



August 28, 2014

Board of Commissioners
of Public Utilities
P.O. Box 21040
120 Torbay Road
St. John's, NL A1A 5B2

Attention: G. Cheryl Blundon, Director of Corporate Services and Board Secretary

Ladies and Gentlemen:

Re: The Board's Investigation and Hearing into Supply Issues and Power Outages on the Island Interconnected System

In relation to the above-captioned matter please find enclosed one (1) original and twelve (12) copies of the Consumer Advocate's Submissions on motion of Newfoundland and Labrador Hydro to strike Requests for Information.

We trust the foregoing is found to be in order.

Yours very truly,

A handwritten signature in blue ink, appearing to read 'T. Johnson', is written over the printed name 'O'DEA, EARLE'.

THOMAS JOHNSON

TJ/cel

cc: Newfoundland Power
Attention: Mr. Gerard Hayes

Newfoundland and Labrador Hydro
Attention: Mr. Geoffrey Young



Island Industrial Customers
Attention: Paul Coxworthy

Mr. Danny Dumaresque

Grand Riverkeeper Labrador Inc.
Attention: Ms. Roberta Frampton Benefiel

IN THE MATTER OF the Electrical Power Control Act, 1994, SNL 1994, Chapter E-5.1 (the "EPCA") and the Public Utilities Act, RSNL 1990, Chapter P-47 (the "Act"), as amended, and regulations thereunder; and

IN THE MATTER OF an investigation and hearing into supply issues and power outages on the Island Interconnected system;

To: The Board of Commissioners of Public Utilities of Newfoundland and Labrador
Suite E 210, Prince Charles Building
120 Torbay Road
P.O. Box 21040
St. John's, NL A1A 5B2

Attention: Ms. Cheryl Blundon, Board Secretary

**CONSUMER ADVOCATE SUBMISSIONS ON MOTION OF NEWFOUNDLAND AND
LABRADOR HYDRO TO STRIKE REQUESTS FOR INFORMATION**

Part A: Background

As a result of the events which occurred in December 2013 and January, 2014, the Board of Commissioners of Public Utilities (the Board) on January 10, 2014 advised Newfoundland and Labrador Hydro, (Hydro), and the public that it would hold an inquiry and hearing into the Island Interconnected system supply issues and power interruptions. A pre-hearing conference occurred on February 5, 2014, during which interested persons and/or organizations made presentations.

The Board retained the Liberty Consulting Group (Liberty) to provide it with expertise and assistance during the inquiry. As part of its mandate, Liberty filed an interim report on April 24, 2014 which addressed issues related to the outages during the winter of 2013-2014, and steps to prepare for coming winters to ensure adequate resources and availability.

On January 31, 2014, the Island Industrial Customers, (Corner Brook Pulp and Paper Limited, North Atlantic Refining Limited and Teck Resources Limited), and the Consumer Advocate filed

Intervenor Submissions. Mr. Danny Dumaresque filed a Request for Intervenor Status on January 31, 2014, and filed Intervenor Submissions on February 5, 2014.

On February 19, 2014, the Board issued Order No. P.U. 3(2014), setting out the procedure for the inquiry. Order No. P.U.3(2014) stated that the issues to be considered during the inquiry and in the Board's final report included, *inter alia*:

WHEREAS the Board has considered the lists of issues, submissions, written comments and presentations and has determined that it is appropriate and necessary to address how Hydro and Newfoundland Power will ensure adequacy and reliability on the Island Interconnected system over the short, medium and long-term, which will require analysis of the adequacy and reliability of the system after the commissioning of the Muskrat Falls generating facility and the Labrador Island Link;

...

1. Comprehensive analysis of the Island Interconnected system events of December 2013 and January 2014

2. Evaluation of Island Interconnected system adequacy and reliability up to and after the interconnection with the Muskrat Falls generating facility

- **Load forecasting methodologies**
- **Utility coordination of system operations and load growth planning**
- **Asset management strategies for generation and transmission assets, including maintenance of the Holyrood plant and the gas turbines**
- **Adequacy of resources to manage capital and operating programs**
- **New generation options and the role of conservation and demand management to address load growth until the interconnection, including consideration of possible delays in the interconnection**
- **Back-up generation and/or alternative supply requirements after interconnection**
- **Other system planning, capital and operational issues which may impact adequacy and reliability before and after interconnection**

On March 7, 2014 Grand Riverkeeper Labrador, Inc. (GRK) filed a request for Intervenor status. The request was allowed by the Board in P.U. 15(2014). As part of the said Order, the Board stated:

The Board believes that some of the issues which Grand Riverkeeper Labrador, Inc, described in its correspondence may not be relevant to the matters to be addressed in this investigation and hearing. Grand Riverkeeper Labrador Inc. is not a customer on the Island Interconnected system and is not directly affected by the matters before the Board in this investigation and hearing. 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 notes that Grand Riverkeeper Labrador, Inc.'s reply submission states its intent is to ensure that the Board's review of the adequacy and reliability of the system after commissioning of the Muskrat Falls generating facility and the Labrador Island Link takes into account the various risks associated with the unavailability of some or all of the planned energy and capacity from Muskrat Falls. The Board is satisfied that this stated interest may fall within the issues to be addressed in this investigation and hearing and that Grand Riverkeeper Labrador, Inc. should be granted intervenor status on this basis.

