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August 29, 2014

Independent Statutory Review Committee
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Office of the Information and Privacy
Commissioner
34 Pippy Place
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St. John's, NL
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Attention: Members of the Independent Statutory Review Committee and the
Information and Privacy Commissioner

Dear Mr. Wells, Mr. Letto, Ms. Stoddart and Mr. Ring,

Re: Statutory review of the Access to Information and Protection of Privacy Act (ATIPPA)

Thank you for providing Nalcor Energy (Nalcor) with the opportunity to make a submission and presentation to the Statutory Review Panel. It was an important opportunity to share Nalcor's experiences and provide perspective from a respondent under the ATIPPA.

It was with great interest that Nalcor watched the Office of the Information and Privacy Commissioner's summary presentation to the Statutory Review Committee on August 21, 2014, in particular, the discussion of the definition of commercially sensitive information found in the *Energy Corporation Act* and how that definition can be applied by Nalcor. Nalcor would like to provide clarification surrounding this definition and how it interacts with section 5.4 of the *Energy Corporation Act*.

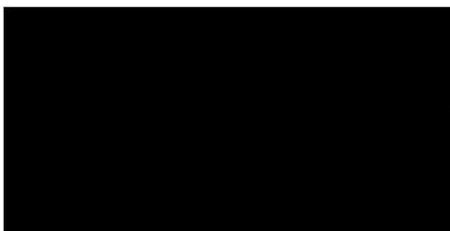
While the definition of "commercially sensitive" information may appear broad, it is significantly narrowed as it cannot be applied to any record or document unless it meets the required conditions of section 5.4 of the *Energy Corporation Act*. There appeared to be no acknowledgement of these conditions during the discussion of the *Energy Corporation Act*. While a record or document may meet the definition of commercially sensitive information, that record can only be withheld under certain conditions as set forth in section 5.4(1). Section 5.4(1) of the *Energy Corporation Act* provides that: 1) commercially sensitive information can be withheld if its disclosure would cause harm to the competitive or negotiating position of Nalcor or if similar information is not

provided to Nalcor's competitors; and 2) that a third party's commercially sensitive information must be withheld if the disclosure of that information would cause harm to the third party's competitive or negotiating position, is treated as confidential by that third party or similar information is not provided to the third party's competitors. The inclusion of these conditions in the *Energy Corporation Act* means that Nalcor can only withhold information if these conditions are met.

Nalcor routinely makes available information that by definition would be commercially sensitive, but because its release would not cause harm to Nalcor or a third party, it does not meet the conditions set forth in section 5.4(1). Information disclosed through Nalcor's existing processes includes, but is not limited to, production data, safety statistics, capital costs, contract values, executive salaries, operational costs, royalties, taxes, work plans, and general administrative data.

Nalcor hopes this clarifies any misconceptions that exist surrounding the *Energy Corporation Act* and would be happy to answer any further questions that might arise. Nalcor believes that progressive freedom of information legislation, such as the ATIPPA, is essential to support the rights of citizens to access government and public body information. It also helps define limitations or exceptions to these rights to achieve balance of the public interest. Nalcor believes the sharing of information is an important part of openly engaging the public, creating a broader understanding of the company's core businesses and operations. This belief supports Nalcor's continued commitment to transparency and accountability.

Sincerely,



Section 30

Jim Keating,
Vice President