

Natural Resources

December 18, 2012

New Legislation to Help Advance Muskrat Falls Hydroelectric Project

New legislation entitled, *An Act Respecting the Use and Expropriation of Land for the Muskrat Falls Project*, to be introduced today (Tuesday, December 18) in the House of Assembly by the Honourable Jerome Kennedy, Minister of Natural Resources, will see the creation of a stand-alone, lands-related act to ensure that Nalcor and Emera have the ability to acquire the necessary land interests to advance the proposed Muskrat Falls project.

“The acquisition of Crown and private land is required for the transmission infrastructure necessary to deliver power from Muskrat Falls to the Island,” said Minister Kennedy. “This legislation will assist with the finance-raising process, however, acquisitions will not start until the Labrador-Island Transmission Link, the Maritime Link and the Labrador Transmission Assets are released from the Environmental Assessment Process.”

Through this legislation the Provincial Government will be given expropriating power for the Muskrat Falls Project which will include the power to issue notices of expropriation, and monitor and execute the expropriation process. The Provincial Government will be the body to approve the expropriation of land required for the Maritime Link as per the expropriation protocol.

The new legislation proposes to create a new form of statutory easement that will give Nalcor and Emera the right to erect structures on the underlying land, enter onto the underlying land for the purposes of constructing and maintaining the structures and restrict the uses to which the landowner can use the land governed by the statutory easement.

The legislation will also establish an expropriation protocol through regulations which the Provincial Government will adhere to and will allow Nalcor and Emera to pledge the easement as security to financial lenders. The province, Nalcor and Emera will also work together to achieve fair compensation packages for Crown and private landowners.

As well, as a result of this legislation, rural areas of the province will experience positive impacts associated with the construction activity of the required infrastructure, including increased employment and business opportunities.

“Having this legislation in place will support the finance-raising process and signal to financial lenders that the Provincial Government is supportive of the Muskrat Falls hydroelectric project and will take the necessary actions to ensure its success,” said Minister Kennedy. “This legislation is another step towards the development of Muskrat Falls along with the Labrador-Island Transmission Link, which has been determined to be the least-cost solution to address future energy needs in Newfoundland and Labrador.”

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An Act Respecting the Use and Expropriation of Land for the Muskrat Falls Project

- The acquisition of both Crown and private land is required for the transmission infrastructure necessary to deliver power from the Muskrat Falls Generating Station in Labrador to the Island Interconnected System in Newfoundland, via the Labrador Island Link (LIL) and the Labrador Transmission Assets (LTA), as well as exporting electricity to Nova Scotia via the Maritime Link (ML).
- The Transmission Corridors will stretch from central Labrador to Soldier’s Pond on the Avalon Peninsula, and from Granite Canal, through Bottom Brook, and onto Cape Ray on the southwest coast of the Island. Approximately 99 per cent of the land required for the LIL and the LTA and approximately 90 per cent of the land required for the ML is Crown Land.
- The proposed routes for the Transmission Corridors are currently undergoing Environmental Assessments (EA) therefore, the exact route and the number of properties that will be affected cannot be determined until the EA’s have been completed and the routes have been finalized.
- The Proponents will require rights to land owned by the Crown, municipalities and persons and will need to acquire a range of different interests in land, depending on the Project asset to be placed on that land. These interests will range from total ownership to a permission to occupy. The acquisition of Crown and private land will not start until the Labrador-Island Transmission Link, the Maritime Link and the Labrador Transmission Assets are released from the Environmental Assessment Process.

- This new legislation will see the creation of a stand-alone, lands-related Act to ensure that Nalcor and Emera have the ability to acquire the necessary land interests to advance the Muskrat Falls Project. The legislation will create a new form of statutory easement that will give Nalcor and Emera the right to 1) erect structures on the underlying land; 2) enter onto the underlying land for the purposes of constructing and maintaining the structures; and 3) restrict the uses to which the landowner can use the land governed by the statutory easement.
- The legislation will allow the holder of the statutory easement, in this case Nalcor and Emera, to pledge the easement as security to lenders.
- The proposed legislation will also provide government with expropriating power for the Muskrat Falls Project. The expropriating power assigned to government will include the power to issue notices of expropriation, monitor and execute the expropriation process. The legislation will establish an expropriation protocol through regulations that government will adhere to. Government, not Emera, will approve the expropriation of land required for the Maritime Link as per the expropriation protocol.
- With respect to permitting, the legislation will approve the use of the land by Nalcor and Emera for the purposes of the Muskrat Falls Project, with no requirement for public consultation other than may be required under the duty to consult, and where necessary, deeming all future and existing development plans to comply with the approved land use. The legislation will support the creation of an independent panel of arbitrators with the authority to determine compensation. The province, Nalcor and Emera will work together to achieve fair compensation packages for Crown and private landowners.
- The legislation will also provide authority to expropriate land leased to the Churchill Falls (Labrador) Corporation, Limited (CFLCo) that is required for the Project, and also to replace the dispute process in the Churchill Falls (Labrador) Lease Act (arbitration) with the compensation procedure set out above.
- Many years of study have been undertaken to ensure that the Muskrat Falls Project is developed in a way that is both environmentally and economically sustainable. The province is committed to doing so in an environmentally-responsible manner.
- The legislation must be in place before Nalcor can advance the lending process in early 2013 as planned in the current project schedule - assuming project sanction by the end of 2012. It is a signal to lenders that government is supportive of the Muskrat Falls Project and will take the necessary steps to ensure its success.