

**NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

AN ORDER OF THE BOARD

NO. P.U. 15(2014)

1 **IN THE MATTER OF** the *Electrical Power*
2 *Control Act, 1994*, SNL 1994, Chapter E-5.1 (the
3 "*EPCA*") and the *Public Utilities Act*, RSNL 1990,
4 Chapter P-47 (the "*Act*"), as amended, and regulations
5 thereunder; and
6

7 **IN THE MATTER OF** an investigation and
8 hearing into supply issues and power outages on
9 the Island Interconnected system; and
10

11 **IN THE MATTER OF** a request by Grand
12 Riverkeeper Labrador, Inc. for intervenor status.
13
14

15 **Request for Intervenor Status**
16

17 On February 19, 2014 the Board issued Order No. P.U. 3(2014) which, among other things,
18 established the intervenors in the investigation and hearing into supply issues and power outages
19 on the Island Interconnected system.
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21 On March 7, 2014 Grand Riverkeeper Labrador, Inc. filed a request for intervenor status in the
22 investigation and hearing. Grand Riverkeeper Labrador, Inc. noted that there is an opportunity to
23 make a public presentation but suggested that the issue of security and supply post-Muskrat Falls
24 implies a requirement for consideration of a more broad range of issues.
25

26 On March 13, 2014 the Board wrote Grand Riverkeeper Labrador, Inc. to advise as to the
27 substantive and procedural requirements for requesting intervenor status. Specifically the Board
28 advised that an intervenor submission must be filed in accordance with the requirements of the
29 regulations. Further the Board clarified that Grand Riverkeeper Labrador, Inc. must demonstrate
30 that its interest is relevant to the matter and that its participation will assist the Board in its
31 determination and will not prejudice the parties or negatively impact the process.
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33 On April 2, 2014, in response to the Board's letter, Grand Riverkeeper Labrador, Inc. filed a
34 submission requesting intervenor status, submitting that the request is both reasonable and
35 necessary and will create no obstacle to an efficient and effective process and will not prejudice
36 any party. Grand Riverkeeper Labrador, Inc. explained that it agrees to accept the file as it

1 stands. Grand Riverkeeper Labrador, Inc. noted that it has been involved in the Muskrat Falls
2 project since its inception, stating:

3
4 *We are concerned about many aspects of the construction of the Project, as well as the*
5 *impacts after construction is complete, impacts that would include but are not limited to,*
6 *risks, which we believe Nalcor has not thus far acknowledged, that include legal and*
7 *contractual risks, and risks to the physical integrity of the dams and the North Spur*
8 *natural dam.*

9
10 *These risks could entail the unavailability for the Island of some or all the planned energy*
11 *and capacity from Muskrat Falls, over the short, medium or long term. GRK believes that*
12 *these risks are material in evaluating the adequacy and reliability of the Island*
13 *Interconnected system after the interconnection with the Muskrat Falls generating*
14 *facility, and it intends, through its participation in this hearing, to present evidence with*
15 *respect to these risks.*

16
17 Grand Riverkeeper Labrador, Inc. stated that the risks associated with the Muskrat Falls project
18 have not been properly assessed and it is hoped that the Board will ensure that all the risks are
19 laid-bare. They advised that they plan to present evidence concerning the contractual
20 uncertainties related to the water management agreement and implications for the operation of
21 the Muskrat Falls plant and as to the physical risks related to the North Spur natural dam.

22
23 On April 14, 2014 the Board wrote the parties in this proceeding: Newfoundland and Labrador
24 Hydro ("Hydro"); Newfoundland Power Inc. ("Newfoundland Power"); the Consumer Advocate;
25 Corner Brook Pulp and Paper Limited, North Atlantic Refining Limited and Teck Resources
26 Limited; and Mr. Danny Dumaresque, to advise that comments in relation to this matter must be
27 filed by April 22, 2014.

28 29 30 **Submissions**

31
32 On April 16, 2014 Newfoundland Power filed a submission arguing that the issues raised by
33 Grand Riverkeeper Labrador, Inc. do not support the granting of intervenor status in this matter.
34 Newfoundland Power explains that it does not believe that the issues in this matter can or should
35 be extended to the construction, legal, contractual and physical risks associated with the Muskrat
36 Falls development. Newfoundland Power argues that, for example, evidence concerning
37 contractual uncertainties relating to water management at Muskrat Falls will not meaningfully
38 inform the consideration of Island Interconnected system reliability and that it has the capability
39 to complicate the consideration.

40
41 On April 22, 2014 Hydro filed a submission which agrees with Newfoundland Power's position.
42 Hydro submits that the request of Grand Riverkeeper Labrador, Inc. raises issues that are outside
43 the scope of Order No. P.U. 3(2014) and that an examination of extraneous issues would cause
44 substantive prejudice to Hydro. Hydro states that the intervention would be based entirely on the
45 Muskrat Falls generating station project and that the subject matter of this proceeding does not
46 engage the merits of the decision to construct the Muskrat Falls project or the design of the
47 project.

