

ANNEXE 1

**LETTRE DE MME ISABELLE COURVILLE À M. CHRISTIAN BROUSSEAU,
DATÉE DU 18 JUIN 2008**



Une division d'Hydro-Québec

June 18, 2008

Mr. Christian Brosseau
President
HQ Energy Services (U.S.) Inc.
75 René-Lévesque Blvd. West
Montréal (Québec)
H2Z 1A4

Dear Mr. Brosseau:

RE: Revisions to the Open Access Transmission Tariff of Hydro-Québec TransÉnergie,
the transmission division of Hydro-Québec

This letter is to confirm to HQ Energy Services (U.S.) Inc. ("HQUS") that Hydro-Québec TransÉnergie, the transmission division of Hydro-Québec ("TransÉnergie"), is currently in the process of adapting its Open Access Transmission Tariff («OATT») to the provisions of Order Nos. 890 and 890-A issued by the Federal Energy Regulatory Commission ("FERC").

TransÉnergie understands that its OATT is relied upon by HQUS and Cedars Rapids Transmission Company Limited ("CRT")¹, both wholly-owned subsidiaries of Hydro-Québec, to mitigate any transmission market power concerns arising from HQUS' and CRT's affiliation with TransÉnergie under their respective market-based rate authorizations issued by FERC.

It is expected that the revised OATT of TransÉnergie will be filed for approval with the Régie de l'énergie, the Québec Board regulating electricity transmission in the Province of Québec, Canada, during the month of July 2008. It is also anticipated that the revised terms and conditions of this OATT will come into effect, together with new transmission rates approved by the Régie de l'énergie, by 1 January 2009.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Isabelle Courville', is written over a horizontal line.

Isabelle Courville
President, Hydro-Québec TransÉnergie

¹ CRT also owns and operates transmission facilities in Canada that are the subject of a separate OATT which has been found by FERC to mitigate any transmission market power concerns. See *Cedar Rapids Transmission Company, Ltd.*, Docket No. ER07-769-000 (unpublished delegated letter order issued June 15, 2007).

ANNEXE 2

**H.Q. ENERGY SERVICES (U.S.) INC.,
UPDATED MARKET POWER ANALYSIS AND ORDER No. 697 COMPLIANCE FILING
26 juin 2008**

ORIGINAL

PUBLIC

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2111

TEL: (202) 371-7000
FAX: (202) 393-5760
www.skadden.com

DIRECT DIAL
(202) 371-7009
DIRECT FAX
(202) 661-9053
EMAIL ADDRESS
JPFEFFER@SKADDEN.COM

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PUBLIC VERSION

June 26, 2008

By Hand Delivery

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: **H.Q. Energy Services (U.S.) Inc., Docket No. ER97-851-~~017~~
Updated Market Power Analysis and Order No. 697 Compliance Filing**

FILED
SECRETARY OF THE
COMMISSION
2008 JUN 26 P 4: 38
FEDERAL ENERGY
REGULATORY COMMISSION

Dear Secretary Bose:

Pursuant to section 35.37(a)(1) of the Regulations of the Federal Energy Regulatory Commission ("FERC" or "Commission"), 18 C.F.R. § 35.37(a)(1) (2008), and Order No. 697,¹ H.Q. Energy Services (U.S.) Inc. ("HQUS") hereby submits an updated market power analysis and conforming market-based rate ("MBR") tariff. HQUS is filing this update in accordance with the provisions of Order No. 697 establishing a new regional market power analysis update schedule for all market-based rate sellers.² As outlined below, HQUS continues to satisfy the Commission's guidelines for MBR authorization and respectfully requests that the Commission issue an order accepting this filing as being in full compliance with the requirements of Order No. 697.

¹ *Market-based Rates for Wholesale Sales of Elec. Energy, Capacity and Ancillary Servs. by Pub. Utils.*, Order No. 697, FERC Stats. & Regs. ¶ 31,252 ("Order No. 697" or "Final Rule"), *order clarifying final rule*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 (2008) ("Order No. 697-A" or "Rehearing Order"), *reh'g pending* (codified at 18 C.F.R. pt. 35).

² HQUS was authorized by the Commission to make market-based sales in Docket Nos. ER97-851-000 and ER97-851-001. *HQ Energy Servs. (U.S.) Inc.*, 81 FERC ¶ 61,184 (1997), *reh'g denied*, 82 FERC ¶ 61,234 (1998); *HQ Energy Servs. (U.S.) Inc.*, 79 FERC ¶ 61,152 (1997) ("HQUS MBR Order").

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I. BACKGROUND

HQUS is a wholly-owned indirect subsidiary of Hydro-Québec ("HQ"), a Crown corporation in the Province of Québec, Canada. HQUS itself does not own or control any transmission or distribution facilities and has only limited rights to generation assets.³ Neither HQUS nor any of its affiliates has a franchised electric retail service area in the United States. Divisions of HQ own and control facilities for the generation, transmission and distribution of electricity in the Province of Québec. In particular, HQ Production, a division of HQ, owns much of the generation in Quebec. The transmission system in Quebec is owned and operated by Hydro Quebec TransÉnergie ("TransEnergie"), another division of HQ.

HQUS' application for market-rate authority in Docket No. ER97-851-000 and subsequent market power updates and change-in-status reports described the open access transmission tariff ("TransEnergie OATT") governing service over the TransEnergie transmission network. In the HQUS MBR Order, the Commission found that any transmission market power concerns arising from HQUS' affiliation with TransÉnergie had been mitigated by the TransÉnergie OATT. More recently, the Commission approved a separate MBR authorization for Cedar Rapids Transmission Company ("Cedar Rapids" or "CRT"), a subsidiary of HQ.⁴ Cedar Rapids also owns and operates transmission facilities in Canada that are the subject of an OATT ("CRT OATT") which have been found by the Commission to mitigate any transmission market power concerns.⁵

As described below, and in the attached supporting information, the relevant facts underlying these Commission findings remain unchanged and HQUS continues to satisfy the Commission's requirements for MBR authorization.

³ The only generation controlled by HQ in U.S. markets is an indirect ownership interest in Bucksport Energy, LLC ("Bucksport"), a qualifying cogeneration facility located in Bucksport, Maine. Also, HQ owns the Les Cedars generating plant located in Quebec but the New York Independent System Operator, Inc. ("NYISO") models this plant as an internal generator in the NYISO balancing authority area. For the purpose of this market power update the Les Cèdres plant is treated as if it was located in the NYISO market.

⁴ See *Cedar Rapid Transmission Co.*, Docket No. ER07-769-000 (unpublished delegated letter order issued June 15, 2007).

⁵ See *id.*

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II. UPDATED MARKET POWER ANALYSIS

Order Nos. 697 and 697-A established the Commission's new rules governing market-based rate authorization for wholesale power sales and the reporting requirements that must be satisfied pursuant to such authorization. The Final Rule retained the key elements of the Commission's original analytic framework for determining whether a wholesale seller qualified for MBR authorization but restructured the required analysis as a two-part test that considers the potential for the exercise of either (i) horizontal (generation) market power or (ii) vertical market power defined to include *both* transmission and other barriers to entry.⁶

Appendix D of Order No. 697 also established a new regional schedule whereby all entities making market-based sales in the same region must file their triennial market power updates on a common schedule and use consistent data assumptions and methodologies in the preparation of their horizontal market power screens. This filing is the first updated market power analysis submitted by HQUS under the Commission's new regulations implementing Order No. 697. As part of this filing, HQUS is also submitting clean and redlined versions of its MBR tariff to incorporate the new provisions and language changes required by Order Nos. 697 and 697-A.

III. COMMUNICATIONS

HQUS requests that all copies of notices and correspondence related to this filing be sent to the following individuals:

Benoit Goyette
Vice President, Regulatory Affairs
H.Q. Energy Services (U.S.), Inc.
75, boul. René-Lévesque Ouest
17^e étage
Montréal, Qc, H2Z 1A4
(tel.) (514) 289-7941
(fax) (514) 289-6217
goyette.benoit@hydro.qc.ca

Jerry L. Pfeffer
Energy Industries Advisor.
Skadden, Arps, Slate,
Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, DC 20005-2111
(tel.) (202) 371-7009
(fax) (202) 371-7938
jppfeffer@skadden.com

⁶ The Final Rule no longer refers to affiliate abuse as a separate "prong" of the market-based rate analysis and instead codifies in Commission regulations an explicit requirement that any seller with market-based rate authority must comply with the affiliate power sales restrictions and other affiliate restrictions as a condition of making such sales.