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 and 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.

As part of the process leading to the public hearing, intervenors filed Requests for Information to Newfoundland Power and Hydro. Over various dates, Mr. Dumaresque filed ninety (90) Requests for Hydro to answer.

GRK filed fifty-two (52) Requests for Hydro to answer on July 2, 2014.

On July 7, 2014, Hydro filed a Notice of Motion to Strike numerous Requests for Information filed by both Mr. Dumaresque and Grand Riverkeeper Labrador, Inc.

Hydro states in its Notice of Motion that the basis for seeking to strike certain Requests is that they are:

“...beyond the parameters and scope of the issues which have been established by the Board and...to provide responses to those Requests...will act to complicate the hearing and would not be relevant or helpful to the Board in making its final determination.”

The Parties agreed to address Hydro's Motion with written submissions.

Part B: Consumer's Advocate Position

The Consumer Advocate submits that maintaining the focus of Order No. P.U.3(2014) is important in this inquiry, as the process has taken, and will continue to take, significant time and resources.

The Consumer Advocate has previously expressed the general position that the issues to be addressed in this inquiry are as set out in Board Order No. P.U.3(2014). In the Consumer Advocate's reply to GRK's Application for Intervention dated April 22, 2014, the following was stated:

The understanding of the Consumer Advocate is that the Board in Order No. P.U. 3 (2014) did not plan to inquire into the areas that Grand Riverkeepers Labrador Inc. has identified as being of concern to it. Rather, the Board's Order stated that the issues to be addressed were as set out in Schedule "A" to its Order. Schedule "A" sets out that the Board's Final Report will address, besides an analysis of the events of December, 2013 and January, 2014, an "Evaluation of Island Interconnected system adequacy and reliability up to and after the interconnection with the Muskrat Falls generating facility including:

- . Load forecasting methodologies**
- . Utility coordination of system operations and load growth planning**
- . Asset management strategies for generation and transmission assets, including maintenance of the Holyrood Plant and gas turbines**
- . Adequacy of resources to manage capital and operating programs**
- . New generation options and the role of conservation and demand management to address load growth until the interconnection, including consideration of possible delays in the interconnection**
- . Back-up generation and/or alternative supply requirements after interconnection**

. Other system planning, capital and operating issue which may impact adequacy and reliability before and after interconnection.” (Emphasis added)

Hydro’s Motion sets out reasons for objecting to, and seeking to strike, the various Requests filed by Mr. Dumaresque and GRK. In considering Hydro’s position, the Consumer Advocate is in substantial agreement with same.

A: Mr. Dumaresque’s Requests for Information

The Requests filed by Mr. Dumaresque which Hydro is seeking to strike, with the exceptions noted below, do not appear to have any relevance to the matters being addressed by the Board in this phase of the inquiry. Absent clear evidence that the challenged Requests are within the parameters set out by the Board, or will help the Board in its determination of the issues set out above, they should be struck.

For example, for Requests DD-NLH-1 through DD-NLH-23, DD-NLH-28, DD-NLH-45, DD-NLH-48 and DD-NLH-49 , the Consumer Advocate agrees with Hydro that these Requests are focused on fuel supply issues in 2013. As noted by Hydro, Liberty commented on fuel in its interim report. Given the Board’s Order setting out what issues are to be addressed during this phase of the inquiry, the Consumer Advocate sees little relevance to these Requests for Information.

Similarly, DD-NLH-42, DD-NLH-44 and DD-NLH-59 address insurance matters. The first Request seeks contact information for Hydro’s insurance company covering the Holyrood Generating Plant. The second Request seeks results of insurance claims made by Hydro in repairing Unit 1 at Holyrood. The third Request asks for all insurance policies for the Muskrat Falls project. The Consumer Advocate submits that the identity of Hydro’s insurance company is of limited value in this inquiry.

As regards DD-NLH-50, that question is broad but may be amendable to allow better focus on the SOBI in the context of the issues in this inquiry.

As regards DD-NLH-52 and 56, the Consumer Advocate takes no position as it is unclear from the present Record if these questions might relate to the issues before the Board.

As regards DD-NLH-54, the Consumer Advocate agrees with Hydro on the lack of relevance of the FFAW Agreement.

As regards DD-NLH-57 and 58 dealing with the North Spur, the Consumer Advocate submits these Requests are extending to the construction and the physical risks of the Muskrat Falls development and are therefore outside the scope of the current proceeding.

As regards DD-NLH-61, which asks Hydro to explain why Nalcor has Emera as a partner, this is outside the scope of the current proceeding.

