



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2026-022

August 18, 2026

NL Hydro

Summary:

The Complainant filed two similar requests for monthly volume and sales information from Churchill Falls (Labrador) Corporation Limited. NL Hydro denied access, relying on sections 35(1)(d) and 35(1)(g) of the **Access to Information and Protection of Privacy Act, 2015**. The Commissioner found that the Public Body did not meet its burden in establishing that section 35 applied and recommended that it disclose the information.

Statutes Cited:

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c A-1.2, sections 34(1)(a)(i), 35(1)(d), 35(1)(g), and 39.

Authorities Relied On: NL OIPC Report [A-2025-032](#).

BACKGROUND

- [1] The Complainant made two requests to NL Hydro under the **Access to Information and Protection of Privacy Act, 2015** (the “Act”) for monthly volume of electricity generated by [Churchill Falls (Labrador) Corporation Limited (CF(L)Co)] from January 2015 to February 2026 and monthly sales of electricity produced by CF(L)Co from January 2015 to February 2026.
- [2] NL Hydro denied access to the monthly volume and sales information, initially relying on sections [34\(1\)\(a\)\(i\)](#), [35\(1\)\(d\)](#), and 35(1)(g) of the Act, and then briefly raising the [section 39 exception](#) during the informal investigation process. It advised the Complainant that the quarterly information is publicly available on its [website](#), and provided the Complainant with additional financial statements that do not appear on the website.
- [3] In its final submissions, NL Hydro relied only on the exceptions to access under section 35(1)(d) and (g) of the Act.
- [4] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of the Act.

PUBLIC BODY’S POSITION

- [5] NL Hydro claims there would be harm in allowing the requested information to become public. It alleges this would result in:
- significant loss to the province or significant gain to a third party;
 - impediment in negotiations or dealings with potential parties, including financiers, customers, and potential counterparties;
 - broad exposure of granular information; and
 - inferences about CF(L)Co's operating strategy, capacity, and flexibility.

[6] The Public Body claims that “[revealing] the timing, seasonality, and variability of available output, together with the volumes and pricing at which that energy is sold” would allow other parties to have an unfair advantage in terms of strategically timing negotiations and offers.

[7] NL Hydro further argues that releasing this information would allow other parties to, “model CF(L)Co's operating strategy, plant capacity, sales patterns, and dispatch flexibility over time”.

[8] As the quarterly information is already publicly available, we asked NL Hydro to explain how releasing the monthly information would be so different. It asserts that:

The quarterly information published on NL Hydro's website is aggregated over a three-month period and is intended to provide a high-level, retrospective view of overall performance. The monthly figures sought by the Complainant are materially more granular and reveal short-term operational patterns, including month-over-month fluctuations in production and delivery, that the quarterly aggregates are specifically designed to mask.

It further says that

The cumulative series is materially more revealing than any single figure, because it exposes trends, responses to hydrological conditions, sales volumes and pricing, and operational choices that could not be inferred from isolated data or from the comparatively limited quarterly information already in the public domain.

COMPLAINANT'S POSITION

[9] The Complainant disagrees that exceptions to access apply to these records:

The requested records consist solely of aggregate historical monthly sales values and do not include real-time market data, dispatch information, bid information, pricing formulas, trading strategies, customer-specific contractual terms, or operationally sensitive system information

They further point out that similar information is already publicly available from NL Hydro and other agencies, and that one may be able to infer certain pieces, “from existing statistical and regulatory sources”.

[10] The Complainant does not believe that NL Hydro has met its burden and demonstrated, “a specific, concrete, and probable commercial harm arising from disclosure”. They believe that the public interest in having access to this information outweighs NL Hydro’s reasons for withholding it.

ISSUE

[11] Whether NL Hydro appropriately applied sections 35(1)(d) and 35(1)(g) of the Act.

DECISION

[12] The relevant section of the Act states:

35.(1) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose

...

(d) information, the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in significant loss or gain to a third party;

...

(g) information, the disclosure of which could reasonably be expected to prejudice the financial or economic interest of the government of the province or a public body

[13] As we stated in [Report A-2025-032](#), “A reasonable expectation of harm requires a clear and causal link between the disclosure of the specific information and the alleged harm. This link must be convincing and not just theoretically possible.” NL Hydro has stated that its potential counter parties could make use of this information. It has not, however, indicated the existence of any specific party. It seems like these other parties are theoretical. This is not sufficient to establish a clear and causal link between disclosure of the information and any alleged harm.

[14] We must further look at how much of an advantage other parties might gain from this information since the quarterly information is already available. Having compared the monthly and quarterly numbers, we are of the view that NL Hydro has not established that the monthly

information is granular enough to offer other parties any additional advantage or undue insights into the Public Body's operations beyond what is already publicly available.

RECOMMENDATIONS

[15] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015**, I recommend that NL Hydro, within ten business days of receipt of this Report, disclose to the Complainant:

1. the monthly volume of electricity generated by Churchill Falls (Labrador) Corporation Limited from January of 2015 to February of 2026; and
2. the monthly sales of electricity produced by Churchill Falls (Labrador) Corporation Limited from January of 2015 to February of 2026.

[16] As set out in section 49(1)(b) of the **Access to Information and Protection of Privacy Act, 2015**, the head of NL Hydro must give written notice of his, her, or their decision with respect to these recommendations to the Commissioner and any person who was sent a copy of this Report within ten business days of receiving this Report.

[17] Dated at St. John's, in the Province of Newfoundland and Labrador, this 18th day of August 2026.



Kerry Hatfield
Information and Privacy Commissioner
Newfoundland and Labrador