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IV. DISCUSSION

As outlined below, HQUS continues to satisfy the Commission's requirements for MBR rate authorization. In particular, HQUS cannot exercise either horizontal (generation) market power or vertical (transmission) market power. HQUS also affirms that it has not erected barriers to market entry and will not erect such barriers in the future. Finally, given that HQUS has no affiliated franchised utilities in the U.S., there are no concerns regarding the Commission's rules governing affiliate abuse.

A. Horizontal Market Power

With respect to generation market power, HQUS continues to satisfy both the Pivotal Supplier and Market Share screens even under the most conservative assumptions. Attached hereto as Attachment A is the Affidavit of Dr. Matthew Arenchild ("Arenchild Affidavit") of CRA International, Inc. supporting this conclusion.⁷ In particular, Dr. Arenchild analyzed the consolidated loads and resources of all HQUS affiliates in relevant geographic markets for the December 2005 to November 2006 test year in accordance with the requirements of Order Nos. 697 and 697-A. As summarized in the Arenchild Affidavit, his analysis shows that there were no horizontal screen violations in any seasonal period for either of the two relevant geographic markets he examined.

In particular, Dr. Arenchild computed the horizontal screens for the two balancing authority area markets that are directly interconnected with HQ's generation, all of which (except for Bucksport) is located in Quebec. Based on the location of HQ's generation, the relevant geographic markets for purposes of computing the horizontal screens are the balancing authority areas operated by the ISO New England, Inc. ("ISO-NE") and the NYISO.

Base Case Analysis

In Order Nos. 697 and 697-A the Commission revised and clarified its guidelines for preparing the indicative market power screens. One of the key changes adopted by the Commission was to have MBR sellers affiliated with transmission owners in one of the consolidated filing regions submit their screen analyses six months prior to other MBR sellers in that region, "[so as to make] the required [SIL] data available to non-transmission owning sellers for use in performing their generation market power analyses."⁸ In

⁷ HQUS is also submitting a CD containing Dr. Arenchild's workpapers. As explained in Part VII, below, these workpapers include confidential information of a sensitive commercial nature, and are being submitted in both public and nonpublic versions pursuant to sections 35.37(f) and 388.112 of the Commission's regulations. 18 C.F.R. §§ 35.37(f), 388.112.

⁸ Order No. 697 at P 380 (citation omitted).

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accordance with this directive, Dr. Arenchild relied upon the SIL data submitted in January 2008 by transmission-owning MBR sellers in the NYISO and ISO-NE markets and approved by the Commission in its orders accepting the generation market power screens for those sellers.⁹ These Commission-approved SIL estimates for NYISO and ISO-NE were used by Dr. Arenchild in performing what he designates as his "Base-Case" screen analyses for HQUS in the two relevant northeast RTO markets.

Adjusted Base Case Analysis

Dr. Arenchild also presents a more conservative (i.e., more adverse to HQUS) "Adjusted Base-Case" screen analysis that retains all the other Commission approved SIL limits from the January 2008 filings for the Northeast Markets but uses a higher set of transfer limits for the interconnections between Quebec and NYISO and ISO-NE, respectively.¹⁰ While the Adjusted Base-Case line ratings allow higher levels of HQ's uncommitted capacity to be included in the screen results for the two Northeast markets as compared with the Base Case results relying on the unadjusted Commission approved SIL data for those markets, it provides a useful means of bounding screen results under the most conservative set of assumptions. As noted in the Arenchild Affidavit, HQUS passes the screen even under the bounding conditions of the Adjusted Base-Case.

Also relevant to Dr. Arenchild's indicative screen analysis is the Commission's guidance in Order No. 697 that in the case of MBR sellers whose affiliated generation is located *outside* the U.S. (as is the case for HQ's generation in Quebec), only the amount of that generation that could *physically* be transferred into U.S. markets as constrained by the established import limits of the relevant interconnections is considered in preparing the screens.¹¹ Thus, in preparing the horizontal screens for the two northeast RTO markets interconnected with Quebec for both the Base-Case and Adjusted Base-Case scenarios, Dr. Arenchild only considered HQ's generation capacity up to the assumed import limits from Quebec into those markets.¹²

⁹ See, e.g., *Niagara Mohawk Power Corp.*, 123 FERC ¶ 61,175 (2008).

¹⁰ Order No. 697 allows applicants to present an adjusted screen analysis to reflect certain modifications in the reported SIL data to conform to real world line ratings and operating conditions. Order No. 697 at P 380.

¹¹ Order No. 697 at PP 1001-02, 1006.

¹² The actual limits used in each case are detailed in the Arenchild Affidavit at P 12.

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1. Summary of Screen Results for Base-Case and Adjusted Base-Case

As summarized in the Arenchild Affidavit, HQUS passes the indicative horizontal screens in both the NYISO and ISO-NE markets during all seasonal periods. In particular, Dr. Arenchild's analysis shows that HQUS satisfies the Pivotal Supplier Test for the ISO-NE and NYISO markets in all seasonal time periods. See Exhibits MEA-2 and MEA-2a and MEA-4 and MEA-4a, respectively. His analysis also shows that HQUS satisfies the Market Share Test for the ISO-NE and NYISO markets in all seasonal time periods. See Exhibits MEA-3 and MEA-3a and MEA-5 and MEA-5a, respectively. These findings are not surprising and reflect the fact that HQUS and its affiliates have no physical generation in the U.S. (aside from Bucksport) and only compete in these markets to the extent there is available transmission import capacity that would allow for a portion of their uncommitted generation in Quebec to be delivered to the ISO-NE or NYISO. As shown in the Arenchild Affidavit, HQUS' market shares range from about 7 to 9 percent in ISO-NE and from about 5 to 8 percent in NYISO.¹³

2. Screen Results Using Prioritized SIL Allocation Methodology

Dr. Arenchild also conducted a sensitivity analysis related to certain language in Order No. 697-A which could be interpreted as changing the manner in which the SIL for each of the two Northeast RTO markets should be allocated between HQ and other market participants. This alternative approach to SIL allocation would require an applicant to assign to itself all of the physical SIL capacity up to the amount of its uncommitted capacity or physical ability to deliver power into the relevant study area markets.

As outlined in multiple requests for clarification or rehearing of Order No. 697-A filed by the Edison Electric Institute ("EEI") and other parties,¹⁴ such an approach to SIL allocation is not realistic in the context of (i) how a MBR seller such as HQUS would actually schedule power for delivery into either of the northeast RTO markets as well as; (ii) conflicting with the Commission's open access principles underlying Order Nos. 888 and 890. HQUS agrees with the pending requests for clarification of this issue, but pending the outcome of Commission action on this matter, it requested Dr. Arenchild to undertake a sensitivity analysis showing how such a SIL allocation rule extended to second tier markets would affect the results of his Base Case and Adjusted Base Case analysis described above which already assign HQ 100 percent of the transfer capacity of the interconnections from

¹³ As detailed in the Arenchild Affidavit, the assumptions underlying these market share results reflect changes necessary to conform with new Commission guidance in Order No. 697 (e.g., requiring use of the "average daily peak" for the Market Share Test rather than the "minimum daily peak" employed in the Commission's interim rules).

¹⁴ See, e.g., *Market-based Rates for Wholesale Sales of Elec. Energy, Capacity and Ancillary Servs. by Pub. Utils.*, Docket No. RM04-7-005, Requests of the Edison Electric Institute for Expedited Rehearing and Clarification of Order No. 697-A, at 4-14 (filed May 14, 2008).

