The Consumer Advocate

PO Box 23135
Terrace on the Square
St. John's, NL Canada
A1B 4J9

Tel: 709-724-3800
Fax: 709-754-3800

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Via Courier

Board of Commissions of Public Utilities
120 Torbay Road, P.O. Box 2140
St. John's, NL A1A 5B2

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

Dear Ms. Blundon:

Re: Reference to Board on Rate Mitigation Options and Impacts

The Board has been requested by Government to undertake a review of electricity rate mitigation options and impacts in relation to the Muskrat Falls Project ("MFP") in accordance with the reference from the Lieutenant-Governor in Council under section 5 of the *Electrical Power Control Act* issued on September 5, 2018. The Board has been directed to review and report on:

1) Options to reduce the impact of the Muskrat Falls Project costs on electricity rates;
2) The amount of required and surplus energy and capacity from the project; and
3) The rate impacts of the identified options based on the most recent project cost estimates.

The Board is required to file an interim report to Government identifying preliminary findings by February 15, 2019. The Board has received interim reports from its experts, The Liberty Consulting Group ("Liberty") and Synapse Energy Economics ("Synapse"), and has received a submission from Nalcor Energy ("Nalcor") in response to these interim reports. The Board has indicated that it will consider other submissions and comments as part of its interim report to Government.

This document is submitted by the Consumer Advocate for the Board's consideration in its interim report to Government.

BACKGROUND

The Board of Commissioners of Public Utilities (the "Board") is an independent administrative tribunal constituted under the *Public Utilities Act*, RSNL 1990, c. P-47 (the "Act"). The Board is responsible for, among other things, the regulation of and general supervision of public utilities in the

Province and approves utility rates and capital spending. In carrying out its responsibilities the Board is required to implement the power policy set out in the *Electrical Power Control Act, 1994* SNL 1994, c. E-5.1 (the "EPCA").

The Board does not regulate Nalcor Energy ("Nalcor") which is exempt from the provisions of the *Public Utilities Act*, and the authority of the Board under s. 17(2) of the *Energy Corporation Act*, SNL 2007, c. E-11.01. Newfoundland and Labrador Hydro ("Hydro") is a subsidiary of Nalcor and, as a public utility, is regulated by the Board under the Public Utilities Act.

Section 4.1 of the Act may exempt a public utility from the Act's application where the public utility is engaged in activities as a matter of public convenience or general policy and in the best interest of the province.

By Order-in-Council OC2013-342, the Muskrat Falls Project Exemption Order was declared, exempting the Board from exercising its jurisdiction over Hydro in respect of any activity and any expenditures, payments or compensation, *inter alia*, related to the constructions and operation of Muskrat Falls and the transmission facilities of the Muskrat Falls Project (the "LTA"). This Exemption Order also applied to related Hydro companies enterprised in the Muskrat Falls Project.

Further, by OC2013-343 it was declared by Order-in-Council as follows:

> 3. *Notwithstanding sections 1 and 2, no amounts paid by Newfoundland and Labrador Hydro described in those sections shall be included as costs, expenses, or allowances in Newfoundland and Labrador Hydro's cost of service calculation or in any rate application or rate setting process, and no such costs, expenses or allowance shall be recovered by Newfoundland and Labrador Hydro in rates:*
>
> > a) *Where such amounts are directly attributable to the marketing or sale of electrical power and energy by Newfoundland and Labrador Hydro to persons located outside the province on behalf of and for the benefit of Muskrat Falls Corporation and not Newfoundland and Labrador Hydro; and,*
> >
> > b) *In any event, in respect of each of Muskrat Falls, the LTA or the LiL, until such time as the projected is commissioned or nearing commissioning and Newfoundland and Labrador Hydro is receiving services from such project.*

OC2013-343 also states:

> iii) obligations of Newfoundland and Labrador Hydro in addition to those in paragraphs (i) and (ii) to ensure the ability of Muskrat Falls Corporation and Labrador Transmission Corporation to meet their respective obligations under financing arrangements related to the construction and operation of Muskrat Falls and the LTA shall be included as costs, expenses or allowances, without disallowance, reduction or alteration of those

amounts, in Newfoundland and Labrador Hydro's cost of service calculation in any rate application and rate setting process, so that those costs, expenses or allowances shall be recovered in full by Newfoundland and Labrador Hydro in island interconnected rates charged to the appropriate classes of ratepayers.

