

January 9, 2020

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/935/2019)**

On December 10, 2019, Nalcor Energy received your request for access to the following records/information:

*Can you provide info on current rate per kwh & projected rates for future for:*

*(1) NS GHG emission credits*

*(2) USA GHG emissions*

*(3) Also, with respect to the Energy Access Agreement, are there any provisions for Nalcor to recoup the difference in value between GHG emission credits for power consumed in Nova Scotia versus the potential US GHG emission credits that could be obtained if that power were to be resold into US markets by Nova Scotia?*

*(4) Re sale of Churchill Falls recapture power to the USA - re USA GHG credits*

*(a) What is the current rate per kwh?*

*(b) Provide the \$ amount received in the last fiscal year*

Please note that Nalcor currently has no records that are considered responsive to parts 1, 2 and 4 of your request.

With respect to part 3 of your request, as per section 3.4 of the Energy Access Agreement (EAA), "NSPI shall utilize all Nalcor Supplied Energy for the purpose of end-use consumption by its customers within NS only, provided that NSPI will have the limited right to resell Nalcor Supplied Energy during periods in which such Energy is surplus to NSPI's requirements due to such variations in NSPI's load or generation that are identified by NSPI subsequent to the acceptance by NSPI of an applicable Nalcor Bid pursuant to section 2.5(b). For greater certainty, Nalcor and NSPI agree that it is the intention of those Parties that NSPI will not be a market reseller of Nalcor Supplied Energy, except in the circumstances identified above."

In the event that NSPI finds itself in a circumstance where it can resell Nalcor Supplied Energy to US markets, Nalcor would be unable to access US GHG emission credits and there is no vehicle that would allow NSPI to apply for US GHG emission credits on Nalcor's behalf. For these reasons, the EAA does not contain any provisions that would allow for Nalcor to recoup the difference between CDN GHG emission credits and US GHG emission credits regarding Nalcor

Supplied Energy that is consumed by NS versus Nalcor Supplied Energy that is resold by NS to US markets.

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 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](mailto:granthiscock@nalcorenergy.com).

Sincerely,



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).