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Quebec to the NYISO and ISO-NE markets. The results of a sensitivity analysis using this new SIL allocation guidance are included in Dr. Arenchild's workpapers and indicate that, HQUS also passes the sensitivity screen analyses in all instances.¹⁵

B. Vertical Market Power

1. Transmission Ownership

The Arenchild Affidavit also concludes that HQUS does not have the ability to exercise vertical market power with respect to transmission. The transmission assets of HQUS' TransEnergie and CRT affiliates are all located in Quebec and as noted above, are subject to the terms and conditions of Commission approved OATTs. These tariffs assure open and non-discriminatory access to all suppliers within Canada seeking to deliver power to U.S. markets over or through TransEnergie and CRT transmission facilities.¹⁶

In Order No. 697, the Commission affirmed its long-standing policy that "[w]ith regard to vertical market power and, in particular, transmission market power, the

¹⁵ The relevant language in footnote 208 in Order No. 697-A could be interpreted as requiring an MBR seller to be assigned all SIL into first-tier markets (up to the total amount of applicant's uncommitted capacity) prior to allocating any remaining import capacity on a pro-rata basis. Such an interpretation, especially in the context of HQUS' delivery of power from Quebec into U.S. markets would be contrary to the Commission's prior instructions on this important component of the screen analysis as well as inconsistent with other provisions of Order Nos. 697 and 697-A. Moreover, as discussed in detail in the Arenchild Affidavit, such a priority allocation scheme is totally inconsistent with the rules governing how HQUS would schedule any proposed sales from affiliated generation in Quebec into the NE-ISO and NYISO markets under the open-access provisions of the TransEnergie OATT and corresponding market rules of the two northeast RTOs with whom HQ is interconnected. Nonetheless, to be conservative, HQUS has requested Dr. Arenchild to prepare his screen analysis using the most conservative assumptions which might encompass how this new guidance might be applied to the interconnections between HQ and relevant geographic markets in the U.S.

¹⁶ TransEnergie and CRT have notified HQUS that they have undertaken a review of their respective OATTs regarding compliance with the requirements of Order No. 890 in the context of reciprocity tariffs filed by a Canadian transmission owner, all of whose transmission assets are subject to regulation by the Quebec regulator. See letters from TransEnergie and CRT to HQUS, dated June 18, 2008, attached hereto as Attachment D. The letters state that subject to approval by the Quebec regulator, TransEnergie and CRT will undertake any needed revisions to their filed OATTs to assure continuing compliance with the Commission's reciprocity requirements. See *id.*

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Commission continues the current policy under which an open access transmission tariff (OATT) is deemed to mitigate a seller's transmission market power.¹⁷ HQUS submits that the TransEnergie and CRT OATTs continue to provide open and non-discriminatory access to all suppliers within Canada seeking to deliver power to U.S. markets over and through TransEnergie and CRT transmission facilities. Thus, HQUS satisfies the vertical prong of the market power test with respect to its affiliates' ownership of transmission.

2. Barriers to Entry

Further, HQUS does not own or control any inputs to generation that would allow it to erect barriers to market entry by competing suppliers. Order No. 697 requires a seller to provide a description of its ownership or control of, or affiliation with an entity that owns or controls, intrastate natural gas transportation, intrastate natural gas storage or distribution facilities; sites for generation capacity development; and sources of coal supplies and the transportation of coal supplies such as barges and rail cars.¹⁸

Pursuant to these new requirements, the "Appendix B-Asset Matrix" attached to this filing as Attachment B shows that HQUS and its affiliates do not own or control any of the above factor inputs to electric generation that would allow them to erect barriers to entry into the relevant markets. Further, HQUS commits that neither it nor its affiliates have or will erect barriers to entry in relevant markets. Thus, HQUS satisfies the vertical prong of the market power test with respect to entry barriers.

C. Affiliate Abuse

Based on the absence of any affiliated public utilities with a franchised service area or captive customers in the U.S., there are no concerns related to affiliated abuse. Should these circumstances change, HQUS will comply with the affiliate sale restrictions as those restrictions are now codified in the Commission's regulations.

V. REQUIRED APPENDICES

Section 35.37(c)(4) of the Commission's regulations codifies a new requirement adopted in Order No. 697 for sellers to include in their market power analysis, an appendix summarizing the results of their horizontal market power screen analysis in a specified format.¹⁹ The required Appendix is included with the Arenchild Affidavit.

Section 35.37(a)(2) of the Commission's regulations codifies a new requirement adopted in Order No. 697 for sellers to include in their updated market power analysis, a matrix (identified as "Appendix B" in the Final Rule) identifying specified assets owned

¹⁷ Order No. 697 at P 21.

¹⁸ *Id.* at P 22.

¹⁹ 18 C.F.R. § 35.37(c)(4).

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or controlled by the MBR seller and its affiliates.²⁰ The required Appendix B information for HQUS is included as Attachment B to this filing.

VI. REVISED TARIFF SHEETS AND SELLER CATEGORY DESIGNATION

Attached to this filing as Attachment C, are clean and redlined copies of the tariff sheets for the HQUS market-based rate tariff. The changes reflected in the attached redline tariff sheets comply with the requirements of Order Nos. 697 and 697-A, including the new "Seller Category" designation. HQUS submits that in accordance with the provisions of the Commission's regulations at 18 C.F.R. § 35.36(a)(2), HQUS satisfies the requirements for "Category 1" filing status in *all* regions. In support of this designation, HQUS notes the following:

(a) HQUS and its affiliates do not own or control 500 MW of generation in any of the six reporting regions as defined in Order Nos. 697 and 697-A. As noted, with the exception of approximately 125 MW of (Bucksport) generation physically located in the ISO-NE market, all of HQUS's affiliated generation is located outside of the U.S.

(b) HQUS and its affiliates do not own, operate or control transmission facilities in the U.S., are not affiliated with a franchised public utility in the U.S. and do not own or control any assets in the U.S. raising other vertical market power issues.

Based on the these considerations, HQUS requests that the Commission affirm the Category 1 Status of HQUS in all regions and not require automatic submission of market power updates in the future unless there is a change in the facts represented in either (a) or (b) above. HQUS will continue to report any changes in status representing a departure from the circumstances relied upon by the Commission in authorizing HQUS to make market based sales.

VII. REQUEST FOR PRIVILEGED TREATMENT.

Pursuant to sections 35.37(f) and 388.112 of the Commission's regulations,²¹ HQUS request privileged treatment for portions of the information contained in Dr. Arenchild's workpapers in the enclosed CD-ROM. This confidential information is not publicly available and is of a sensitive commercial nature. Consistent with the Commission's regulations at section 35.37(f), 18 C.F.R. § 35.37(f), HQUS has provided a draft Protective Order attached hereto as Attachment E. Any questions concerning this request for confidential treatment should be directed to the undersigned.

²⁰ 18 C.F.R. § 35.37(a)(2).

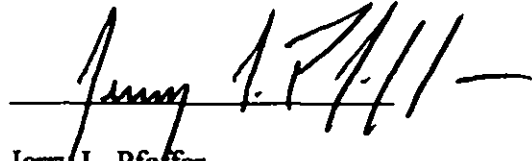
²¹ 18 C.F.R. §§ 35.37(f), 388.112.

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VIII. CONCLUSION

Based on the considerations outlined above, HQUS continues to satisfy all of the Commission's requirements for market-based rate authorization. Thus, HQUS respectfully requests that the Commission issue an order accepting this updated market power analysis and revised tariff sheets for filing pursuant to the requirements of Order Nos. 697 and 697-A.

Sincerely,



Benoit Goyette
Vice President, Regulatory Affairs
H.Q. Energy Services (U.S.), Inc., Inc.
75, boul. René-Lévesque Ouest
17^e étage
Montréal, Qc, H2Z 1A4
(514) 289-7941
goyette.benoit@hydro.qc.ca

Jerry L. Pfeffer
Energy Industries Advisor
Skadden, Arps, Slate, Meagher
& Flom, LLP
1440 New York Avenue, N.W.
Washington, DC 20005
(202) 371-7009
jpfaffer@skadden.com

On Behalf of
H.Q. Energy Services (U.S.) Inc.