General rate-making principles allow a utility to recover costs insofar as they are prudent. It is our position that the costs incurred pertaining to the Muskrat Falls Project were imprudently incurred.

This Reference to the Board is the result of a botched attempt on the part of Nalcor and Government to undertake a project that had been rejected as not feasible by predecessor governments dating back to 1964.

In J. T. Browne Consulting's Expert Report dated December 4, 2017, the following statement was made regarding the cost of service standard:

> ***Cost of Service Standard***
>
> *At the heart of rate regulation is the Cost of Service Standard, sometimes referred to as the Revenue Requirement Standard. Under this standard, a regulated entity is permitted to set rates that allow it the opportunity to recover its costs for regulated operations, including a fair rate of return on its investment devoted to regulated operations – no more no less.*

However, this cost of service standard does not provide a utility carte blanche. This was recognized in a recent decision of the Supreme Court of Canada:

> *In order to ensure that the balance between utilities and consumers' interests is struck, just and reasonable rates must be those that ensure customers are paying what the Board expects it to cost to efficiently provide the services they receive, taking account of both operating and capital cost. In that way, consumers may be assured that, overall, they are paying no more than what is necessary for the service they receive, and utilities may be assured of an opportunity to earn a fair return for providing these services.*

(Ontario (Energy Board) v. Ontario Power Generation Inc.
2015; SCC 44; para. 20)

The *Electrical Power Control Act, 1994* regulates this province's electrical resources. The Act requires that all sources and facilities for the production, transmission and distribution of the province's power should be managed and operated in the manner that would result in reliable power being delivered to consumers in the province at the lowest possible cost. The Act also requires that rates to be charged should be reasonable.

Pursuant to Section 5 of the *Electrical power Control Act, 1994,* the Government of Newfoundland and Labrador has referred the following matter to the Board:

The Reference Questions

The Board shall review and report to the Minister of Natural Resources on:

1) Options to reduce the impact of MFP costs on electricity rates up to the year 2030, or such shorter period as the Board sees fit, including cost savings and revenue opportunities with respect to electricity, including generation, transmission, distribution, sales, and marketing assets and activities of Nalcor Energy and its Subsidiaries, including NLH, Labrador Island Link Holding Corporation, LIL General Partner Corporation, LIL Operating Corporation, Lower Churchill Management Corporation, Muskrat Falls Corporation, Labrador Transmission Corporation, Nalcor Energy Marketing Corporation, and the Gull Island Power Company (together the "**Subsidiaries**", and collectively with Nalcor Energy, "**Nalcor**");

2) The amount of energy and capacity from the MFP required to meet Island interconnected load and the remaining surplus energy and capacity available for other uses such as export and load growth; and

3) The potential electricity rate impacts of the options identified in Question 1, based on the most recent MFP cost estimates.

In answering the Reference Questions, the Board was directed to consider the power policy of the province, as set out in the Electrical Power Control Act, 1994, and the following:

- New and existing sources of Nalcor income that could be put towards reducing rate increases, including income from:
- Nalcor power exports, including those from generation assets it owns or controls, the MFP, and Churchill Falls recapture power, taking into account any export-related costs such as those relating to Nalcor Energy Marketing; and
- any other effective opportunities to find synergies, efficiencies and reduce duplication and costs within Nalcor and its subsidiaries.
- Whether it is more advantageous to Ratepayers to maximize domestic load or maximize exports. Depending on the Board's recommendation, provide options for:
  - increasing domestic load, such as:
    - The electrification of industrial facilities and oil-fueled boilers in heating plants; and
    - Incentives for increased electrification and usage by NL ratepayers, including increasing number of ratepayers, electric vehicles and electric heating; or

- increasing exports, such as:
  - Incentives for energy conservation, including for lowering system peak demand to maximize system capacity reserves, in order to increase availability of energy and capacity for export.

- Forward-looking cost savings and opportunities for increased efficiency related to operating and maintenance of MFP.
- What are industry best practices related to external market purchases and sales of electricity.

