

Notice of Application

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF: The *Maritime Link Act*, S.N.S. 2012, c.9, and the *Maritime Link Cost Recovery Process Regulations*, N.S. Reg. 189/2012, as amended

- and -

IN THE MATTER OF: An Application by NSP Maritime Link Incorporated, for Approval of the Maritime Link Project

NOTICE OF APPLICATION

TO: The Nova Scotia Utility and Review Board

1. NSP Maritime Link Incorporated (NSPML) is an indirect wholly owned subsidiary of Emera Inc. (Emera)¹ and is an affiliate company of Nova Scotia Power Incorporated (NS Power). By virtue of this application, NSPML is deemed to be a public utility within the meaning of the *Public Utilities Act*², and is subject to the authority and jurisdiction of the Nova Scotia Utility and Review Board (UARB or the Board).
2. The Maritime Link Project includes the design, construction, operation and maintenance of certain transmission and related facilities known as the Maritime Link, together with related transactions involving the delivery of energy, the provision of transmission services over the Maritime Link, and the enabling of transmission service through Nova Scotia, as set out in a term sheet between Emera and Nalcor Energy (Nalcor) dated November 18, 2010.
3. The Maritime Link is a new high voltage direct current (HVDC) transmission system and related components, including grounding systems, and includes:

¹ Through Emera Newfoundland & Labrador Holdings Inc.

² R.S.N.S 1989, c. 380, as amended.

- (i) direct current converter stations in Newfoundland and Labrador, and in Cape Breton, Nova Scotia, together with the subsea cables and HVDC transmission lines connecting the converter stations;
 - (ii) an alternating current transmission line connecting the converter station in Newfoundland and Labrador with the Newfoundland Island Interconnected System; and
 - (iii) any additional transmission infrastructure required in order to interconnect with the Newfoundland Island Interconnected System and the Nova Scotia Transmission System
4. The *Maritime Link Act* (Act) recites unique advantages for the Nova Scotia economy and Nova Scotia electricity ratepayers from the delivery into Nova Scotia of hydro-electric power from Newfoundland and Labrador, and allows the Governor in Council to make regulations regarding a hearing and approval process and the criteria and conditions by which an application with respect to the Maritime Link Project is to be reviewed and considered for approval by the UARB.
5. The *Maritime Link Cost Recovery Process Regulations* (Regulations) provide that an application for approval of the Maritime Link Project may be made to the UARB, and that the Board must approve the Maritime Link Project if, on the evidence and submissions provided, the Board is satisfied that the Maritime Link Project:
- (i) represents the lowest long-term cost alternative for electricity for ratepayers in Nova Scotia; and
 - (ii) the Maritime Link Project is consistent with obligations under the *Electricity Act*³, and any obligations governing the release of greenhouse gases and air pollutants under the *Environment Act*⁴, the *Canadian Environmental Protection Act* (Canada)⁵ and any associated agreements.

³ S.N.S 2004, c. 25

⁴ S.N.S. 1994-1995, c.1

⁵ S.C. 1999, c.33

6. The Regulations also contemplate that the costs of the approved Maritime Link Project may be recovered through a rate, toll, charge or other compensation from NS Power, subject to the further approval of the Board, and that such approved costs may then be recovered by NS Power through its rates.
7. NSPML therefore makes this Application for approval of the Maritime Link Project, as contemplated by the Act and the Regulations, and for the specific approvals set out in paragraphs 13 to 15 of this Notice.
8. In support of this request for approval of the Maritime Link Project, and as required by the Regulations, the Application includes, as required by the Regulations, the following sections:

1.0 Introduction and Approvals Requested

An explanation of the purpose and reasons for the Maritime Link Project and its benefits, and the specific relief sought in this Application.

2.0 Nalcor Commercial Transactions

A summary of the commercial transactions between Emera and Nalcor, together with copies of all relevant agreements.

3.0 Design Concept of the Maritime Link

Engineering and design details sufficient to enable the Board to approve the Maritime Link Project in accordance with the applicable criteria.

4.0 Maritime Link Project Cost Estimates

Capital and operating cost estimates for the Maritime Link Project, including a proposed capital structure and return on investment.

5.0 Lower Churchill Project, Phase 1 - Design and Cost Estimates

Information concerning the capital and operating costs estimates for Muskrat Falls, Labrador Transmission Assets, and Labrador-Island Link components of the Lower Churchill Project, Phase 1, together with supporting engineering and design evidence.

6.0 Analysis of Alternatives to the Maritime Link Project

A comprehensive analysis of the alternatives to the Maritime Link Project, having regard to the criteria and conditions by which the Maritime Link Project is to be reviewed and considered for approval by the UARB.

7.0 Maritime Link Schedule

The anticipated construction schedule and in-service date for the Maritime Link infrastructure facilities.

8.0 NS Power Participation

A description of the role of NS Power in the Maritime Link project, and the commercial arrangements necessary to carry out that role.

9.0 Conclusion

9. The Application also includes Appendices containing additional material supporting the Application, and which should be read in conjunction with the appropriate sections of the Application.