ANNEXE 3

**LETTRE DE H.Q. ENERGY SERVICES (U.S.) INC À LA FERC
du 14 juin 2010**

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2111

TEL: (202) 371-7000

FAX: (202) 393-5760

www.skadden.com

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DIRECT DIAL
(202) 371-7009
DIRECT FAX
(202) 661-9053
EMAIL ADDRESS
Jerry.Pfeffer@SKADDEN.COM

June 14, 2010

By Electronic Filing

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: H.Q. Energy Services (U.S.) Inc., Docket No. ER97-851-
Non-Material Change of Status Related to Regulatory Proceedings in Québec

Dear Secretary Bose:

H.Q. Energy Services (U.S.) Inc. (“HQUS”) hereby informs the Federal Energy Regulatory Commission (the “Commission”) of two recent decisions by the Québec Energy Board (“Régie de l’énergie” or “Régie”) regarding matters that have been the subject of prior informational filings by HQUS pursuant to its market-based rate authorization.¹ In an order issued November 5, 2008 in HQUS’ most recent market power update filing, the Commission determined that HQUS continued to satisfy the Commission’s guidelines related to mitigation of any transmission market power that might result from its affiliation with Hydro Québec TransÉnergie (“TransÉnergie”) and Cedars Rapids Transmission (“CRT”).² The TransÉnergie and CRT transmission facilities in Québec³ are subject to the terms and conditions of separate, but essentially

¹ HQUS was authorized by the Commission to make market-based sales in Docket Nos. ER97-851-000 and ER97-851-001. *H.Q. Energy Servs. (U.S.) Inc.*, 81 FERC ¶ 61,184 (1997), *reh’g denied*, 82 FERC ¶ 61,234 (1998); *H.Q. Energy Servs. (U.S.) Inc.*, 79 FERC ¶ 61,152 (1997).

² *H.Q. Energy Servs. (U.S.) Inc.*, 125 FERC ¶ 61,140 (2008) (“November 5 Order”).

³ TransÉnergie owns extensive transmission facilities throughout Québec which interconnect with the New York Independent System Operator, Inc. (“NYISO”) and ISO

identical, open access transmission tariffs (“OATTs”) that satisfy the Commission's reciprocity requirements. As outlined below, HQUS continues to satisfy those requirements and the recent regulatory developments in Québec reported in this filing have no material effect upon prior Commission determinations in this regard.

I. Update on Recent Developments in Régie Proceedings

In an informational report filed on August 19, 2009 (“Informational Filing”), HQUS updated the Commission on two regulatory matters pending before the Régie related to its reciprocity transmission tariff. *First*, HQUS informed the Commission of the status of several complaints filed by Newfoundland and Labrador Hydro (“NLH”) with the Régie related to TransÉnergie’s administration of its OATT.⁴ Specifically, the Informational Filing noted that NLH had filed several complaints alleging discriminatory treatment in its requests for service across the TransÉnergie transmission system, and that those complaints were under review by the Régie. On May 11, 2010, the Régie issued an initial decision rejecting or dismissing NLH’s complaints, concluding that TransÉnergie had responded properly to the NLH transmission service requests in compliance with the terms of its OATT.⁵ On June 9, 2010, NLH exercised its right under Régie rules to seek review of the findings in the May 11, 2010 Régie Order.

Second, the HQUS Informational Filing also informed the Commission of a July 22, 2009 Régie decision to defer hearings on TransÉnergie’s proposed amendments to its

New England Inc. balancing authority areas. Service over these facilities is governed by an OATT which the Commission has found on several occasions satisfies the requirements for reciprocity tariffs for affiliated transmission providers. CRT’s transmission facilities are limited to a single interconnection with the NYISO that straddles the Quebec-Ontario-Northern New York border but based on their separate ownership within HQ, those facilities are the subject of a separate but nearly identical OATT to that on file for TransÉnergie.

⁴ Those complaints, relating to TransÉnergie’s conduct of system impact studies and its calculation and posting of available transmission capacity (“ATC”) pursuant to the terms of its OATT were raised by NLH in its August 2008 intervention in HQUS’ Northeast regional update filing. These included Régie Docket Nos. P-110-1565, P-110-1566, P-110-1597, P-110-1678 and P-110-1692.

⁵ By its decision D-2010-053 dated May 11, 2010 in Docket Nos. P-110-1565, P-110-1597 and P-110-1678, the Régie de l’énergie dismissed all three (3) complaints of NLH. Complaint P-110-1566 was dismissed by the Régie in March 2009 because TransÉnergie had agreed to the relief requested by NLH. *See Newfoundland and Labrador Hydro v. Hydro Québec*, Docket No. P-110-1566, Decision No. D-2009-025, dated March 18, 2009. Complaint P-110-1692 was subsequently withdrawn by NLH during the February 2010 Régie hearing on the remaining complaints. The May 11, 2010 Régie Decision, therefore, deals with the merits of those three NLH complaints in Docket Nos. P-110-1565, P-110-1597 and P-110-1678.

OATT to reflect the requirements of Order Nos. 890 and 890-A⁶ until the Régie completed its consideration of the above-noted NLH complaints regarding TransÉnergie's administration of the tariff. The Régie's decision at that time was based on its stated preference to complete action in the NLH complaint proceedings related to the administration of the existing TransÉnergie OATT before considering the proposed TransÉnergie amendments governing future service under the OATT.

On May 14, 2010, shortly after acting on NLH's complaints, the Régie issued a new procedural order setting forth the schedule for its consideration of TransÉnergie's proposed amendments to its OATT.⁷ The May 14, 2010 Régie Order provides for hearings on the amendments in October, 2010. Under this schedule, final regulatory action on the proposed Order Nos. 890 and 890-A amendments could be completed by the end of 2010 or early in 2011. HQUS will update the Commission when the Régie takes final action on its proposed changes to the OATT.

As noted above, HQUS's affiliate, CRT, also owns a very limited and discrete set of transmission facilities, which are subject to a separate OATT. It is our understanding that the CRT OATT is essentially identical to the TransÉnergie OATT except that the Régie has not exercised rate jurisdiction over that portion of CRT's transmission facilities in Quebec. Any amendments thereto for the purpose of reflecting the requirements of Order Nos. 890 and 890-A would *not* require Régie approval. However, aside from minor language differences reflecting the absence of Régie oversight, CRT has essentially adopted the Régie-approved TransÉnergie OATT for service over its own transmission facilities.

HQUS recently became aware that in several prior submissions in its own market-based rate docket (No. ER97-851) and in the corresponding CRT market-based rate docket (No. ER07-769), there were incorrect representations that Régie approval would be required for any amendments to the CRT OATT (which applies to the single interconnection facility owned by CRT). These inaccurate representations were inadvertent. HQUS hereby clarifies that although prior Régie approval is not required to amend the CRT OATT, it is our understanding that TransÉnergie has and will continue to update the CRT OATT to reflect any changes in the TransÉnergie OATT after which it is modeled, including the amendments to reflect Order Nos. 890 and 890-A currently

⁶ *Preventing Undue Discrimination and Preference in Transmission Serv.*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g and clarification*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g and clarification*, Order No. 890-B, FERC Stats. & Regs. ¶ 31,241 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009) (codified at 18 C.F.R. pts. 35 and 37).

⁷ *Hydro-Québec, Demande relative à la modification des tarifs et conditions des services de transport d'Hydro-Québec à compter du 1er janvier 2009* (Phase 2). D-2010-058, R-3669-2008 Phase 2, 2010 05 14. Hydro-Québec, Application for the Modification of the Rates and the Terms of the Transmission Services of Hydro-Québec as of January 1, 2009 (Phase 2).

The Honorable Kimberly D. Bose

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pending before the Régie. As noted above with respect to the TransÉnergie OATT, HQUS will file an update with the Commission to confirm when the CRT OATT is updated to reflect the final Régie-approved amendments to the TransÉnergie OATT.

II. Recent Events Do Not Constitute a Material Change-in-Status

HQUS submits that the matters discussed in this filing do not change the circumstances relied upon by the Commission in granting HQUS market-based rate authorization. The existing TransÉnergie and CRT OATTs continue to mitigate any vertical market power concerns related to HQUS' indirect affiliation with TransÉnergie and CRT. TransÉnergie and CRT will update their reciprocity OATTs as soon as the Régie acts on the proposed amendments.⁸ HQUS submits that it continues to satisfy all of the Commission's requirements for market-based rate authorization.

If you have any questions on this filing, please contact me at (202) 371-7009.

