or energy generated is used by
14 the retailer or industrial customer exclusively in emergency
15 circumstances.

16 (5) Subsection (2) does not apply to generation facilities owned,
17 operated, managed or controlled by a retailer or an industrial
18 customer where those facilities existed on December 31, 2011,
19 including the refurbishment of those facilities.

20 (6) A contract or arrangement entered into before or after the
21 coming into force of this section which is contrary to this section is
22 unenforceable.

23 (7) Notwithstanding another provision of this section, the
24 Lieutenant-Governor in Council may, by order, exempt a retailer or an
25 industrial customer from the application of this section or a subsection
26 of it.