As regards DD-NLH-62 and 63, these deal with the WMA and legal processes between Hydro and Hydro Quebec. This goes into the legal or contractual risks of the Muskrat Falls project and is outside the scope of this proceeding.

As regards DD-NLH-64, 69, 71-72, 75-84, and 87-90, the Consumer Advocate agrees with Hydro's Motion at paragraphs 17 and 18, except in the case of DD-NLH-73, insofar as it seeks information on the life of the HVDC cables. That aspect of the Request may be relevant.

As regards DD-NLH-70, 74 and 86, the Consumer Advocate agrees with Hydro's Motion at paragraph 19. These raise issues pertaining to the alleged construction and physical risks and costs of the Muskrat Falls project. These are issues that the Board has ruled upon in Order No. P.U. 15(2014) as being not relevant to the review of system reliability and therefore are outside the scope of the present inquiry.

B: GRK's Requests for Information

The Consumer Advocate agrees with Hydro that the requests by GRK which are being objected to do not appear to be relevant to the inquiry. The Board already stated in P.U. 15(2014):

"...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 Consumer Advocate submits that GRK, in light of this clear statement of the Board, must show how these Requests reasonably fit into the parameters of the Board's Order. Unless this is shown to the satisfaction of the Board, these challenged Requests should also be struck.

GRK acknowledges in its submission that the Board has stated that the issues in this matter should not be extended to the construction, legal, contractual and physical risks of the Muskrat Falls development. The Board stated in its Order that:

The Board notes that Grand Riverkeeper Labrador, Inc.'s reply submission states its intent is to ensure that the Board's review of the adequacy and reliability of the system after commissioning of the Muskrat Falls generating facility and the Labrador Island Link takes into account the various risks associated with the unavailability of some or all of the planned energy and capacity from Muskrat Falls. The Board is satisfied that this stated interest may fall within the issues to be addressed in this investigation and hearing and that Grand Riverkeeper Labrador, Inc. should be granted intervenor status on this basis.

GRK insists that when the Board stated the foregoing, the Board essentially opened up the inquiry to any topic or issue that involved a risk associated with the unavailability of energy and capacity from Muskrat Falls, even those associated with construction, legal, contractual and physical risks of the Muskrat Falls development. By employing this reasoning, GRK submits, for example:

Since, without the WMA, Muskrat Falls would not be able to provide all of the energy and capacity to the Island electrical system that is currently planned, this situation constitutes “a risk associated with the unavailability of some or all of the planned energy and capacity from Muskrat Falls” — precisely the issue on the basis of which the Board granted Intervenor status to GRKL.

In the Consumer Advocate's respectful submission, GRK's submission amounts to a parsing of the Board's words in its Order in P.U. 15(2014) in order to embark upon a series of questions that relate to the Water Management Agreement, Hydro Quebec Litigation, and physical risks associated with the North Spur at Muskrat Falls.

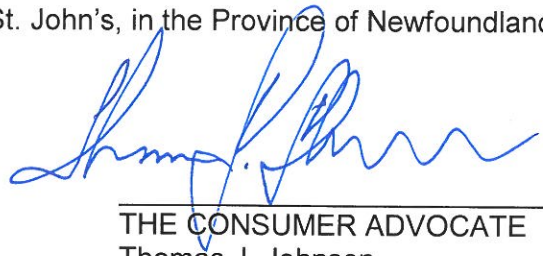
With all due respect to GRK, as clearly quoted by the Board in P.U. 15(2014) at page 3, lines 26-31 from GRK's Reply Submission, GRK explicitly stated:

GRK's intent is not to re-examine or impugn the WMA nor to address issues related to the construction of the dam, but rather to ensure that the Board's review of the adequacy and reliability of the system after the commissioning of the Muskrat Falls generating facility and the Labrador Island Link takes into account the various risks that could entail the unavailability of some or all of the planned energy and capacity from Muskrat Falls over the short, medium or long term.
(Emphasis added)

The Consumer Advocate respectfully submits that GRK is attempting to re-examine those very issues it previously stated that it had no intention of pursuing in this inquiry. It appears to the Consumer Advocate that it was on that understanding that GRK was granted Intervenor status.

On the basis of the foregoing, the Consumer Advocate agrees with Hydro's position that the Requests for Information filed by GRK which Hydro states are beyond the scope of this inquiry should be struck. The Consumer Advocate submits that to enlarge the scope of this inquiry to encompass the areas that GRK wishes to question and call evidence upon would significantly prolong and complicate this inquiry to the prejudice of the inquiry and those participating in it.

RESPECTFULLY SUBMITTED AND DATED at St. John's, in the Province of Newfoundland and Labrador, this 28th day of August, 2014.



THE CONSUMER ADVOCATE

Thomas J. Johnson

O'Dea, Earle Law Offices

323 Duckworth Street

P.O. Box 5955

St. John's, NL A1C 5X4

Telephone: (709)726-3524

Facsimile: (709)726-9600

Email: tjohnson@odeaearle.ca