Sincerely,

Sandro Cellucci
Vice President, Regulatory Affairs
H.Q. Energy Services (U.S.) Inc.
75, boul. René-Lévesque Ouest
17^e étage
Montréal, Qc, H2Z 1A4
(514) 289-7941
sandro.cellucci@hydro.qc.ca

/s/

Jerry L. Pfeffer
Energy Industries Advisor
Skadden, Arps, Slate, Meagher
& Flom, LLP
1440 New York Avenue, N.W.
Washington, DC 20005
(202) 371-7009
jpfeffer@skadden.com

*On Behalf of
H.Q. Energy Services (U.S.) Inc.*

⁸ While HQUS, TransÉnergie and CRT all are wholly-owned subsidiaries of the Province of Québec, HQUS is functionally separate and operates independently from its transmission-owning affiliates. Thus, HQUS is not a party to any of the above-noted Régie proceedings and has no control over the timing of the various Régie dockets addressed in this notice.

ANNEXE 4

ATTACHMENT K DE LA BRITISH COLUMBIA TRANSMISSION CORPORATION

ATTACHMENT K

Transmission Planning Process

1. Description And Purpose Of The Planning Process

This Attachment describes the Transmission Provider's biennial process for planning capital projects for the purpose of expanding the capability of the Transmission System to meet potential requirements and opportunities over a 10-year planning horizon. The Transmission Provider's Planning Process described in this Attachment begins with an Initiation Phase providing for the exchange of information between Stakeholders and the Transmission Provider. Over the course of the Planning Process, Stakeholders may make comments on draft plans, submit requests for Economic Planning Studies and participate in Consultation Meetings and Technical Review Groups. The Planning Process ends with the formation of a Transmission Plan, which is a collection of projects in various stages of development, from an initial study of the project to implementation, that are designed to meet the potential needs and requirements identified in the Planning Process.

After the completion of the Planning Process as described herein, the Transmission Provider in its sole discretion will select the projects in the Transmission Plan for inclusion in its Growth Capital Portfolio.

This Attachment K does not place obligations on the Transmission Provider to construct upgrades or facilities identified in a study or its Transmission Plan. This Attachment K supports, but does not replace the Transmission Provider's construction-related obligations in other portions of the Tariff. Point-to-Point Transmission Service, Network Integration Transmission Service and Interconnection Service requests are governed by and studied in accordance with other portions of the Tariff. Where possible, these study processes will be incorporated into the Planning Process in this Attachment K.

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2. Definitions

Consultation Meeting means a meeting to provide information and to solicit input from Stakeholders on the Transmission Provider's planning of the Transmission System. Consultation Meetings are open to all Stakeholders. The Transmission Provider will announce Consultation Meetings via e-mail to Stakeholders and will post the announcement on the Transmission Provider's public website.

Commission means the British Columbia Utilities Commission

Economic Planning Studies means studies that evaluate potential upgrades or other investments that could reduce congestion or integrate new resources and loads on an aggregated or regional basis. Stakeholders may request Economic Planning Studies in the Initiation Phase of the Planning Process. The Transmission Provider may limit the number of Economic Planning Studies it undertakes in each planning cycle, depending on available resources. Economic Planning Study Requests that are not performed may be carried forward to the next planning cycle for consideration. The conducting of an Economic Planning Study in no way imposes any obligation on the Transmission Provider to fund, assign cost responsibility, or otherwise determine whether any economic project should be implemented.

First Nations Engagement Process means a process to consider the specific interests and needs of affected First Nations.

Initiation Phase means the stage of the Planning Process described in Section 3.

Planning Manual means the document produced and updated from time to time by the Transmission Provider that describes the basic methodology, criteria and assumptions used by the Transmission Provider in the Planning Process.

Planning Process means the process of planning Projects described in this Attachment for the purpose of expanding the capability of the Transmission System in order to meet

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potential requirements and opportunities. The Planning Process includes the Initiation Phase, Study Plan Development Phase, Study Phase, and Transmission Plan Development Phase.

Point of Contact means the contact at the Transmission Provider designated by the Transmission Provider to whom all information and inquiries related to the Planning Process should be directed. Point of Contact information shall be posted on the Transmission Provider's public website.

Project means a capital project to expand the capability of the Transmission System to meet potential requirements and opportunities.

Stakeholder means any person affected by the Planning Process, such as a transmission customer, interconnection customer, or neighbouring transmission provider as the case may be.

Study Phase means the phase of the Transmission Provider's Planning Process described in Section 5.

Study Plan Development Phase means the stage of the Planning Process described in Section 4.

Technical Review Group means a group of Stakeholders formed to provide the Transmission Provider with input on the assessment of planning alternatives that meet in accordance with the Terms of Reference for Technical Review Groups found in Appendix 1 to this Attachment.

Transmission Plan means a collection of Projects that meets the needs identified in the study plan developed pursuant to Section 4.

Transmission Plan Development Phase means the phase of the Transmission Provider's Planning Process described in Section 6.

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WECC means the Western Electricity Coordinating Council.

3. Initiation Phase

3.1 Initiation of the Planning Process

The Transmission Provider will announce the initiation of the Planning Process via electronic mail to Stakeholders and on its public website. The announcement will include a description of the planning process, including milestones and an anticipated schedule, instructions on how to access the Transmission Provider's planning information and instructions for providing planning information and requests for Economic Planning Studies to the Transmission Provider. The announcement will also indicate the number of Economic Planning Studies that may be performed within the Planning Process.

3.2 Stakeholder Mailing List

The Transmission Provider will maintain a Stakeholder mailing list including customers, neighbouring transmission providers, the Commission and affected parties that have expressed interest in the Transmission Provider's consultation activities. Stakeholders may request to be added to the list through the Transmission Provider's Point of Contact.

3.3 Submission of Customer Planning Information

The Transmission Provider will establish a business practice in consultation with customers regarding the format and procedure for the submission of planning information to the Transmission Provider. The business practice will address how and when the following will occur:

- (a) Stakeholders may submit written requests for Economic Planning Studies.
- (b) Network Customers shall provide updates to their 10-year forecasts on Network Loads and Network Resources, Contingency Resource Plans and the other information contemplated by Section 31.6 and Attachment P of the Tariff.

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- (c) Transmission Customers receiving Long-Term Firm Point-to-Point Transmission service shall provide a 10-year projection of the need for and usage of Long-Term Firm Point-to-Point Transmission service on the Transmission System including receipt and delivery points.
- (d) Interconnection Customers shall provide a 10-year forecast with respect to any planned additions or upgrades, including their status and expected in-service date, planned retirements and environmental restrictions.
- (e) Any Stakeholder may also provide
 - i. information related to non-wires solutions to offset or defer transmission investments, including targeted demand-side management and energy procurement;
 - ii. any information on potential requirements or opportunities that the Stakeholder believes should be considered in the Planning Process.

3.4 Use of Customer Planning Information

Subject to confidentiality and security restrictions, any information may be used by the Transmission Provider without restriction in its planning activities under this Attachment K and in the Transmission Provider's other planning activities or studies, such as studies in response to requests for transmission service or interconnection. However, if the Transmission Provider reasonably determines that any information provided under this Attachment K is inappropriate or unreasonable for a particular purpose, the Transmission Provider may not use it for such purpose.

The good faith projections of anticipated point-to-point uses of the transmission system or forecasted generation additions or upgrades provided by customers are additional data for consideration by the Transmission Provider in its planning activities. The Transmission Provider may consider such projections, for example, to support likely


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scenarios for new investments. The projections, however, will not be treated as a substitute for actual point-to-point reservations or interconnection requests.

3.5 Confidentiality

If a Stakeholder wishes to submit confidential information, the Stakeholder may provide the information in accordance with section 9, provided that the Transmission Provider may use the information for planning purposes and present the information to the public on an aggregated basis or by any other method which the Transmission Provider reasonably believes will not compromise the confidentiality requirements of the Stakeholder.

