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April 14, 2011  
File No.: 10887/118243.00018

**BY EMAIL**

M<sup>re</sup> Véronique Dubois  
Secretary  
**RÉGIE DE L'ÉNERGIE**  
800 Place Victoria, 2<sup>nd</sup> Floor, Suite 255  
Montréal, Québec H4Z 2A2

**Re: Request respecting the amendment of the Hydro-Québec Open Access Transmission  
Tariff starting January 1, 2009  
R-3669-2008, Phase 2 – Follow-up on commitment # 16**

Dear Colleague,

We hereby acknowledge receipt of the letter dated April 12, 2011 sent by the attorneys of Hydro-Québec TransÉnergie (the “Transmission Provider”) and the amended response to commitment 16.

**1) HQD’s designation of all Hydro-Québec generating stations and those under contracts, totalling 40,197MW**

In its response to undertaking 16 the Transmission Provider is confirming that the power values presented in the second column of the table entitled “[TRANSLATION] 2009-2010 maximum peak power available in MW” constitute the exact power designated for each generating station listed in the first column of that same table. This claim flows from the first paragraph of the Transmission Provider’s response to commitment 16:

[TRANSLATION]

*The first table in document HQT-8, document 5.1, entitled “peak power resources (MW)” presents the power designated by category of resource:*

It is NLH’s position that this confusion is a result of unclear labelling on the information provided in the first place, and the term “designated capacity” should be clearly stated on all future submissions in accordance with section 37.1 (iii) to avoid future ambiguity.

Furthermore, it is our understanding, based on Hydro-Québec's response, that the power plants comprising virtually the entire fleet of Hydro-Québec plus its contractual entitlements, up to a total of 40,197 MW (year 2010-2011), are each individually designated as Distributor resources and that, under Section 38.1 of the Hydro-Québec Open Access Transmission Tariff (the "**Transmission Tariff**"), no firm sale of output from these facilities, either individually or collectively may be made to a third party without terminating the designation on an individual plant by plant basis.

This HQT's affirmation is important for the purposes of determining how, in future, the Transmission Provider will proceed with terminating the designation of a resource in order to allow Hydro-Québec to carry out a firm sale to a third party. To that end, we remind you that the issue of terminating a designation is important in this file, since the Transmission Provider is proposing material changes to the text of Sections 30.3 and 38.3 of the Transmission Tariff.

2) **HQT's allegation that the information required under Section 37.1(iii) of the Transmission Tariff is confidential**

In the Transmission Provider's letter dated April 12, 2011, it is indicated that the information redacted in Exhibit HQT-8, document 5.1 is confidential, and that the Transmission Provider is not authorized to disclose it.

Exhibit HQT-8, document 5.1 was filed in support of the Transmission Provider's response 6.2 to a request for information from NLH (Exhibit HQT-8, document 5). When the exhibit was filed, the Transmission Provider did not demand that the redacted information be treated confidentially, and thus did not meet the requirements of Section 30 of the *Act respecting the Régie de l'énergie* (the "**Act**") and Section 33 of the *Rules respecting the procedure of the Régie de l'énergie* (the "**Procedural Rules**").

NLH respectfully requests that the Régie order the Transmission Provider to demand that the redacted information be treated confidentially by providing the elements set forth in Section 30 of the Act and Section 33 of the Procedural Rules. NLH reserves the right to challenge that demand under Section 34 of the Procedural Rules.

3) **Decision D-2011-040 is not relevant to this case and should not be filed as evidence.**

Finally, we would like to return to the last paragraph of the amendment made to the text of the response to commitment 16 respecting resource designations under Sections 1.40.1, 36.2, 37.1 and 38.1 of the Transmission Tariff:

[TRANSLATION]

*The notion of resource designation under Sections 1.40.1, 36.2, 37.1 and 38.1 TT and the application of those provisions by the Transmission Provider were fully debated in the complaints of the NLH, and the Transmission Provider repeats that position here. Moreover, the Régie has already ruled on several aspects of*

*these issues in its Decision D-2010-053, which has just been upheld on appeal (D-2011-040).*

[Emphasis added]

According to the Transmission Provider, the application of these sections was debated at length in NLH's complaints. Based on this fact and to prevent any ambiguity, the Transmission Provider informed the Régie that it is filing Decision D-2011-040 rendered April 6, 2011 in docket P-130-002 respecting the application for the revision of Decision D-2010-053 rendered in the NLH complaints file.

NLH hereby opposes this filing. Twice in this case, the Régie has recognized that the NLH complaints file dealt with the application of the Transmission Tariff in force at the time the complaints were filed:

[TRANSLATION]

*[31] Even though this matter deals with establishing the rules that will apply in future, while the complaints file dealt with the interpretation of the rules in force at the time the complaints were filed, it is very likely that an examination of the issues up for debate at this hearing will require a more in-depth look at some of the issues that will also be discussed and ruled on in the complaints file. This particular situation requires a measure of prudence.* (Decision D-209-097)

*[26] As for the grounds the Transmission Provider invoked in respect of the issues of NLH, RNCREQ and UC regarding the subject matter that was examined exhaustively in the complaints file, the Régie notes that the documents in question have not been adduced as evidence in the case before it. What is more, in the complaints file, the Régie ruled on the issues in dispute that related to a specific case, based on the wording of the Transmission Tariff then in force.*

*[27] Also, the wording of the Transmission Tariff refers on several occasions to the notion of designated resources. Some of the textual amendments provided for in the Orders also refer to that notion. In this context, the applications for information on designated resources are judged based on their relevance to the examination of the topics retained in this matter.* (Decision D-2010-080)

[Emphasis added]

The Régie decisions D 2010- 053 and D2011-040 involve interpretation of certain sections of the HQT OATT to a very narrow set of circumstances. These decisions did not address many important issues relating to designation such as: undesignation, attestation of designated resources and posting of designated and undesignated of resources on OASIS. NLH therefore objects to the filing of these decisions in the current case because they are not relevant. This decision does not address the important designation issues relevant in the proposed changes to the tariff and therefore should not be included in the evidence. Furthermore, the decisions do not

identify a specific designated capacity for the Churchill Falls facility and therefore do not provide evidence relevant to undertaking 16.

We trust the above is to your entire satisfaction.

**FASKEN MARTINEAU DuMOULIN LLP**

(s) André Turmel

André Turmel  
AT/nb

c.c.: Intervenors