1 On April 22, 2014 the Consumer Advocate filed a submission which agrees with Newfoundland
2 Power's position and argues that Grand Riverkeeper Labrador, Inc.'s intervention is not
3 supported. The Consumer Advocate states that, according to their website, the purpose of Grand
4 Riverkeeper Labrador, Inc. is:

5
6 *The purpose of the Corporation is to preserve and protect the water quality and the*
7 *ecological integrity of the Grand (Churchill) River and its estuaries and future users and*
8 *for posterity through actions of public awareness, monitoring, intervention and habitat*
9 *restoration.*

10
11 The Consumer Advocate references the issues established by the Board in Order No. P.U.
12 3(2014) and explains that he understands that the Board did not plan to inquire into the areas that
13 Grand Riverkeeper Labrador, Inc. identifies as being of concern.

14
15 On April 23, 2014 the Board received a letter of comment from an interested person in relation to
16 this matter supporting the request of Grand Riverkeeper Labrador, Inc. to become an intervenor.
17 This letter notes that Grand Riverkeeper Labrador, Inc. explains that the issues which will be
18 addressed could relate to adequacy and reliability of the Island Interconnected system and that
19 the usefulness of evidence can only be ascertained after it has been presented.

20
21 On April 24, 2014 Grand Riverkeeper Labrador, Inc. filed a reply submission arguing that its
22 issues are directly relevant to the issues being addressed. It argues that the request will not
23 complicate the consideration of the post-Muskrat Falls reliability on the island and will assist the
24 Board in its deliberations. It states:

25
26 *GRK's intent is not to re-examine or impugn the WMA nor to address issues related to*
27 *the construction of the dam, but rather to ensure that the Board's review of the adequacy*
28 *and reliability of the system after the commissioning of the Muskrat Falls generating*
29 *facility and the Labrador Island Link takes into account the various risks that could entail*
30 *the unavailability of some or all of the planned energy and capacity from Muskrat Falls*
31 *over the short, medium or long term.*

32
33 Grand Riverkeeper Labrador, Inc. argues that the issues which it raises fall squarely within the
34 scope of the proceeding.

35 36 37 **Board Findings**

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39 The issues for the investigation and hearing into supply issues and power outages on the Island
40 Interconnected system in late December 2013 and early January 2014 are set out in Order No.
41 P.U. 3(2014):

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43 *Whereas the Board has considered the lists of issues, submissions, written comments*
44 *and presentations and has determined that it is appropriate and necessary to address*
45 *how Hydro and Newfoundland Power will ensure adequacy and reliability on the Island*
46 *Interconnected system over the short, medium and long-term, which will require*
47 *analyses of the adequacy and reliability of the system after the commissioning of the*
48 *Muskrat Falls generating facility and the Labrador Island Link;*

1 The Board believes that some of the issues which Grand Riverkeeper Labrador, Inc. described in
2 its correspondence may not be relevant to the matters to be addressed in this investigation and
3 hearing. Grand Riverkeeper Labrador Inc. is not a customer on the Island Interconnected system
4 and is not directly affected by the matters before the Board in this investigation and hearing. The
5 Board has determined that it would address adequacy and reliability of the Island Interconnected
6 system following the interconnection with Muskrat Falls. The Board agrees with Newfoundland
7 Power, Hydro and the Consumer Advocate that the issues in the matter should not be extended to
8 the construction, legal, contractual and physical risks of the Muskrat Falls development, as raised
9 by Grand Riverkeeper Labrador, Inc.

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11 The Board notes that Grand Riverkeeper Labrador, Inc.'s reply submission states its intent is to
12 ensure that the Board's review of the adequacy and reliability of the system after commissioning
13 of the Muskrat Falls generating facility and the Labrador Island Link takes into account the
14 various risks associated with the unavailability of some or all of the planned energy and capacity
15 from Muskrat Falls. The Board is satisfied that this stated interest may fall within the issues to be
16 addressed in this investigation and hearing and that Grand Riverkeeper Labrador, Inc. should be
17 granted intervenor status on this basis.

18
19 To ensure an efficient and effective proceeding all parties must respect the parameters and scope
20 of the issues which have been established and must restrict the evidence and submissions filed to
21 matters which may be of assistance to the Board in determining these issues. The investigation
22 and hearing cannot be allowed to be complicated by issues and evidence which are not relevant
23 and helpful to the Board in its determination. To that end the Board will be diligent in ensuring
24 that only matters that are relevant are raised and will exercise its discretion, either on its own or
25 in response to motion from a party, to strike out any matters which are irrelevant or may tend to
26 prejudice, embarrass or delay the proceeding upon its merits.

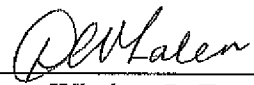
27
28
29 **IT IS THEREFORE ORDERED THAT:**

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31 1. Grand Riverkeeper Labrador, Inc. is hereby granted intervenor status in this proceeding.

DATED at St. John's, Newfoundland and Labrador this 30th day of April, 2014.



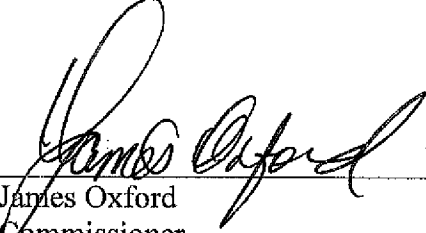
Andy Wells
Chair & Chief Executive Officer



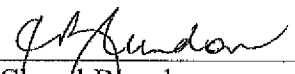
Darlene Whalen, P. Eng.
Vice-Chair



Dwanda Newman, LL.B.
Commissioner



James Oxford
Commissioner



Cheryl Blundon
Board Secretary