The backgrounder to the Reference Questions stated that in its June 23rd, 2017 Muskrat Falls Project Update, Nalcor indicated that the capital cost and during-construction financing costs of the Muskrat Falls project had risen to $12.7 billion, which is more than double the estimated cost in 2011 when the Board was directed to compare that project with the isolated-island alternative. OC2013-343 places the financial burden of Muskrat Falls on Island Interconnected Customers. The obligations under the Federal Loan Guarantee dated November 30, 2012, placed the financial burden of the Muskrat Falls Project on Newfoundland and Labrador ratepayers. Under current pricing arrangements the price of electricity to be borne by residential customers on the Island Interconnected System would rise to 22.9 cents per kilowatt hour in 2021 and there would be further modest increases beyond this.

The enormous cost escalation in the Muskrat Falls Project and its resultant burden on Island Interconnected Customers dictates that it is in the best interest of the Province that energy policy and the complete process of electricity supply and delivery be examined and adjusted accordingly. The backgrounder stated that it was Government's position that the projected rate increases associated with the Muskrat Falls Project are not acceptable. Without intervention, these projected rate increases would likely cause financial hardship for customers in all classes on the island portion of the province.

The backgrounder stated that with the assistance of the Board the Government wished to examine options to reduce the impact of the Muskrat Falls Project on rates.

It is the Consumer Advocate's position that the primary focus of this Reference is to identify the ways and means for ensuring Island Interconnected Customers will be able to purchase electricity, in compliance with Section 3.1 (b) of the EPCA, in a manner that would result in power being delivered to consumers at the lowest possible cost consistent with reliable service. That should be the objective of this Reference.

OVERVIEW OF CONSULTANT'S REPORTS AND NALCOR RESPONSE

The Board has divided the work to be completed with respect to the Reference Questions between its two consultants, Synapse and Liberty. The Consultant's interim reports have been filed with the Board. Nalcor filed its response to the consultant's reports on January 9, 2019. A brief overview of each report follows.

Summary of Synapse Findings

Synapse states that the Reference Question also notes the importance of considering sources of Nalcor income that could help reduce rate increases, including export sales, and "*whether it is more advantageous to Ratepayers to maximize domestic load or maximize exports*." It further notes the potential for increased electrification of oil-fired end uses (oil-fired heating boilers, home heating equipment, and vehicles) and the ability for conservation that lowers peak demand to increase the availability of both capacity and energy for export.

Synapse provides preliminary findings in response to the second Reference Question and a portion of the first question, and indicates it will address the third question during Phase 2. With respect to the first question, Synapse assesses the cost savings and revenue opportunities associated with electricity consumption and electricity sales. Synapse indicates that consideration of rate design issues, particularly the potential benefit of time-of-use rate mechanisms, will be analyzed in Phase 2.

Synapse concludes that significantly offsetting electricity rate increases from the Muskrat Falls Project will require pro-active policies on a variety of fronts. Synapse recommends several policy initiatives to promote electrification, cost-effective CDM initiatives, and increased export sales. Synapse anticipates that Phase 2 work will allow exploration of rate design issues in support of further analysis of CDM and electrification initiatives.

The Consumer Advocate notes that owing to timing considerations, hard numbers relating to the amount of energy and capacity from the MFP required to meet Island Interconnected load and the remaining energy and capacity available for other uses such as export and load growth are not provided in the Synapse Interim Report. It is understood that this information will be provided following further analyses undertaken in Phase 2.

Synapse notes that Liberty is examining other aspects of the first Reference Question, including the Nalcor/NLH (Newfoundland and Labrador Hydro) organizational structure and operating improvements. Synapse states that it has coordinated its efforts with Liberty, engaging in teleconference calls to ensure no, or minimal, overlap of effort is expended to answer the Reference Questions. Generally, the Synapse focus is on core supply/demand issues in the Province and how they affect export volumes and net revenue from increasing domestic uses of electricity. Liberty's focus, as understood by Synapse, is mostly focused on organizational and operational issues affecting NLH and Nalcor.

