



NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

HEAD OFFICE
120 Torbay Road
P.O. Box 21040
St. John's, Newfoundland and Labrador
Canada, A1A 5B2

GRAND FALLS - WINDSOR OFFICE
18 High Street
Grand Falls-Windsor
Newfoundland and Labrador
Canada, A2A 1C6

E-MAIL

2010 02 02

DIONNE SCHULZE
507 Place d'Armes, #1100
Montreal, Quebec
H2Y 2W8

Attention: Mr. David Schulze,
Counsel to the Conseil des Innus de Ekuanitshit

Dear Mr. Schulze:

Re: Application by Nalcor Energy pursuant to Section 5.5(1) of the *Electrical Power Control Act*

This is in response to your letter of February 1, 2010 expressing concerns about process. Please be assured that it is the Board's primary objective to provide an open and transparent process that achieves balance and fairness in the fulfilment of the Board's mandate, and subject to the restrictions imposed by the legislation governing this application. The Schedule of Dates and Rules of Procedure which were issued last week set out the process to be followed as the matter proceeds and should be helpful to your client.

Your comments that the timeframes in this process are shorter than you expect and are outside of those that you have experienced in court proceedings are acknowledged. As a quasi-judicial tribunal conducting utilities regulation the Board must routinely deal with applications that have legislated or practical deadlines for their completion. Public utilities practice normally involves adherence to timelines that are more rigid and compressed than those found in court proceedings. The time in which this application must be completed is, as you have pointed out in your letter, fixed by Regulation at 120 days from the date when the application was filed. The obligation to respect that requirement has made the Schedule of Dates distributed last week necessary.

In relation to the comments in your letter regarding your "request for a suspension", your clients' intervenor submission of December 15, 2009 did not assert a claim for interim relief. Specifically the intervenor submission states:

"(ii) The disposition of the proceeding which the intervenor advocates

5. AN ORDER refusing to approve the agreement or, in the alternative, suspending Nalcor's application and setting aside for future examination the duty to consult and accommodate the Innu of Ekuanitshit; and..."

Your clients' request to set aside the duty to consult and accommodate for further examination was presented as an alternative to an order refusing to approve an agreement. This is in contrast to the order that was sought in relation to costs which was expressly sought on an interim basis.

To avoid future confusion between what is intended to be sought and what is actually sought, all requests for a remedy or a determination of the Board must be made in the form of a motion filed with the Board setting out all evidence and submissions which are intended to be relied on. You should clearly set out the nature of the remedy sought. A comment or sentence in a letter will not be taken as a request for a determination. For, example any request in relation to Order No. P. U. 5(2010) must be made by motion in accordance with the Schedule of Dates and Rules of Procedure.

Should you wish to file a motion for a suspension of aspects of this matter you are free to do so; however, I can advise that until an order of the Board is issued staying the matter or any aspect of it, the matter will proceed in accordance with the Schedule of Dates and Rules of Procedure. The Board established the Schedule to allow for the consideration of issues in a timely and efficient manner consistent with the legislation. All parties are asked to present all evidence and submissions which they wish the Board to consider, in accordance with the Schedule of Dates and the Rules of Procedure.

For clarification, all evidence in relation to all issues, including the Board's obligation to assess the crown's duty to consult, must be before the Board by 3:00 p.m., Wednesday, February 10, 2010 and all replies to Information Requests issued in relation to this evidence must be filed by 3:00 p.m., Friday, February 12, 2010. In relation to the outstanding requests for information I can advise that these are now past due and as such you should make your best efforts to provide full answers immediately.

On a final note, given the nature of this proceeding, I believe that it is imperative that the Board and all participants work together to ensure that this matter proceeds in a timely and orderly fashion. To avoid any further confusion you may contact Board Counsel who will make himself available to provide any further clarification that is required.

Sincerely,



Cheryl Blundon
Board Secretary

c.c. Messrs Jamie M. Smith, Q.C. & Peter Hickman, Senior Legal Counsel, CF(L)Co.
Messrs Ian K. Kelly, Q.C. and Geoffrey P. Young, Counsel for Nalcor
Mr. James R. Haynes, President, Twin Falls Power Corporation Limited
Mr. Gary Carot, O'Reilly & Associates, Advocat/ Lawyer for the Innu of Uashat Mak Mani-Utenam,
the Innu Takuaitkan, Uashat Mak Mani-Utenam Band Council and certain traditional families of the
Uashat Mak Mani-Utenam Innu Nation
Mr. Dan Simmons, Legal Counsel