3.6 Availability of Planning Information

Subject to the need to protect confidential information or security sensitive information, the Transmission Provider will post on an ongoing basis the following on its Planning Web Page:

- (a) the Transmission Provider's Planning Manual;
- (b) the data used by the Transmission Provider in its planning and study work, including base case data,
- (c) potential requirements and opportunities;
- (c) the Transmission Provider's latest Capital Plan, including current reports regarding the state of the Transmission System;
- (d) the status of Network Upgrades for Projects in progress;
- (e) Transmission Service and Interconnection Service requests pursuant to the Tariff and any studies and agreements related to such requests;

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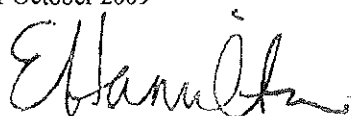
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- (f) information on regional planning activities, as described in Section 11;
- (g) information received from customers throughout the course of the Planning Process; and,
- (h) planning information developed in the course of the Planning Process, including draft and final study and transmission plans, minutes of meetings and customer comments.

Subject to the need to protect confidential information or security sensitive information, the Transmission Provider will also post the following information as it becomes available:

- (a) information regarding existing transmission constraints;
- (b) generation redispatch options that can relieve transmission constraints in the Transmission Provider's Balancing Authority Area; and,
- (c) other information the Transmission Provider considers relevant to the Planning Process, including information received from policy advisory groups, regional stakeholder meetings, regional planning groups, the First Nation's Engagement Process, and local and regional studies.

Planning information that is confidential or security sensitive will be described on the Transmission Provider's public website and made available to participating Stakeholders in accordance with Section 9.

4 Study Plan Development Phase

4.1 Draft Study Plan

Based on the planning information submitted to the Transmission Provider or made available by the Transmission Provider in accordance with Section 3, the Transmission

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Provider will prepare and post on the Planning Web Page a draft study plan. The Draft Study Plan will include:

- (a) potential requirements and opportunities;
- (b) study data and planning assumptions;
- (c) a list of approved projects in progress and their status;
- (d) a list of proposed studies for meeting the potential requirements and opportunities, including list of studies required for meeting interconnection and transmission service requests, including a description of the scope and deliverables for each study;
- (e) a review of the possible opportunities for combining the studies described in 4.1(d);
- (f) a review of potential non-wires solutions to the potential requirements and opportunities; and,
- (g) if there are more Economic Planning Study requests than the Transmission Provider is able to undertake, suggested criteria for selecting Economic Planning Studies to be performed, such as whether the requested Economic Planning Studies: (a) address significant and recurring congestion; (b) integrate new generation resources or load or both on an aggregated or regional basis; or (c) reduce the overall cost of transmission.

4.2 Consultation Meeting

The Transmission Provider will schedule a Consultation Meeting after the posting of the draft study plan. In the Consultation Meeting, the Transmission Provider will

- (a) provide a high level review of the Transmission Provider's study methodology, data and planning assumptions,

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- (b) review the proposed list of studies;
- (c) discuss and determine which, if any, requested Economic Planning Studies can be combined;
- (d) if necessary, determine with Stakeholders which Economic Planning Studies will be undertaken, including determining selection criteria, the weight to be given to the criteria and the ranking of studies according to the criteria;
- (e) review the Transmission Provider's coordination with WECC and any bilateral or multilateral initiatives in which the Transmission Provider is participating with neighbouring transmission providers, utilities or sub-regional planning groups, including any opportunities for Stakeholders to be involved in such activities;
- (f) establish Technical Review Groups for specific projects based on stakeholder interest and schedule initial meetings to review the Terms of Reference (see Appendix A) and to develop a meeting schedule; and,
- (g) establish a comment period for Stakeholders to provide written comments.

4.3 Posting of Minutes and Materials

As soon as practicable, the Transmission Provider will post on its public website minutes of the Consultation Meeting along with any materials distributed at the Consultation Meeting, subject to the need to protect confidential or security-sensitive information.

4.4 Written Comments

Stakeholders may provide written comments on the draft study plan to the Point of Contact within the comment period. Stakeholder comments on the draft study plan will be posted on the Planning Web Page.

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4.5 Final Study Plan

Taking into account the written comments of Stakeholders, the Transmission Provider will develop and post on the its public website a final study plan. The final study plan will include:

- (a) a written description of potential requirements and opportunities;
- (b) study data and planning assumptions;
- (c) a list of studies designed to meet the potential requirements and opportunities, including a description of the scope and deliverables for each study;
- (d) a list of the Economic Planning Studies selected to be performed by the Transmission Provider;
- (d) a schedule for the completion of each identified task;
- (e) a schedule of Technical Review Group meetings;
- (f) a list of studies that involve multiple Balancing Authority Areas; and,
- (g) for studies that involve multiple Balancing Authority Areas, a description of the Transmission Provider's coordination with the relevant regional planning groups and periodic progress updates to affected Transmission Customers.

4.6 Amendments to the Study Plan

During the Study Plan Development Phase or Study Phase, the Transmission Provider may propose amendments to the study plan by notifying Stakeholders and posting on the Transmission Provider's public website a notice of the proposed amendment along with an explanation of the reason for the amendment and specify a period for Stakeholders' comments. Stakeholders may provide written comments on the draft study plan to the

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Point of Contact. The Transmission Provider will take into account written comments before formally amending the study plan. The amended study plan will be posted on the Transmission Provider's public website along with the written comments.

5. Study Phase

5.1 Performance of Studies

- (a) Following the posting of the final study plan, the Transmission Provider will perform the studies identified in the study plan in order to develop a preliminary set of Projects that will meet the potential requirements or opportunities identified.
- (b) Following the posting of the final study plan, the Transmission Provider conduct the selected Economic Planning Studies, except for those of regional scope.
- (c) In accordance with WECC's Transmission Planning Protocol, the Transmission Provider will submit Economic Planning Studies to WECC during its study request window. Economic Planning Studies of regional scope will be prioritized and completed as part of a Western Interconnection synchronized study cycle in accordance with the Transmission Planning Protocol, which is open to interested parties. Economic Planning Studies of regional scope which are not given high priority in the process will be deferred, although the requesting party may request that the study be completed at its own cost. The Transmission Provider will conduct and participate in regional studies in accordance with the Transmission Expansion Protocol. Information on the Transmission Planning Protocol will be provided to Stakeholders in accordance with Section 11.
- (d) The Transmission Provider may request proponents of selected Economic Planning Studies and other Stakeholders to supply information within their possession or control necessary for the Transmission Provider to the conduct the selected Economic Planning Studies. Such information may include cost information for

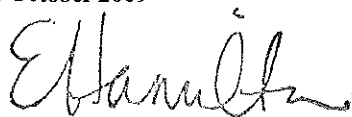
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transmission and generation facilities. The information provided will be considered not to be confidential unless it is claimed as such. Confidential information may be provided under protection of a confidentiality agreement in accordance with Section 9 of this Attachment. The Transmission Provider will have no obligation to proceed with an Economic Planning Study if the Transmission Provider does not receive the information reasonably necessary to conduct the Economic Planning Study.

- (e) In conducting studies, the Transmission Provider will consider customer demand and generation based non-wires solutions on a comparable basis to transmission alternatives. The Transmission Provider will develop planning criteria, which will be included in the Transmission Provider's Planning Manual, describing how transmission and non-wires solutions will be considered on a comparable basis in the study process.

5.2 Technical Review Groups

The Transmission Provider will engage the Technical Review Groups formed in the Study Plan Development Phase in accordance with their Terms of Reference and schedule.

5.3 Preliminary Set of Projects

After the completion of the studies pursuant to Subsection 5.1, the Transmission Provider will post the following on its public website:

- (a) study results; and,
- (b) a preliminary set of Projects.

5.4 Consultation Meeting

The Transmission Provider will schedule a Consultation Meeting after the preliminary set of Projects is posted. At the Consultation Meeting the Transmission Provider will:

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- (a) review the preliminary set of Projects for inclusion in the Transmission Plan;
- (b) review the results of studies that support the development of the preliminary set of Projects;
- (c) review the results of Economic Planning Studies; and,
- (d) establish a comment period for Stakeholders to provide written comments.

5.5 Posting of Minutes and Materials

As soon as practicable, the Transmission Provider will post on the its public website minutes of the Consultation Meeting along with any materials distributed at the Consultation Meeting, subject to the need to protect confidentiality or security sensitive information.

5.6 Written Comments

Stakeholders may submit written comments within the comment period to the Point of Contact. The Transmission Provider will post on the its public website comments received from Stakeholders.