Summary of Liberty Findings

On page TOC-iii of its interim report, Liberty states that the Board requested it to perform the following tasks:

- Determine the total revenue requirements to recover the costs of the three components of the MFP (Muskrat Falls Generating Station, Labrador-Island Link ("LIL") and Labrador Transmission Assets ("LTA")) with no rate mitigation options included (Base Revenue Requirement),

- Examine the structure of Nalcor Energy Corporation and its subsidiaries and affiliated companies (Nalcor) and identify cost savings opportunities associated with Nalcor activities,

- Identify cost savings and opportunities related to the operations and maintenance of the three MFP components, and

- Identify the impacts on the Base Revenue Requirement of various alternative cost savings initiatives and rate mitigation approaches.

The Liberty Report presents the results of its Phase One work which consisted of two primary areas:

1) Revenue Requirements: Liberty created an interactive model that can calculate and display mitigated and unmitigated Base Revenue Requirements under a variety of scenarios and assumptions. The model will support comprehensive description and quantification of pre-mitigation revenue requirements, and permit quantitative assessment of revenue requirements impacts of mitigation opportunities identified as work progresses.

2) Corporate Structure and Costs: Liberty examined organization structures, resources, processes, activities, and costs of Nalcor business operations, excluding Oil and Gas, and identified areas to examine for potential cost savings that will result in revenue requirement mitigation in the second phase of its work.

The Liberty report describes the work undertaken and the results obtained. In particular, it identifies areas that it believes warrant more detailed evaluation in Phase Two based on judgments informed by Phase One about the likely magnitude and probability of producing material changes to the Base Revenue Requirements. Following the Board's interim report in February, Liberty proposes to examine in further detail those opportunities that are to be investigated in Phase Two.

Liberty's Phase 1 work does not foreclose identification of additional opportunities. Owing to the short time frame, work was limited to the extent in which the magnitude of potential opportunities and the likelihood of their eventual execution could be evaluated. Liberty identifies a list of opportunities, a plan for assessing these opportunities in Phase Two, and a process for culling the opportunities that lose promise after additional screening. The model developed under Phase 1 will be used to assess structure, cost, and risk analysis as Liberty continues to re-orient work focus to concentrate on promising alternatives. Liberty proposes to regularly review and discuss model re-runs with team members engaged in structure, cost, and risk analysis, and when all adjustments to the base forecast are complete, will produce a revised 20-year forecast of revenue requirements before mitigation.

In Phase One Liberty identified a number of cost savings and revenue enhancement opportunities which can contribute to reducing the electricity rate impacts for customers from the MFP. These opportunities vary in magnitude and ease of implementation and require detailed analysis in Phase Two to determine their feasibility and effectiveness. The opportunities identified include:

1. Export Sales - - Aligning Utility Costs and Revenues with Utility Customer Rates
2. Nalcor's "Equity" Return on MFP Financing
3. MFP Debt Financing
4. Combining Nalcor Functions and Organizations
5. Improving Hydro Efficiency
6. Generation Facilities O&M

As Liberty points out, a key question relates to which of two groups benefit from revenues or costs produced:

1. The Province's people and businesses in their capacity as Residents or Taxpayers whose government uses returns and dividends from what it has deemed to be the Unregulated portions of utility operations to fund institutions, systems, and activities whose availability would otherwise require more taxes or government fees, and

2. The Province's people and businesses in their capacity as Utility Customers, whose rates for Regulated utility service would be lowered if those returns and dividends the government obtains from utility operations were instead used to align more closely the costs net of revenues for utility service with the rates charged for those services.

Liberty has identified several promising areas for rate mitigation, but the question of who pays and who receives the benefits, taxpayers or ratepayers, will play a key part.

Summary of Nalcor Response

Nalcor states "*In recognition that the Muskrat Falls Project would result in a significant increase in rates for electricity customers in the Province, options to manage rate impacts have been a focus for Nalcor for a number of years. Further, since 2017, Nalcor has been an active participant in the Rate Mitigation Committee, sponsored by the Department of Natural Resources. The findings in both the Synapse and Liberty Reports are largely in line with the work Nalcor has performed to date on mitigation of rates for customers.*"

Nalcor supports the proposals put forward by Synapse, but cautions that "*Synapse's Phase 2 analysis may affect planning assumptions and thus impact future capital costs. Such analysis should therefore be completed in consideration of the ongoing Reliability and Resource Adequacy Assessment, as filed with the Board by Hydro on November 16, 2018.*"

