

IN THE MATTER OF An Investigation
And Hearing Into Supply Issues And
Power Outages On The Island
Interconnected System.

**GRK COMMENTS RE NEWFOUNDLAND POWER'S APPLICATION TO
ORDER COMPLETE RESPONSES TO REQUESTS FOR INFORMATION**

**Board of Commissioners of Public Utilities
Prince Charles Building
120 Torbay Road, P.O. Box 21040
St. John's, NL
A1A 562**

**ATTENTION: Ms. Cheryl Blundon
Director of Corporate Services & Board Secretary**

April 1, 2015

1. On March 20, 2015, Newfoundland Power filed an Application concerning inadequate responses provided by NLH to RFIs NP-NLH-004, 005 and 018.
2. On March 27, 2015, the Board requested comments regarding this Application to be submitted by 15:00 on April 13, 2015.
3. GRK therefore submits the following comments:
4. GRK is of the opinion that in order for Newfoundland Hydro to be meaningfully heard, thus truly respecting its right to be heard as concerns the matters before the Board, that the information sought should be provided.
5. In particular, GRK is convinced that the information sought exists and that its communication will not create undue burden upon Hydro, in particular given the allegations contained in paragraph 13 of the Application as well as paragraph 13 of the Affidavit of Elias Ghannoum.
6. Natural Justice has been described as including the right to:

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“...know the case which is made against him. He must know what evidence has been given and what statements have been made affecting him: and then he *must be given a fair opportunity to correct or contradict them....* Whoever is to adjudicate must not hear evidence or receive representations from one side behind the back of the other.... [Lord Denning in *Kanda vs. Government of Malaya* [1962] AC 322 cited in *Ridge v. Baldwin*, [1963] 2 All E.R. 66 (emphasis added)” and William Wade, *Administrative Law*, Oxford, 11th edition, 2014 at page 428.

7. As further noted in Halsbury’s Laws of England, Volume 61, 5th edition, 2010:

641. Opportunity to be heard A person or body determining a dispute between parties must give each party a fair opportunity to put his own case and correct or contradict any relevant statement to the contrary. *Board of Education v. Rice* [1911] AC 179 at 182 (per Lord Loreburn LC).”

8. The same point is made in the following case:

Bushnell v Secretary for the Environment [1981] AC 75 at 101-102, [1980] 2 All ER 608 at 617-618 HL, per Lord Diplock: When the minister is considering the inspector's report following the close of a public inquiry, he should neither receive representations from one party without informing the others, nor receive evidence from other sources adverse to one party's case without giving that party an opportunity to answer it. (cited at *Halsbury* Para 641, note 20).

9. For these reasons, GRK supports Newfoundland Power’s request that Hydro be ordered to provide full, complete and meaningful responses to RFIs NP-NLH-004, 005 and 018.

10. In P.U.41 (2014), the Board wrote, at page 4:

Although an evaluation of the Muskrat Falls Project is not part of this proceeding, the Board believes that information which goes to the risks of timely delivery of reliable and adequate power to the Island Interconnected system is relevant to the issues in this proceeding and should be produced. However, detailed technical information in relation to Nalcor's planning and construction of the Muskrat Falls Project, alternative approaches which may have been taken, and issues associated with the economic or physical viability of the project are not required or relevant in this proceeding, The Board acknowledges that it is sometimes difficult to make this distinction and further that some parties may be interested in the most detailed information available. Each request for information must be considered in all of the circumstances, balancing the interests of full disclosure and participation with an efficient process and the potential for undue burden on the parties. (underlining added)

11. Based on the description of the circumstances concerning these RFIs set out in the Ghannoum Affidavit, it is GRK's position that the benefits of full disclosure of the information requested, in terms both of the matters before the Board and NP's right to be heard, are substantial, and that there would be little or no impact on the efficiency of this regulatory process. Further, it appears that the burden created by these RFIs on the parties is not significant, and certainly not undue.
12. For all these reasons, GRK supports the NP Application.

Summary of Conclusions Sought

- A. Order Hydro to provide full, complete and meaningful responses to these RFIs,
- B. Make any Order the Board considers reasonable in the circumstances.

Respectfully submitted,

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Ecc. **Newfoundland Power Inc.**

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