10. The Maritime Link Project is the outcome of a lengthy period of dialogue and negotiation between Emera and Nalcor, involving as well the governments of Canada, Nova Scotia, and Newfoundland and Labrador. The Maritime Link Project is presented for Board approval as a complete package within the context of the Nalcor Transactions, related transactions and the development of Phase 1 of the Lower Churchill hydroelectric system. Each element of the Nalcor Transactions and related transactions is integral to the success of the whole, and of the Maritime Link Project. NSPML notes that some of the components of the

- Maritime Link Project, the Nalcor Transactions and related transactions may be items that in and of themselves would not normally be approved by the Board due to their operational nature or decisions that are within the authority of a regulated utility to make without Board approval. NSPML requests that the Board's approval of the Maritime Link Project include all of its components, as filed.
11. NSPML submits that the transactions contemplated by and set forth in the formal agreements (copies of which are attached to this Application as Appendices 2.02 through 2.16 inclusive, plus Appendix 8.01) constitute "related transactions" as referred to in the definition of "Maritime Link Project" in the Act and that the formal agreements attached as Appendices 2.02 through 2.16, inclusive, constitute "agreements between Emera and Nalcor Energy" as referred to in the definition of "Nalcor Transactions" in the Regulations. NSPML requests the Board's confirmation of this and that approval by the Board of the Maritime Link Project constitutes approval of the Maritime Link Project, inclusive of all such transactions.
 12. On the evidence filed in support of this Application, NSPML respectfully submits that the Maritime Link Project should be approved by the Board as it represents the lowest long-term cost alternative for ratepayers in Nova Scotia, and is consistent with obligations under the *Electricity Act*, and any obligations governing the release of greenhouse gases and air pollutants under the *Environment Act*, the *Canadian Environmental Protection Act* (Canada) and any associated agreements.
 13. NSPML respectfully requests Board approval of the Maritime Link Project and Nalcor Transactions and related transactions, in accordance with the *Maritime Link Cost Recovery Process Regulations* made pursuant to the *Maritime Link Act* on the basis of this Application, as filed.
 14. In this context, NSPML respectfully requests that the Board grant an order or orders:
 - i) Approving the Maritime Link Project, as described in the Act and this Application, pursuant to section 5 of the Regulations, and confirming that the transactions contemplated by the formal agreements, copies of which are attached to this Application as Appendices 2.02 through 2.16, inclusive, plus Appendices 8.01 and 8.03 constitute the "related transactions" referred to in the definition of "Maritime Link Project" set forth in the *Maritime Link Act* and further confirming that the formal agreements set forth in Appendices

2.02 through 2.16, inclusive, constitute the “agreements between Emera and Nalcor Energy” referred to in the definition of “Nalcor Transactions” in the *Maritime Link Cost Recovery Process Regulations*.

The transactions contemplated by and contained in such formal agreements and related transactions include, without limitation:

- (a) Maritime Link Joint Development obligations, including interconnection and transmission operating requirements for the Maritime Link
- (b) Energy and capacity obligations, including scheduling and delivery of the Nova Scotia Block
- (c) Transmission service and utilization obligations, including, without limitation:
 - (i) the provision of Firm and Conditional Firm transmission service within Nova Scotia to Nalcor;
 - (ii) the recovery of the costs associated with the transmission through Nova Scotia of Nalcor Surplus Energy, as costs of the Maritime Link Project, and an integral part of the Nalcor Transactions, including in particular those costs billed to NSPML by NS Power due to any variance between revenues recovered from the Nalcor transmission fees and the redispatch, capital expenditure and system maintenance costs, which can be recovered by NSPML in the assessment to be set against NS Power; and
 - (iii) the ability under the Agency and Service Agreement to put Muskrat Falls electricity to NS Power in the event transmission is not available through New Brunswick, at a cost to NS Power equivalent to the avoided cost to NS Power of backing down the applicable amount of generation or alternative import.
- (d) Interconnection operator obligations, including compliance with reliability standards for interconnected transmission and bulk power systems
- (e) Joint operations obligations, including the use of Good Utility Practice in the operation and long term maintenance of the Maritime Link;

In addition, and for greater certainty, the Applicant requests that the order of the Board include:

- (f) Acknowledgment that the Muskrat Falls Generating Station, the Labrador Transmission Assets, and the Labrador-Island Link are not part of the Maritime Link Project and are not regulated by the UARB;
 - (g) Approval of the sale of the Maritime Link to Nalcor and the sale of the Woodbine Upgrades to NS Power, following a period of 35 years after energy is first delivered to NSPML,
 - (h) Confirmation that any one time operating and maintenance cost true-up payment pursuant to the Joint Operations Agreement shall constitute a Project Cost
-
- ii) Approving the Project Costs of \$1.52 billion for the Maritime Link Project as set out in this Application, including without limitation the 20 for 20 Principle;
 - iii) Approving the capital structure, the rate of return on equity, and treatment of AFUDC as requested in Section 4 of the Application, pursuant to section 5 of the Regulations;
 - iv) Approving a variance of \$60 million with respect to the approved cost of the Project, as defined and requested in the Application, pursuant to section 6 of the Regulations;
 - v) Directing that NSPML is entitled to recover the approved costs of the Project via a rate, toll charge or other compensation from NS Power, pursuant to sections 4 and 8 of the Regulations;
 - vi) Requiring NSMPL to file a project report no later than December 31, 2013, which shall inform the UARB of the results of the 20 For 20 Principle calculation, and which shall seek approval for any true-up payment or energy adjustment that results from the application of the 20 For 20 Principle;
 - vii) Acknowledging that upgrades on Nova Scotia's transmission system may be necessary to meet obligations under the Nalcor Transactions as part of the Nova Scotia Transmission Utilization Agreement (NSTUA);
 - viii) Confirming that:
 - (a) NS Power's Code of Conduct governing affiliate transactions (Affiliate Code) was created before, and not in contemplation of, the *Maritime Link Act* and Regulations;