Nalcor likewise agrees with the general areas of analysis for Phase 2 proposed by Liberty. Nalcor agrees that changes in the MFP financing structure and allocation of dividends offers the greatest potential for rate mitigation and dwarfs other alternatives in terms of magnitude. Nalcor notes that it has analyzed the calculation and distribution of dividends and that its organization structure has already been the subject of review both internally and externally, and that its current organization structure implemented in 2016 "*reflects identified priorities*". Nalcor goes on to say that it is "*committed to provide clarity on its organizational design during Phase 2*".

Nalcor welcomes Liberty's review of its costs, but cautions that cost savings "*should be balanced with the need to maintain reliable service to customers*".

Nalcor concludes by saying that with respect to the Liberty and Synapse interim reports "*time constraints did not permit a full discussion of certain items as a part of Phase 1*". Nalcor found the Liberty and Synapse reports "*to be informative and generally supportive of the extensive analysis undertaken by Nalcor to date in respect of rate mitigation options*".

CONSUMER ADVOCATE'S RESPONSE

The Consumer Advocate believes that the consultants have identified several but certainly not all key areas and options available for rate mitigation. In fairness, consultants have not had sufficient time to address all rate mitigation options nor to quantify all rate mitigation benefits. This will be the subject of Phase 2 when other parties participate, including consumers and, presumably, Newfoundland Power.

The timeline of this undertaking is a concern. According to the Board's schedule, expert reports will be filed in August/September 2019, and the Board's final report will be provided to Government on January 31, 2020. We note that Hydro is hopeful of filing a General Rate Application ("GRA") by year-end 2019 for rates in 2021 that reflect a Muskrat Falls Project in-service date of September 1, 2020 (see response to CA-NLH-314 relating to the 2017 GRA). Clearly, a GRA filed in 2019 will not reflect the rate mitigation measures recommended in the Board's final report if it is submitted on January 31, 2020.

In this regard, the timeliness of Hydro's proposed 2019 GRA requires further consideration as do issues relating to Hydro 2017 GRA. Any proposed rate increases in the above-referenced applications should be deferred, not only until the results of the Board's Rate Mitigation Study are published in its Phase 2 report, but also until Government decides what actions are to be taken on the Board's rate mitigation recommendations. Therefore, the Consumer Advocate will be proposing that there be no further rate increases until such time as Government has taken the time to determine what actions are to be taken in rate mitigation options for Island Interconnected customers after the Board has rendered its final report.

Succinctly stated, until these Reference processes are complete, electricity rates for Island Interconnected customers should be frozen to those rates in effect as of December 31, 2018. The only changes contemplated would be the annual adjustments pertaining to the Rate Stabilization Plan which occur in July of each year.

The Consumer Advocate generally supports the rate mitigation options being considered by the consultants. These options appear to be high priority options on the basis of ease of implementation and the magnitude of the impact on rates given time considerations. **However, these are not the only mitigation options which require consideration at this time.**

This Reference is not business as usual. Rather, this is an extraordinary measure to find remedies for ratepayers who are in no position to bear the cost burden of what is effectively a failed project. Therefore, the consultants should be instructed by the Board to study and provide specific and detailed examinations of the cost components and the advantages and disadvantages in each and every rate mitigation option. During Phase 2 it would be productive if the Board's consultants make time to meet with our consultants, and other consultants retained by various parties, for discussions in order to avoid unnecessary duplication of work and to expedite the process.

Specifically, the Consumer Advocate requests that the Board instruct its consultants to pursue each of the following rate mitigation opportunities, all of which are consistent with the Terms of Reference:

a) First, on page 5, Liberty characterizes the choice between (i) using returns and dividends from equity returns to mitigate rates, and (ii) revenue to the provincial government from foregoing that equity revenue as offsetting. The report goes on to say with respect to that choice - "*nor is it one for us to decide*." The Consumer Advocate disagrees. The mandate of the consultants, based on the Terms of Reference, do not include any such choices. Rather, the mandate of the consultants is to explore all options to create the ways and means to mitigate rates. Failure in rate mitigation would create an incentive for the Interconnected Island customers to spend heavily on substituting away from electricity. Such spending would fail to reduce the total revenue requirement; thus, not mitigating rates would be the more damaging choice due to that adverse effect. A similar comment applies to Liberty's discussion of the use of export revenues (see page 4 of the Liberty Report). The Board should direct the consultants to review their Terms of Reference and the backgrounder to the Terms of Reference and govern themselves accordingly.