6. Transmission Plan Development Phase

6.1 Draft Transmission Plan

Taking into account the written comments of Stakeholders, the Transmission Provider will develop and post on the its public website, a draft Transmission Plan. The draft Transmission Plan which describes the Transmission Provider's growth capital portfolio with a 10 year planning horizon will include the following:

- (a) Projects that meet the need identified in the study plan;
- (b) Projects that are in progress;

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- (c) Projects that meet the requirements of transmission and interconnection service requests;
- (d) Projects that have been developed sufficiently for the Transmission Provider to seek approval from its Board of Directors; and,
- (e) Projects for which no approval will be sought in the current planning cycle.

The Transmission Provider will also specify a comment period.

6.2 Written Comments

Stakeholders may submit written comments on the draft Transmission Plan to the Point of Contact within the comment period. The Transmission Provider will post comments received from Stakeholders on the Transmission Provider's public website.

6.3 Final Transmission Plan

Taking the comments from Stakeholders into consideration as necessary, the Transmission Provider will develop a final Transmission Plan.

7. Inquiries

At any time, Stakeholders may direct inquiries related to the Planning Process to the Point of Contact, who will be identified on the Transmission Provider's public website.

8. Dispute Resolution Process

Stakeholders are encouraged to bring to the attention of the Point of Contact any issues that they may have arising out of the Planning Process. Stakeholders may also file a complaint with the Commission with respect to any such issue.

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9. Confidentiality

In the event that a Stakeholder or the Transmission Provider claims that planning-related information is confidential, any party seeking access to such information must agree to adhere to the terms of a confidentiality agreement. The form of confidentiality agreement will be initially developed by the Transmission Provider and will be posted on its Planning Website. Stakeholders will have an opportunity to submit comments on the form of confidentiality agreement. Confidential information shall be disclosed only to those participants in the planning process that require such information and that execute the confidentiality agreement. The Transmission Provider will develop procedures for the submission and requesting of confidential information and make such procedures available for comment on its public website.

10. Standards of Conduct

The Transmission Provider's conduct under this Attachment is subject to the Transmission Provider's Standards of Conduct.

11. Regional Planning

The Transmission Provider will coordinate with interconnected systems through its participation in WECC and through direct engagement of neighbouring systems. As a system in the corner of the WECC interconnected system, the Transmission Provider has not found it necessary to join any subregional planning groups, although the Transmission Provider will coordinate with such subregional planning groups through WECC and as otherwise may be necessary.

11.1 WECC

As a member of WECC, the Transmission Provider will follow and participate in WECC's policies and procedures for Regional Planning Project Review, Project Rating Review, and Progress Reports. The Transmission Provider will also participate in the

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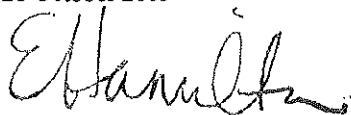
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Transmission Planning Protocol of WECC's Transmission Expansion Planning Policy Committee. The Transmission Provider will post current links to WECC's procedures and guidelines on its public website as well as information detailing the Transmission Provider's participation in WECC's regional planning processes.

11.2 Other Regional Planning Activities

In addition to its participation in WECC processes, the Transmission Provider may engage neighbouring systems or sub-regional planning groups for the purpose of regional transmission planning and investment. As part of these regional planning activities, the Transmission Provider will seek opportunities to improve the overall efficiency and economic savings from increased inter-regional cooperation and integration. Once opportunities are identified, the Transmission Provider will seek to facilitate the required studies and implementation through working groups consisting of representatives from the Transmission Provider and other participating entities. The Transmission Provider will post on its public website information on such activities including notice of meetings, relevant materials and information on how interested parties may participate.

11.3 Customer Participation

The Transmission Provider will provide on its public website information on how Stakeholders may participate in any of the Transmission Provider's regional planning activities, which may involve attending meetings, conference calls or submitting comments on particular projects. Stakeholders who are interested in any regional planning activities are encouraged to contact the Transmission Provider's Point of Contact so that the Transmission Provider may facilitate such participation. As described in Section 4, the Transmission Provider will also include a description of its regional planning activities in the Draft Study Plan, which customers may comment on and discuss with the Transmission Provider at the Consultation Meeting held for that purpose.

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12. Cost Allocation

12.1 The Transmission Provider will recover the costs of projects required for meeting service requests and system improvements in accordance with the provisions in the Transmission Provider's Tariff.

12.2 The Transmission Provider is not obliged to expand the system based on the results of Economic Planning Studies. Where the Transmission Provider decides to construct facilities based on the results of one or more Economic Planning Studies, it will do so in accordance with a transmission expansion or congestion policy developed by the Transmission Provider, subject to Commission approval. In these cases, the Transmission Provider will apply the cost allocation principles of the applicable transmission expansion or congestion policy under which the project is developed, subject to Commission approval.

13. No Participant Funding

Stakeholders may participate in the Planning Process at their own cost.

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Appendix 1 to Attachment K

Terms of Reference for Technical Review Groups

Technical Review Groups formed in accordance with Attachment K are to be conducted in accordance with these Terms of Reference.

1. Definitions

- (a) "Interested Person" means any transmission or interconnection customer or any other person directly impacted by the subject matter of a particular TRG and wishes to participate in the particular TRG;
- (b) "Tariff" means the Transmission Provider's Open Access Transmission Tariff as may be amended from time to time by the British Columbia Utilities Commission; and
- (c) "TRG" means a Technical Review Group formed pursuant to Attachment K of the Tariff.

2. Purpose

The TRG will provide an open, transparent forum whereby Interested Persons can review and provide feedback to the Transmission Provider in respect of planning alternatives for a transmission system requirement or opportunity identified by the Transmission Provider, which, in turn, provides a forum for the Transmission Provider to better understand the specific concerns of Interested Persons regarding planning alternatives to meet an identified transmission system requirement or opportunity.

3. Establishment

A TRG shall be established by the Transmission Provider in accordance with Attachment K of the Tariff. The TRG shall consist of at least one representative from the

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Transmission Provider, who shall be the facilitator, and representatives of at least two different Interested Persons.

Participation in a TRG is entirely voluntary and done so at each Interested Person's own cost and expense.

4. Role of TRG

The TRG may, with the benefit of results of any study determined to be relevant by the Transmission Provider, comment and provide feedback on planning alternatives to meet a transmission system requirement or opportunity identified by the Transmission Provider.

The TRG shall be advisory only and shall have no formal voting protocol.

5. Meetings

5.1 General

All meetings of a TRG will be open to all Interested Persons, subject to their agreement to comply with procedures to protect confidential or proprietary information as may be required by the Transmission Provider.

Meetings will be conducted to (i) provide an opportunity for the Transmission Provider to increase its understanding of Interested Persons' perspectives with respect to planning alternatives; (ii) offer Interested Persons an opportunity to be informed about transmission system requirements or opportunities identified by the Transmission Provider; (iii) review results of studies determined to be relevant by the Transmission Provider; and (iv) provide feedback with respect to planning alternatives.

5.2 Format

In accordance with the terms of Attachment K, the Transmission Provider will post on the Planning Web Page the description of that identified requirement or opportunity and a

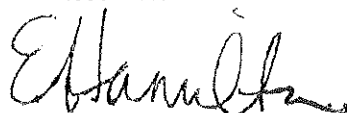
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brief review of the planning alternatives. An initial TRG meeting will be scheduled to, among other things, establish need for confidentiality, discuss views generally in relation to the planning alternatives and to submit written submissions, if desired. The Transmission Provider will then take away the input received from the Interested Persons and prepare a draft planning alternative informed by such input. The draft planning alternative will then be posted on The Planning Web Page for further review and comment by the Interested Persons within a specified period of time.

Although the TRG process is described sequentially, the actual activities may be performed on a flexible, iterative and non-sequential basis, depending on the needs and wishes of the Transmission Provider informed by input from the particular TRG.

5.3 Administrative Matters

Meeting notices, including date, time, location and meeting agenda will be posted on the Transmission Provider's Planning Web Page. The agendas will identify the subject matter of the particular meeting, be posted on the Planning Web Page and be circulated to its distribution list in advance of the meetings to assist Interested Persons to choose their meeting attendance efficiently. A subscription page will be set up that allows Interested Persons to sign-up for email distribution.

