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nalcorenergy.com

August 6, 2019

VIA EMAIL

s. 40(1)

Attention:

[REDACTED]

Dear

[REDACTED]

s. 40(1)

Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act, 2015* (File #: PB/524/2019)

On July 9, 2019, Nalcor Energy received your request for access to the following records/information:

Gull Island is a site with far greater potential for power production, with an estimated capacity of 2,250 megawatts (MW), compared to the 824 MW of Muskrat Falls. It is also located on the Churchill River, between the Churchill Falls power plant and Muskrat Falls

"As I've said so many times, there's a development out there that will have long-lasting benefits for Newfoundlanders and Labradorians," Ball said of Gull Island. "Right now, there's no customer for that power."

In 2012, the Progressive Conservatives viewed Ontario as the prime potential market for Gull Island power. The project would require exporting power through Quebec.

re 2250 MW Gull island project

Provide

1/ a/ the latest capital cost est for the Gull Island generating site

b /re a/ the cost per kwh

2/a/ the latest capital est for a Gull Island 2250 TL thru Quebec to Ontario

b/ re a/ the cost per kwh

3/ The latest report on the cost for the Gull Island generating site re 1/ above

4/ the latest report on the cost for the Gull Island TL thru Quebec to Ontario re 2/ above

5/ a/the latest capital cost report for a 2250 MW TL the Quebec to the USA

b/ re a / the cost per kwh

Please note that in many cases, information responsive to your request does not yet exist, however, any cost estimates for a potential project that has not yet been initiated would be considered sensitive under subsection 35(1)(g) of the ATIPPA as well as subsections 5.4(1)(a), (c)(i)(iii), (d)(ii) of the Energy Corporation Act (ECA).

(1)(a) The latest capital cost report, complete with an estimate, is contained in a 2013 report completed by Hatch. This report is being withheld under subsection 35(1)(g) of the ATIPPA as well as subsections 5.4(1)(a), (c)(i)(iii), (d)(ii) of the ECA as the premature release of capital cost estimates relating to a project that has not yet been initiated could jeopardize the ability of Nalcor to ensure the lowest possible cost through any possible future tendering activities.

(b) A cost per KWh has not been calculated. This calculation could be completed using the estimate noted in (1)(a) above, however, Nalcor would also consider this information sensitive and it would also be withheld under subsection 35(1)(g) of the ATIPPA as well as subsections 5.4(1)(a), (c)(i)(iii), (d)(ii) of the ECA.

(2)(a) As no Transmission Service Request has been filed with Ontario or Quebec, there is no capital cost estimate for a transmission line (or transmission upgrades) through either of these jurisdictions. A service request would be the vehicle that would prompt Ontario and Quebec to determine what upgrades would be required on their respective transmission systems, enabling an estimate to be completed. This information, however, would be withheld under subsection 35(1)(g) of the ATIPPA as well as subsections 5.4(1)(a), (c)(i)(iii), (d)(ii) of the ECA.

(b) Without a capital cost estimate, the cost per KWh has not been calculated, however, Nalcor would consider this information sensitive and it would be withheld under subsection 35(1)(g) of the ATIPPA as well as subsections 5.4(1)(a), (c)(i)(iii), (d)(ii) of the ECA.

(3) The latest capital cost report, complete with an estimate, is contained in a 2013 report completed by Hatch. This report is being withheld under subsection 35(1)(g) of the ATIPPA as well as subsections 5.4(1)(a), (c)(i)(iii), (d)(ii) of the ECA as the premature release of cost estimates relating to a project that has not yet been initiated could jeopardize the ability of Nalcor to ensure the lowest possible cost through any possible future tendering activities.

(4) There are no records responsive to this part of your request. As no Transmission Service Request has been filed with Quebec or Ontario, there is no capital cost estimate for a transmission line (or transmission upgrades) through either of these jurisdictions. A service request would be the vehicle to determine what upgrades would be required on their respective transmission systems, enabling an estimate to be completed. This information, however, would be withheld under subsection 35(1)(g) of the ATIPPA as well as subsections 5.4(1)(a), (c)(i)(iii), (d)(ii) of the ECA.

(5)(a) There are no records responsive to this part of your request. Similar to (2)(a) and (4), above, a Transmission Service Request would need to be filed to determine what upgrades would be required. A request of this nature has not been filed to date, however, Nalcor would consider this information to be exempt under subsection 35(1)(g) of the ATIPPA as well as subsections 5.4(1)(a), (c)(i)(iii), (d)(ii) of the ECA.

(b) Without a capital cost estimate, the cost per KWh has not been calculated, however, Nalcor would consider this information to be exempt under subsection 35(1)(g) of the ATIPPA as well as subsections 5.4(1)(a), (c)(i)(iii), (d)(ii) of the ECA.

It is the goal to publish this letter following a 72 hour period after it is sent electronically to you or five business days in the case where the letter has been mailed to you.

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 is 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 black ink, appearing to read "Grant Hiscock". The signature is written in a cursive style with a large initial "G" and "H".

Grant Hiscock
Access and Privacy Officer

Right of Access

8. (2) The right of access to a record does not extend to information excepted from disclosure under this Act, but if it is reasonable to sever that information from the record, an applicant has a right of access to the remainder of the record.

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).

Relevant Section of the ATIPPA

Disclosure harmful to the financial or economic interests of a public body:

35. (1) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose:

(g) information, the disclosure of which could reasonably be expected to prejudice the financial or economic interest of the government of the province or a public body

Relevant Section of the Energy Corporation Act

Records of commercially sensitive information:

5.4 (1) Notwithstanding section 7 of the Access to Information and Protection of Privacy Act, 2015, in addition to the information that shall or may be refused under Part II, Division 2 of that Act, the chief executive officer of the corporation or a subsidiary, or the head of another public body,

- (a) may refuse to disclose to an applicant under that Act commercially sensitive information of the corporation or the subsidiary; and
- (b) shall refuse to disclose to an applicant under that Act commercially sensitive information of a third party

where the chief executive officer of the corporation or the subsidiary to which the requested information relates, taking into account sound and fair business practices, reasonably believes

- (c) that the disclosure of the information may
 - (i) harm the competitive position of,
 - (ii) interfere with the negotiating position of, or
 - (iii) result in financial loss or harm tothe corporation, the subsidiary or the third party; or
- (d) that information similar to the information requested to be disclosed
 - (i) is treated consistently in a confidential manner by the third party, or
 - (ii) is customarily not provided to competitors by the corporation, the subsidiary or the third party.