

March 7, 2022

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/1271/2021)

On December 10, 2021 NL Hydro received your request for access to the following records/information:

I would like to access the records, including communications, associated with the development of the report referenced in the response to request PB/1170/2021, from Oct. 6, 2019 to July 16, 2021.

Through discussions with you, the scope of your request was narrowed to include the following:

Please provide all records related to NL Hydro's consideration of all options for long-term supply to southern Labrador as those options relate to air pollution, carbon emissions, carbon taxes, carbon offsets, and climate change. This includes but is not limited to any third party communications related to any of these issues. Date range: Oct. 6, 2019 to January 5, 2022.

I am pleased to inform you that your request for access to these records has been granted in part. Access to remaining records, and/or information contained within the records, has been refused in accordance with the following exceptions to disclosure as specified in the *Access to Information and Protection of Privacy Act* (the "Act"):

(1) Section 29(1)(a):

29. (1) The head of a public body may refuse to disclose to an applicant information that would reveal

(a) advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;

(2) Section 35(1)(d): *The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose (d) information, the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in significant loss or gain to a third party;*

The above noted exemption has been applied in the relation to the Request for Proposals (document attached at the end of Appendix A), as it would be premature to release such

information where decision has not been made on successful proponent. NL Hydro may release such information in the future if a decision is made on successful proponent.

Note this exemption has also been used in two other instances.

- (3) **Section 40(1):** *The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.*

In relation to various communications, as required by Section 8(2) of the Act, we have severed information that is unable to be disclosed and have provided you with as much information as possible.

Please see Appendix A, attached hereto, for the information that is responsive to your request. You will note that we have included draft reports and have made a note on such drafts to the effect that such documents are in draft form and may have been updated upon finalizing. In addition, in some draft reports there are errors which have been identified for easy reference in the drafts themselves by way of text in red.

Please note further that where documents are publically available we have not included a copy. Such documents can be located at:

http://pub.nl.ca/applications/NLH2021Capital_SUPP_Phase1SouthernLabrador/index.htm

We have made a note in the relevant records in red text indicating this.

In keeping with our standard practice, it is our intention to post this letter on the NL Hydro 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) 727-8941 or by e-mail at bethsheppard@nalcorenergy.com.

Sincerely,

Beth A. Sheppard

Beth A. Sheppard
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).

Appendix A – Responsive Records

See attached PDF – “Appendix A – Responsive Records”