The meetings will be informal and will be facilitated by a representative from the Transmission Provider, who will be responsible for guiding discussion, identifying issues to be covered, establishing governing rules as necessary and collecting appropriate information to inform the draft planning alternative.

Interested Persons are encouraged to provide, in a timely manner, input, comments, advice and questions into the process electronically by sending an email to the Transmission Provider's designated point of contact.

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Where no confidentiality concerns have been raised and determined by the Transmission Provider to require any further action, the Transmission Provider will post all meeting-related notes, documents and draft or final planning alternatives on the Planning Web Page.

6. Draft Planning Alternative

While the Transmission Provider will be informed in its transmission planning by comments, input, feedback or recommendations from the TRG, any such comments, input, feedback or recommendations shall not be binding upon the Transmission Provider in any manner. In the event that a TRG is unable to reach a consensus on the attributes of a draft planning alternative, it shall be of no consequence to the Transmission Provider in its final determination of a planning alternative.

7. Standards of Conduct

Every TRG and all of its respective processes and procedures are subject to the Transmission Provider's Standards of Conduct.

8. Confidentiality

The Transmission Provider may, as a condition to participation, require Interested Persons to sign a non-disclosure agreement with respect to information gathered, exchanged or disclosed during the TRG process. Notwithstanding the foregoing, all of the information, input, comments and feedback provided in connection with a TRG will be deemed to be public and not confidential in nature unless otherwise expressly indicated to the Transmission Provider prior to disclosure to the Transmission Provider or TRG.

9. Ownership

Any and all documents, reports, analysis and other works prepared by a TRG shall be and remain the property of the Transmission Provider.

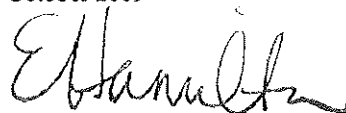
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ANNEXE 5

**COMMENTAIRES DU NLH DÉPOSÉS À LA FERC
le 18 septembre 2009**

satisfaction of the Commission’s requirements for market-based rate authority related to the mitigation of any vertical market power that might result from HQUS’ affiliation with HQT. As the Informational Filing acknowledges—and as the Commission has recognized²—HQT’s administration of its present OATT is the subject of several complaints filed by NLH which are separately pending before the Régie. As NLH has noted in previous filings with this Commission,³ NLH is concerned that HQT’s actions in administering its OATT reflect a proactive effort to inhibit NLH’s access to the grid. In bringing its complaints before the Régie, NLH is seeking to ensure that it has open and non-discriminatory access to electricity markets in northeastern North America, including New York and New England.

A. Clarification of the Record Regarding HQT’s Role in Requesting the Régie’s Extension of the OATT Amendment Hearing.

The HQUS Informational Filing does not provide a complete account of the OATT amendment hearing pending before the Régie. Specifically, the Informational Filing states that the Régie issued an order on July 22, 2009 to “extend[] the timeline for the Régie’s consideration of whether to adopt the Order[] Nos. 890 and 890-A related OATT amendments until it completes its pending consideration of the above-noted complaint proceedings regarding [HQT’s] administration of the [OATT].”⁴ HQUS further states that the “Régie’s decision was based on a determination that it would be preferable to resolve the complaint proceedings related to the administration of the

² See *id.* at P 9.

³ See Supplemental Information of Newfoundland Labrador Hydro at 4, Docket No. ER97-851-017 (filed Nov. 5, 2008).

⁴ Informational Filing of H.Q. Energy Services (U.S.) Inc. at 3, Docket No. ER97-851-000 (filed Aug. 19, 2009).

existing [HQT] tariff before deciding whether additional amendments governing future service under the OATT would be warranted.”⁵

As communicated, HQUS’ report is incomplete in that the Régie’s July 22, 2009 order postponing its consideration of HQT’s pending OATT amendments was not issued on the Régie’s own initiative. Rather, this extension was the result of an unexpected and last-minute HQT request to postpone the Régie’s public hearing on the OATT amendments to an unspecified date following the Régie’s hearing on NLH’s complaints. The Régie’s consideration of the OATT amendments was intended to commence on July 6, 2009. However, in a June 30, 2009 letter, HQT requested that the Régie “postpone the public hearings . . . to a date subsequent to the hearing of the complaints of NLH scheduled to be heard between October 27 to November 13, 2009.”⁶ HQT claimed this delay was necessary because consideration of certain portions of NLH’s testimony in the OATT proceeding would otherwise prejudice the Régie’s consideration of the NLH complaints—which address concerns with HQT’s administration of its existing OATT. NLH opposed this delay on grounds that HQT failed to demonstrate how part of NLH’s expert testimony, as filed in the OATT amendment hearing, could bias any future decision. Furthermore, as documented in the Régie decision D-2009-097 dated July 22, 2009, other interveners also objected to the HQT’s request for the delay.⁷

⁵ *Id.*

⁶ Letter from F. Jean Morel, TransÉnergie, to Véronique Dubois, Régie de l’énergie, at 2 (June 30, 2009). An English translation of this letter by NLH’s Canadian legal counsel is attached as Exhibit A. The French version, as filed by HQT, is attached as Exhibit B.

⁷ See Régie Decision D-2009-097 at P 9 (July 22, 2009) (“BEMI, NLH, RNCREQ and UC, as well as S.É./AQLPA, object to the Transmission Provider’s request.”) (hereinafter, “July 22 Order”). An English translation of the Régie’s order by NLH’s Canadian legal counsel is attached as Exhibit C. The French version, as issued by the Régie, is attached as Exhibit D.

On July 3, 2009, the Régie suspended the OATT amendment hearing to consider HQT's filing and then issued the July 22, 2009 order granting the requested extension.

However, the Régie did not do so without concern, stating that:

. . . the Régie finds it hard to understand why [HQT's request] was only presented at the very end of the process preceding the hearing, when these contextual elements filed in support thereof were known at least since June 10, 2009. Such a situation has caused considerable inconveniences to the various people involved in this hearing.”⁸

HQT's untimely extension request not only immediately inconvenienced those parties that had expended tremendous resources to be prepared for commencement of the OATT amendment hearings on July 6, but also significantly delayed any action to update the HQT OATT and bring it on par with the Order 890 compliant tariffs and transmission regimes now operating in the New York and New England markets. It is NLH's continued belief that HQT's extension request was unnecessary and untimely. Moreover, HQT's conduct reinforces NLH's continuing concern that the HQT OATT process must work more efficiently and in a timely and non-discriminatory manner.

B. Update Regarding the Timing of Régie Actions on the NLH Complaints and HQT OATT Amendments.

The Commission also should be aware that, subsequent to HQUS' submission of the Informational Filing, on August 25, the Régie further postponed the hearings on NLH's complaints from October-November 2009 until January 2010.⁹ The reason for

⁸ See July 22 Order at P 35.

⁹ See Letter from Véronique Dubois, Régie de l'énergie, to Éric Dunberry, Ogilvy Renault, and André Turmel, Fasken Martineau DuMoulin (issued Aug. 25, 2009). An English translation of the Régie's August 25 letter by NLH's Canadian legal counsel is attached hereto as Exhibit E. The French version, as issued by the Régie, is attached as Exhibit F.

this new delay is that one of the commissioners chosen to hear the complaints would be unable to participate for medical reasons.¹⁰

The new delay in the NLH complaint proceeding will have a commensurate delay in the Régie's public hearing on HQT's proposed OATT amendments. Thus, based on the current schedule, HQT's existing OATT will remain in place without any Order No. 890 updates well into 2010.

II. CONCLUSION

WHEREFORE, for the reasons stated above, NLH respectfully requests that the Commission consider NLH's Comments for inclusion in the administrative record of this proceeding.

Respectfully submitted,

/s/ Joseph B. Nelson
Joseph B. Nelson
Julia S. Wood
Van Ness Feldman, P.C.
1050 Thomas Jefferson St., N.W.
Suite 700
Washington, D.C. 20007
(202) 298-1800
(202) 338-2416 (fax)

Attorneys for Newfoundland and Labrador
Hydro

September 18, 2009

¹⁰ *Id.*