Office of the Information and Privacy Commissioner
PO Box 13004, Station A
St. John's, NL A1B 3V8

Re: Access Complaints – 0010-086-26-064 and 0010-086-26-065 under ATIPPA, 2015 – Churchill Falls (Labrador) Corporation Limited Historical Operational and Sales Data

Dear Commissioner:

I respectfully submit these access complaints concerning the refusal by Newfoundland and Labrador Hydro ("NLH") to disclose historical operational and sales information concerning Churchill Falls (Labrador) Corporation Limited ("CF(L)Co").

The requests seek aggregate historical information concerning monthly electricity generation, electricity sales volumes, and related operational information associated with CF(L)Co operations for specified historical periods between January 2015 and February 2026.

The requested information is intended to support independent academic, economic, and public-interest analysis concerning the Churchill Falls resource, the proposed Churchill Falls Memorandum of Understanding ("MOU"), and related long-term public policy considerations affecting Newfoundland and Labrador and Labrador specifically.

Purpose of the Requests

The requests were made in the context of ongoing public discussion regarding the proposed Churchill Falls MOU and the future management of one of Newfoundland and Labrador's most significant strategic public assets.

The requested information would assist in:

• understanding historical operational and electricity sales patterns associated with Churchill Falls operations;
• evaluating baseline production and revenue assumptions relevant to public discussions concerning the MOU;
• assessing long-term economic and fiscal implications associated with Churchill River development;
• examining issues concerning electricity pricing, resource valuation, and public-resource management;
• evaluating the implications of hydrological variability and long-term operating conditions; and
• supporting informed public understanding concerning matters of substantial long-term economic significance to the province.

The requests concern historical aggregate operational and sales information associated with CF(L)Co. They are not requests for:

• real-time trading information;
• active negotiating mandates;
• proprietary bidding strategies;
• commercially confidential customer-specific contracts;
• internal pricing instructions;
• or future transaction-specific commercial strategies.

Grounds for Complaint

I respectfully submit that the refusal should be reconsidered because:

1. Comparable electricity sales and operational information is already publicly disclosed by NLH and other public agencies;
2. Significant portions of the requested information are already publicly inferable from existing statistical and regulatory sources;
3. The public body has not demonstrated a specific, concrete, and probable commercial harm arising from disclosure;
4. The information concerns a strategic public asset of exceptional public importance; and
5. The public interest in transparency and informed public discussion substantially outweighs the rationale for withholding the requested records.

Each of the above five points is dealt with in detail in the following sections.

1. Comparable electricity sales and operational information is already publicly disclosed by NLH and other public agencies

NLH already publicly discloses annual sales-volume and sales-value information associated with CF(L)Co operations through its financial reporting processes.

In addition, the Canada Energy Regulator publicly releases monthly electricity export data for Nalcor Energy Marketing Corporation, including:

• monthly export volumes;
• monthly export values; and
• destination-market information by U.S. state.

Statistics Canada also publishes electricity supply, disposition, and interprovincial trade information through public statistical tables, including tables that appear to contain monthly interprovincial electricity flow information relevant to CF(L)Co exports to Quebec.

Accordingly, disclosure of electricity sales and operational information in this sector is neither unprecedented nor categorically prohibited.

The issue is therefore not whether this type of information may ever be disclosed publicly. Comparable information is already publicly disclosed through Crown entities, federal regulatory agencies, and Canadian statistical reporting systems.

2. Significant Portions of the Requested Information Are Already Inferable From Public Sources

Substantial components of the economic and operational picture surrounding CF(L)Co are already publicly available or reasonably inferable from existing sources, including:

• Statistics Canada electricity tables;
• Canada Energy Regulator export data;
• NLH annual disclosures;
• hydrological and generation information;
• transmission-system information; and
• publicly known industrial electricity arrangements.

As a result, sophisticated analysts can already estimate substantial aspects of:

• export volumes;
• seasonal electricity flow patterns;
• and implied pricing relationships.

