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October 25, 2021

VIA EMAIL

Attention: [REDACTED]

Dear [REDACTED]

Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act, 2015* (File #: PB/1055/2021)

On October 8, 2021 Nalcor Energy received your request for access to the following records/information:

Emera's investment in the LIL shows up as a liability on the financial statements of Nalcor. Has Nalcor and or GNL guaranteed payment to Emera of the 8.5% return? Is repayment of equity also guaranteed?

The LIL Limited Partnership has four classes of units; Class A, Class B, Class C and the General Partner unit. The Class A and Class B units represent LIL Holding Corporation's and Emera's interests in the LIL Limited Partnership, respectively. As described in the Partnership Agreement, these units have certain rights and obligations, including mandatory distributions, that indicate that the substance of the units represent a financial liability under International Financial Reporting Standards.

In accordance with the commercial terms of the LIL Lease, the Partnership will earn a return equal to the rate of return approved by the PUB for privately owned regulated electrical utility in Newfoundland and Labrador (currently set at 8.5%) on the undepreciated Class A and Class B balances. The mandatory distribution to the Partners, as outlined in the LIL Limited Partnership Agreement, will reduce the respective Class A and B balances to zero.

In keeping with our standard practice, it is our intention to post this letter on the Nalcor Energy website.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Access to Information and Protection of Privacy Act (*the Act*). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8
Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section of the Act has been enclosed for your reference).

If you have any further questions, please feel free to contact the undersigned by telephone at (709) 733-5346 or by e-mail at granthiscock@nalcorenergy.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Grant Hiscock".

Grant Hiscock
Access and Privacy Officer

Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).