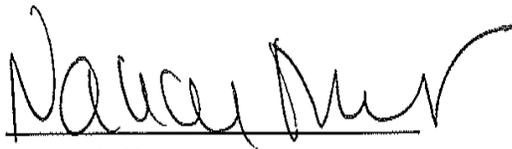
- (b) The sections of the Affiliate Code which conflict with the Maritime Link Project, the Nalcor Transactions and this Application shall not apply; and
 - (c) The Maritime Link Project, Nalcor Transactions and related transactions otherwise comply with the NS Power Code of Conduct for Affiliate Transactions;
 - ix) Confirming that the Maritime Link Project and Nalcor Transactions are supported by a reasonable and comprehensive set of commercial agreements; and
 - x) For such other relief as may be necessary to give effect to the foregoing, the Application, the Act and the Regulations.
15. Certain of the evidence filed in support of the Application is being filed with the request that the Board hold it in confidence and such evidence has been redacted from the copies of this Application that are being made publicly available. Specific portions of the Application that have been redacted and filed in confidence with the Board, as identified in Attachment 1 to this notice.
16. Pursuant to Rule 12 of the Board Regulatory Rules, with the approval of the Board, the Company will immediately make available copies of the complete and un-redacted Application to any party who has a good faith interest in accessing the confidential information, who would not be otherwise conflicted, and who signs an agreement to maintain the confidentiality of the information. Nova Scotia Power's proposed form of confidentiality undertaking is provided with this notice.
17. NSPML also seeks Directions from the Board providing for:
- (a) Pre-hearing procedures, including:
 - (i) Public Notice of this Application;
 - (ii) Approval of the request to file certain of the evidence in confidence as referred to in paragraph 16, and Attachment 1;

- (iii) Directions regarding the terms on which interested parties may have access to confidential information that may be sought by parties during the course of this proceeding and approval of the proposed form of confidentiality undertaking, provided with this notice, pursuant to Board Regulatory Rule 12;
 - (iv) Interventions and evidence from Intervenors;
 - (v) A process for the establishment of an Issues List for the Hearing; and
 - (vi) A process for the expedient resolution of any pre-hearing procedural issues.
- (b) Setting dates for the hearing of this Application in 2013 allowing sufficient time so that the Board's decision may be made within 180 days of the filing of the Application, as required by subsection 5(4) of the Regulations; and
- (c) Such other procedural matters as the Board may consider appropriate.

NSP Maritime Link Incorporated - Maritime Link Project Approval Application

DATED at Halifax Regional Municipality, in the Province of Nova Scotia this 28th day of January, 2013.

NSP Maritime Link Incorporated

Per: 
Nancy G. Tower
Chief Executive Officer
Emera Newfoundland & Labrador Holdings Inc.

Names and Addresses for Service:

Brian Rendell
Vice President, Corporate Affairs
Emera Newfoundland & Labrador Holdings Inc.
Address/Mail: 9 Austin Street
St. John's, NL A1B 4C1
Telephone: 709-722-3274
Email: brian.rendell@emera.com

James H. Smellie
Gowling Lafleur Henderson LLP
Address/Mail: 1400, 700-2nd Street SW
Calgary, AB T2P 4V5
Telephone: 403-298-1816
Email: james.smellie@gowlings.com

Lois M. Smith
Senior Director, Regulatory and Risk
Emera Newfoundland & Labrador Holdings Inc.
Address: 1223 Lower Water Street
Halifax, NS B3J 2A8
Mail: P.O. Box 910
Halifax, NS B3J 2W5
Telephone: 902-428-6929
Email: lois.smith@emera.com

Shellie Woolham
Project Director, Regulatory
Emera Newfoundland & Labrador Holdings Inc.

Address: 1223 Lower Water Street
Halifax, NS B3J 2A8

Mail: P.O. Box 910
Halifax, NS B3J 2W5

Telephone: 902-474-7802

Email: shellie.woolham@emera.com

Notice of Application – Attachment 1

Listing of Confidential Sections of NSPML Maritime Link Project Approval Application

1. Appendix 6.04 – Maritime Link Alternatives Study – Confidential Assumptions

Pages 2- 6: Forecast Future Fuel and Energy Prices

Page 7: Forecast Heat Rate Assumptions