b) The Consumer Advocate recommends that the current policy set out in OC2009-063 which ties NLH's regulated return on equity to be equal as that established by the PUB for Newfoundland Power be discontinued. Newfoundland Hydro's rate of return should be set separately by the PUB following a hearing.

c) Given the maturity of the Island Interconnected power system and its experienced service providers, a change in regulation format from rate of return regulation currently in use to incentive or performance-based regulation, or some other form of price regulation appropriate to our circumstances, should be considered.

d) Given the escalating cost of the Muskrat Falls project is the rate of return on equity set in the Power Purchase Agreement between NLH and the Muskrat Falls Corporation appropriate and if not, what would be an appropriate rate of return bearing in mind the end result would realize low cost electricity for rate payers

e) Because of the burden of MFP on the rates of Island Interconnected Customers and timing considerations relating to this undertaking, a plan should be implemented to spread the burden over a number of years, and if so, a determination as to what forms may be devised and what period of time should be considered.

f) The Consumer Advocate supports review of rate designs, including time-of-use rates as suggested by Synapse, but we believe all potential rate designs should be explored, including promotional rates (i.e., to promote heat pump installations), declining/inverted multi-block rates, real-time pricing, surplus power rates (i.e., discounted rates when there are power surpluses), as well as the possible implementation of fixed monthly charges.

g) In the examination of Nalcor Energy's structure and its subsidiaries and affiliated companies, are the consultants considering all options. This would not exclude any mitigation revenue which should be available should there be appropriate privatization within Nalcor's current business?

h) Synapse has indicated that it will be considering "*CDM*". As a general measure, conservation may not be especially desirable when Muskrat Falls energy becomes available. What Synapse appears to have in mind is, appropriately, actions that reduce peak loads rather than conservation per se. That is highly desirable because peaking demand on the island could cause high value export opportunities to be missed or require additional investment in peaking capacity.

i) Synapse's assessment of export opportunities implies an average export price of about $35 per MWh ($141.7 million divided by 4 million MWh, as per page 3). Such a price has crucial implications for rate setting at the wholesale level for the island's interconnected system. It reflects the opportunity cost of the Province's surplus energy. This should be recognized by Synapse and incorporated in its Phase 2 analysis.

j) At various points, Synapse states that the price of electricity will rise substantially. This pre-judgement is not appropriate; we do not agree. Synapse should refocus on the Terms of Reference. Rate mitigation involves getting the price right. That means applying economic criteria to determine how economic efficiency can be achieved with respect to the production and consumption of electricity.

k) With respect to maximizing the value of exports, all aspects of electricity trade need to be considered including:

   i) Hydro's exclusive right to sell power in the Province. Should Newfoundland Power, on behalf of its Island Interconnected Customers, and the Island Industrial Customers be given the opportunity to purchase and sell electricity? Should not a competitive wholesale market-priced system prevail? This would require establishment of a true open access transmission regime.

ii) Should a Regional Transmission Organization (RTO) be formed for the Canadian Atlantic Provinces, and possibly Quebec, similar to that in use in the United States to coordinate transmission for sales of power between Canadian Atlantic Provinces and with the United States. The Consumer Advocate believes that the benefits of the MFP cannot be optimized unless rate pancaking[1] is eliminated. The benefits of a sale of MFP power to the New England Power Pool will be significantly impaired if there is a requirement to pay the transmission charges of each jurisdiction along the sales path.

iii) Maximizing the value of exports to take into consideration ponding ability; i.e., the ability to import power at certain times of the day, week and year and store it in reservoirs for sale at more optimum times of the day, week and year.

iv) In any determination of the amount of power available for export, consideration must be given to demand on the Labrador system and the resulting quantity of recall power available for the Island.

