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October 13, 2020

VIA EMAIL

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/600/2020)

On September 14, 2020, Nalcor Energy received your request for access to the following records/information:

Nalcor ATIPP Water Management Agreement:

- 1(a) What is the firm capacity of the 824 MW MF power plant if no WMA?*
- (b) What is the 824 MW MF power plant firm capacity with the WMA in place?*
- 2(a) Explain in detail how this is possible to operate as designated - despite HQ court case loss.*
- (b) What will HQ charge for this MF help?*
- (3) What is the current status of the SM expected HQ co-operation agreement?*
- (4) What is the current status of lawsuits by HQ re WMA / Nalcor Churchill Falls power?*

The following comments/references have also been provided by you in relation to this request:

- Water Management - with CFLCo (WMA disputed by Hydro - Quebec - (HQ) not approved HQ directors on CFLCo-board - & taken to court by HQ.
- Nalcor lost a court challenge involving the 2016 Churchill Falls renewal contract. Critics contend that the ruling will undermine Nalcor's ability to manage water flows on the Churchill River, cutting Muskrat Falls to 17 per cent of its capacity.
- Oct 17 2016 report to NL PUB - MF can not deliver anything close to 824MW without HQ agreement. The report has been submitted to the PUB and can be found at:

<http://www.pub.nl.ca/applications/IslandInterconnectedSystem/phasetwo/files/correspondance/From%20GRK%20-%20Expert%20Evidence%20-%20Philip%20Raph~ontribution%20to%20the%20Reliability%20of%20the%20Island%20Interconnected%20System%20-%202016-10-17.PDF>

- NTV Nov 02 2016 SM MF can operate as designated despite HQ court case loss:

<http://ntv.ca/stan-marshall-believes-muskrat-falls-can-operate-as-designed-despite-court-loss/>

Please see Appendix A, attached hereto, for the information that is responsive 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@nalconenergy.com.

Sincerely,



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: Response

1(a) What is the firm capacity of the 824 MW MF power plant if no WMA?

The firm capacity of the plant is independent of the WMA. The capacity was determined by NL Hydro for the Reliability and Resource Adequacy Study which has been provided to the PUB. The capacity modelling of the Muskrat Falls Plant is described on Page 19 of the Reliability and Resource Adequacy Study – 2019 Update Volume I: Study Methodology and Planning Criteria. The capacity is provided on Page 8 of the Reliability and Resource Adequacy Study 2019 Update, Volume III: Long-Term Resource Plan, November 15, 2019. The capacity as noted in volume III is 790 MW. These documents are available on the PUB's website for the Reliability and Resource Adequacy Review.

(b) What is the 824 MW MF power plant firm capacity with the WMA in place?

Please see the response to 1(a) above.

2(a) Explain in detail how this is possible to operate as designated - despite HQ court case loss.

Given the response to 1(a), a response to this request is not required.

(b) What will HQ charge for this MF help?

Given the response to 1(a), a response to this question is not required.

(3) What is the current status of of the SM expected HQ co-operation agreement?

In relation to the news article referenced, the subject court decision was appealed and ruled upon by the Appeal Court of Quebec. There is no co-operation agreement with HQ under discussion.

(4) What is the current status of lawsuits by HQ re WMA / Nalcor Churchill Falls power?

There are currently no active lawsuits between CF(L)Co and HQ or Nalcor and HQ.