The requested records would therefore provide greater precision and transparency, but not fundamentally new market intelligence unavailable from existing public disclosures and statistical reporting systems.

3. Lack of Demonstrated Specific Commercial Harm

NLH's refusal letter cites sections 34(1)(a)(i), 35(1)(d), and 35(1)(g) of ATIPPA, 2015.

I acknowledge that Crown energy corporations may legitimately possess commercially sensitive information in certain circumstances and that some operational or negotiating information may reasonably warrant protection.

However, in my respectful submission, the refusal letter provides limited explanation connecting the specific records requested to the harms contemplated under the cited exemptions.

Section 34(1)(a)(i)

The information requested consists primarily of historical aggregate operational and sales information associated with CF(L)Co operations.

The refusal decision does not clearly explain how disclosure of historical aggregate information could reasonably be expected to harm the economic interests or competitive position of NLH in the manner contemplated under section 34(1)(a)(i), particularly where comparable information is already publicly disclosed in Canadian energy and regulatory contexts.

Section 35(1)(d)

The refusal decision also references potential injury to negotiations or contractual arrangements.

However, the requests concern historical aggregate operational and sales information rather than:

• active negotiating mandates;
• proprietary commercial strategies;
• transaction-specific pricing instructions;
• or future commercial bidding positions.

While such information may contribute to broader analytical understanding of Churchill Falls operations, the refusal decision does not clearly explain how disclosure of historical aggregate information would materially interfere with ongoing or future negotiations.

Section 35(1)(g)

The refusal decision further references potential financial or economic harm arising from disclosure.

However, where:

• annual sales-volume and sales-value information are already publicly disclosed by NLH;
• monthly export data are publicly disclosed by the Canada Energy Regulator;
• and substantial operational information is already inferable from public sources,

the public body should be required to demonstrate a specific, concrete, and non-speculative incremental harm arising from disclosure of the requested records.

General assertions of commercial sensitivity should not be sufficient where similar information is already publicly disclosed through other public reporting systems.

4. Exceptional Public Importance of the Churchill River System

CF(L)Co is not an ordinary private commercial entity.

The Churchill River system constitutes one of Newfoundland and Labrador's most important strategic public assets. The economic performance and operational characteristics of CF(L)Co directly affect:

• provincial public finances;
• Labrador economic development;
• long-term electricity policy;

• interprovincial electricity arrangements;
• and future Churchill River negotiations.

The proposed MOU contemplates arrangements extending decades into the future and has been presented as a matter requiring substantial public discussion and informed public evaluation.

The recent work of the Churchill River Independent Review Committee further illustrates the importance of informed public evaluation concerning Churchill River operations, economics, governance, and long-term development.

Meaningful public discussion is difficult when core historical, operational, and economic information remains unavailable.

5. Public Interest Considerations

Even if some degree of commercial sensitivity exists, the public-interest considerations associated with disclosure are substantial.

The requested records concern:

• a major publicly significant hydroelectric resource;
• Crown-controlled entities;
• long-term public policy and fiscal implications;
• and matters of major public concern within Newfoundland and Labrador and Labrador specifically.

Disclosure would improve transparency and informed public discussion concerning:

• the economic performance of Churchill Falls;
• export relationships;
• post-2041 planning;
• and the implications of future Churchill River development proposals.

6. Given that Comparable Public Information is Already Available

• existing disclosures already made by NLH;
• the publication of monthly export data by the Canada Energy Regulator;
• the publication of related electricity-flow information by Statistics Canada;
• and the substantial inferability of the requested information from existing public sources,

any incremental commercial harm arising from disclosure appears limited and speculative relative to the substantial public interest in transparency, accountability, and informed democratic discussion.

Requested Remedy

I respectfully request that the Commissioner:

• investigate the refusal decisions;
• require the public body to provide detailed evidence supporting any claimed exemptions;
• consider the existing public disclosures and inferability of the requested information;
• and recommend disclosure of the requested records, whether fully or in an appropriately aggregated or time-lagged form.

Thank you for your consideration of this matter.

Respectfully submitted,

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