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nalcorenergy.com

November 7, 2019

VIA EMAIL

s. 40(1)

Attention: [REDACTED]

Dear [REDACTED]

s. 40(1)

Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act, 2015* (File #: PB/767/2019)

On October 10, 2019, Nalcor Energy received your request for access to the following records/information:

Stan Marshall --re LIL says "It's going to take two or three years to get all the bugs out of this." What is the estimate for lost power compared to the 900 MW LIL capacity?
NS-MF block

Questions for Nalcor Oct 10 2019

If MF is delayed is Nalcor obligated to provide the full Nova Scotia block at a later date (see response (c) to IR -76 NSUARB)?

1/ With the delay in MF what is the liability for providing the full NS block @ a later date?

2/ Should this be included in MF rates to be mitigated?

3/ If MF does not reach its rated capacity 824MW in the early years does NS still receive 20% of the rated MF capacity - 824 MW (NS 165MW)?

4/ What is the end date in MF NS agreement re when the MF generation site is considered to be in service for NS agreement purposes?

Please see Appendix A attached hereto for the responses to your request.

It is the goal to publish this letter following a 72 hour period after it is sent electronically to you or five business days in the case where the letter has been mailed to you.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Access to Information and

Protection of Privacy Act (*the Act*). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner

2 Canada Drive

P. O. Box 13004, Stn. A

St. John's, NL. A1B 3V8

Telephone: (709) 729-6309

Toll-Free: 1-877-729-6309

Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section of the Act has been enclosed for your reference).

If you have any further questions, please feel free to contact the undersigned by telephone at (709) 733-5346 or by e-mail at granthiscock@nalcoreenergy.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Grant Hiscock". The signature is stylized and somewhat cursive.

Grant Hiscock
Access and Privacy Officer

Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).

Appendix A: Responses

Questions for Nalcor Oct 10 2019

If MF is delayed is Nalcor obligated to provide the full Nova Scotia block at a later date (see response (c) to IR -76 NSUARB)?

Yes, please refer to the Amended and Restated Energy and Capacity Agreement (ECA), Article 2 and the definition of the Initial Term. Nalcor's obligation to deliver the Nova Scotia Block (NS Block) and the start of the Initial Term begins on First Commercial Power which, among other things, is dependent on Muskrat Falls having three units commissioned. The term extends from 35 years after the start of delivery of the NS Block.

Link to the publically available ECA:

<https://muskratfalls.nalcorenergy.com/wp-content/uploads/2013/03/02-Energy-and-Capacity-Agreement-Execution-Copy-July-31-14.pdf>

Definition of "initial term" can be found in Article 1, page 8 of 64.

Article 2 begins on page 22 of 64

1/ With the delay in MF what is the liability for providing the full NS block @ a later date?

Please see the response above.

2/ Should this be included in MF rates to be mitigated?

As per the ECA, there is no financial or cash obligation to be incurred.

3/ If MF does not reach its rated capacity 824MW in the early years does NS still receive 20% of the rated MF capacity - 824 MW (NS 165MW)?

Please refer to the definition of the NS Block and the Associated Capacity in the ECA. There is no obligation tied to the rated capacity of the plant. The 20% referenced in the question is not in the ECA but was a term sheet obligation that was applied to the final agreements. It was applied to the estimated annual average energy production from Muskrat Falls determined prior to the finalizing of the ECA. This resulted in the

contractual obligation to be the provision of 0.986 TWh of energy per year after reduction for electrical losses between Muskrat Falls and the point of delivery in NS.

Definition of "NS Block" can be found in Article 1, page 14 of 64

Definition of "Associated Capacity" can be found in Article 1, page 2 of 64

4/ What is the end date in MF NS agreement re when the MF generation site is considered to be in service for NS agreement purposes?

Please see the response above (top response).