v) As stated by Nalcor in its response to the consultants' reports, with respect to maximizing the value of exports, consideration must be given to the requirement that Island demand be supplied in a reliable and secure manner. Concerns have been expressed that in the event of the loss of the LIL, Hydro may not be able to rely on 300 MW of emergency power over the ML. This may have repercussions relating to the amount of power available for export and requires further study.

l) With respect to the reorganization and restructuring of Nalcor/Hydro, this may be a worthwhile exercise. For instance, is an entity such as Nalcor Energy Marketing (NEM) necessary? Does NEM provide services and value that are not already available from other power marketers in the region? Would other established marketers in the region be in a better position to provide these services more efficiently and at lower cost?

m) The Consumer Advocate supports electricity rates in the Province that reflect the cost of service. The MF Project does not appear to meet this criterion as its cost of power is far above the market price of electricity; i.e., a lower cost scenario than Muskrat Falls generation might be to purchase power over the Maritime and Labrador-Island Links. Consideration should be given to export sales and rate mitigation scenarios where Island Interconnected Customers are

1 Rate pancaking is the application of transmission tariffs for multiple jurisdictions on power sales that traverse jurisdictions; i.e., a sale from NL to the United States would result in transmission charges for traversing Nova Scotia and New Brunswick. In the United States, rate pancaking has been eliminated in many jurisdictions by subjecting sales and purchases to the transmission charge for the jurisdiction where the load resides. For example, if Hydro were to purchase power from the New England spot market, Island Interconnected Customers would pay only the transmission charge in NL and would pay no wheeling charges for New Brunswick and Nova Scotia.

charged only for the component of the MFP that they use, with MFP costs based alternatively on: 1) the proportional fully mitigated cost of the MF Project, or 2) the market price of electricity as determined by an appropriate benchmark such as the New England Power Pool spot market price, the price of export sales of Muskrat Falls power, or some other benchmark considered to be a fair reflection of the market price of power. Retail rates would then involve mark-ups for distribution and other services. To avoid possible excess demands on capacity due to peaking, sufficient seasonal/ time of use features should be built into the rate design. In terms of methodology, Synapse should consider establishing the efficient price/rate design for electricity as a first step. Then it could work back from there to find ways that bridge any gap between the revenues arising from efficient pricing and the base revenue requirement.

n) Liberty's revenue requirement model is a valuable tool for this analysis. Liberty and Synapse should work together to ensure the model can incorporate inputs from Synapse's rate design recommendation. This model could be used to identify the efficient price/rate design for electricity, as well as determining how much revenue the MFP is likely to generate to cover its costs. When the MFP was sanctioned there were claims of huge dividends for the province. However, those claims were based on a much lower cost for the project and a much different scenario for revenues from export sales. It is important that the consultants provide a much more accurate estimate of revenues that the MFP is likely to generate.

SUMMARY AND CONCLUSION

The Consumer Advocate supports the investigation of and costing of all rate mitigation options proposed herein and others as proposed by the Board's consultants. It is requested that the specific mitigation options referenced above be incorporated into the Phase 2 component of the Reference. The Board is urged to manage the consultants to ensure timely and useful results, while avoiding contradictory and duplicative efforts.

The expertise of both Liberty and Synapse is acknowledged; however, there is also expertise from those familiar with this jurisdiction and who have provided advice to the PUB and others for more than two decades. The Consumer Advocate's team includes C. Douglas Bowman, who has extensive international experience in the electricity sector, and James Feehan, a respected economist who has published on electricity pricing and the Muskrat Falls Project. These consultants are available to work with Synapse and Liberty in a joint effort to work in unison toward a satisfactory result for the ratepayers of this Province.

To this end, our team is available to meet with consultants and others to elaborate on issues based on this submission and other information which may become available.

Finally, it will be difficult for the Board in February 2019 to make substantive recommendations to Government based on the limited mitigation offerings from the Board's consultants as found in the Liberty and Synapse reports. Mitigation specifics and details, which will surely come in Phase 2, should provide remedies. There is one objective - affordable electricity in the Muskrat Falls era, based on the lowest possible costs consistent with reliable service.

Our team is available for discussions on this submission.

Dated at St. John's, Newfoundland and Labrador, this 18th day of January, 2019.

Dennis Browne, Q.C.
Consumer Advocate

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