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Two stumbles forward, one back: Three wise men opine on Churchill Falls MOU after independent review

By **Robert McCullough**

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Law360 Canada (May 20, 2026, 11:40 AM EDT) -- Fifty-seven years ago, Hydro-Québec signed an advantageous contract with the Churchill Falls (Labrador) Corp. (CF(L)Co) for a large block of power at $2 per megawatt hour for 75 years. In December 2014, the premiers of Quebec and Labrador announced a proposed transaction for the existing dam plus 3,900-megawatt expansion products. Simultaneously, they released the Churchill Falls Memorandum of Understanding (MOU). The document was not really a memorandum of understanding; it was a pastiche of draft contract sections plus schedules that reflected modelled quantities and prices.

The Churchill Falls MOU was not a great deal for Labrador and one clearly struck between unequal parties. The basis of the new deal was equally unfair. Labrador would receive payments based on a secret forecast of a secret indexing formula. The formula's major benefit to Labrador was a hypothetical one-time price jump of 46 per cent in 2036. Hydro-Québec received an extended contract plus options on the new generation.

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In the 18 months that have passed since the MOU announcement, no progress has been made in the negotiations, both premiers have lost their jobs, and world energy markets have been twice turned upside down by the president of the United States. If the secret forecasts of the secret pricing model were doubtful in 2024, they have been folded, shredded and spindled by President Trump's trade war against his largest trading partner and the blockade of Iran.

I keep a Magic 8 Ball on my desk to remind me not to issue 51-year price forecasts. Yesterday I

picked it up, gave it a shake and read its prediction: "Please try again." That was a pretty good answer since this is what the premier of Labrador has apparently set out to do in his press conference this morning.

The independent review committee's report has just been tabled. I'll summarize their points in a moment.

Before doing so, I have a relatively simple recommendation: shouldn't it make sense to find out what power from the Churchill Falls dam is worth before negotiating a tangled contractual ball of yarn? A wise car buyer normally checks out the competition before ending up in the car dealership's stuffy back office with the scary sales manager.

The MOU conflated four different components:

1. A new 51-year contract at a price primarily indexed to Hydro-Québec retail rates and a smaller portion on U.S. export revenues. This breaks into hypothetical pricing for the first 16 years through 2041 and wildly hypothetical pricing for the later 35 years. Overall, the assumed pricing seems arbitrary and capricious — especially the massive one-time jump in prices in 2036.

2. Rehabilitating the elderly turbines at the existing Churchill Falls dam. This has to happen anyway, so it is the equivalent of the undercoating the sales manager always offers at the end of the negotiation for your new car. In fact, the turbine rehabilitations are already several years overdue according to industry best practices.

3. A second powerhouse to be constructed at Churchill Falls. This is also a bit of a mystery. Churchill Falls has a problem with assured capacity in winter months. The actual problems are never spoken of, but in extreme climates, low temperatures can lead to operating problems that can reduce flows to turbines. If so, the new powerhouse operations would be as doubtful as those at the existing powerhouse.

4. And finally, the pièce de résistance, the Gull Island dam at $24.9 billion for 2,250 megawatts. The price — only mentioned in Labrador — is very high. Almost any other renewable option is less expensive and would not require a 1,500-kilometre transmission to Quebec's load centre line costing an additional five to 10 billion dollars.

So, what did the three wise men of the independent review committee say about all of this?

The primary recommendations are:

- Recommendation 1: The government of Newfoundland and Labrador (GNL) should determine, based on a comprehensive analysis of long-run economic development options, the extent to which power generation from the Churchill River should provide financial versus economic value to the province over time.
- Recommendation 2: GNL should sanction and support Newfoundland and Labrador Hydro (NLH) construction of new transmission line capacity between Churchill Falls and Labrador West in order to enable economic growth of the province's energy-intensive industries.
- Recommendation 3: GNL and NLH should remain committed to the objective of building respectful relationships with and consulting Indigenous communities in connection with future developments on the Churchill River and in Labrador.
- Recommendation 4: GNL should rigorously evaluate alternative ownership, operating and right-of-use models for new hydroelectric generation at Gull Island that are consistent with the province being the primary beneficiary of the financial and economic value created.
- Recommendation 5: GNL and NLH should prepare for future negotiations with HQ by preparing a fully articulated negotiation strategy and best-practice governance process.

Recommendations 1 through 4 are basically platitudes. Recommendation 5 may have merit if what they mean is "let's start by doing homework before entering into negotiations."

Additional narrative concerning Recommendation 5 includes:

> Future negotiation strategy should include detailed commercial and policy goals, alternative options and measurable outcome targets. The importance or value of each goal and alternative should be carefully evaluated and quantified in advance, and trade-offs between policy goals should be identified and clarified.

I would recommend a more concrete plan.

The first step should be to issue a request for proposals (RFP) for Churchill Falls energy and capacity in 2041. It should be remembered that 2041 is only five years later than the proposed in-service date for the very expensive Gull Island project.

Why an RFP? Most of the value in Hydro-Québec's offer takes place after 2041 when the existing contract terminates. The key issue is what CF(L)Co has to surrender to get the largely hypothetical higher prices from 2041 through 2075. The independent review committee's report raises the possible use of the dam to support iron ore mining. This is only one alternative customer. Other alternatives include light metals and server farms. A business would start with issuing an RFP for the power in 2041 and discover the economic value available from sale of the power in the remaining 34 years.

A small ad in the *Globe and Mail* or the *New York Times* asking for bids on 6,000 megawatts of existing capacity in Labrador would cause quite a stir.

To put it more colloquially, go visit the other car dealerships before being hotboxed by a scary sales manager. I believe this is what Premier Wakeham was trying to say and may even be what the three wise men of the independent review committee are trying to recommend.

Robert McCullough is principal of McCullough Research in Portland, Ore., and advises governments, utilities and Indigenous groups from California to Quebec on energy issues.

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