



**November 29, 2024**

## **Energy NL Submission to the Regional Assessment of Offshore Wind Development in Newfoundland and Labrador**

**Re: Draft Regional Assessment Report**

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### **Introduction**

Energy NL was founded in 1977 to represent the supply and service sector of the energy industry. Today Energy NL represents over 500 member organizations worldwide which are involved in, or benefit from, the energy industry of Newfoundland and Labrador. Energy NL members are a diverse representation of businesses involved in a range of activities related to both renewable and non-renewable energy development, construction, and operations. This includes, but is not limited to, areas such as direct offshore and onshore supply; health and safety equipment and training; engineering solutions and fabricators; law firms and human resource agencies.

The experience and expertise within our association and membership provides us with a strong position of knowledge which can add value to research surrounding new energy development in our province, including the ongoing Regional Assessment of Offshore Wind Development. Energy NL is pleased to participate via this submission with comments and suggestions on the draft final report.

### **Energy NL's Previous Submissions and Concerns**

Energy NL has been following closely the work undertaken on this Regional Assessment, commencing with participation in numerous webinars and information sessions. This started even prior to the establishment of the independent committee, as the provincial and federal governments worked through the Impact Assessment Agency of Canada in establishing the Terms of Reference for the Committee. Energy NL provided formal submissions on November 24, 2022; September 22, 2023; and August 21, 2024, as well as a response to the June 2024 Engagement Handout. In addition, on March 21, 2024, Energy NL wrote provincial and federal Ministers regarding the approach being undertaken for this Regional Assessment.

In these submissions Energy NL raised concerns regarding the restrictive nature of the assessment and the belief of the association that the Committee is not adhering to the objectives and terms of reference established by the Governments of Canada and Newfoundland and Labrador. The Committee has taken a narrow approach to studying the "...potential environmental, health, social or economic effects..." of offshore wind development with only limited consideration of the potential positive effects of offshore wind development. Energy NL has also indicated its concern for the decision to drastically reduce the geographic area being studied with the establishment of a "Focus Area;" the apparent lack of evidence-based decision-making regarding the establishment of this Focus Area which was not based on broad support; the lack of recognition for Newfoundland and Labrador's world-leading experience and

expertise in ice-management; the constraint analysis undertaken; and the focus on establishing “preliminary license areas.”

Energy NL’s views are clearly articulated in previous submissions and letters, so they will not all be reiterated in this document. Energy NL stands by the views and issues previously raised and these continue to be relevant and remain our views and opinions of the draft final report.

### **Energy NL’s Additional Comments and Suggestions on the Draft Final Report**

Use of Precautionary Principle: The International Institute for Sustainable Development reports that the components of the precautionary principle are still evolving and even suggests that no uniform understanding of its meaning exists (<https://www.iisd.org/articles/deep-dive/precautionary-principle>). The approach taken with this Regional Assessment appears to deploy the most strict and restrictive legal definition of the term. While Energy NL certainly agrees that caution should be used with respect to new industry development with primary attention to health, safety, and the environment, such a strict interpretation and adherence to the precautionary principle at such an early, research, and exploratory stage of offshore wind in Newfoundland and Labrador has unduly limited the assessment and has restricted understanding of the impacts of offshore wind in the province. We view this approach as possibly restricting Newfoundland and Labrador’s true potential to supply the world with a proven and acceptable form of renewable energy.

Report Title: Given the Committee’s decision so early in the assessment to drastically reduce the area of study, creating a “Focus Area” of only a portion of the Study Area determined by both levels of Government when they initiated the Regional Assessment, Energy NL suggests changing the title of the report. The current title is misleading to readers, including potential future developers and other stakeholders who may rely on this report. The Regional Assessment was only undertaken for a limited area of the Newfoundland and Labrador offshore and the title should accurately reflect that fact. Energy NL suggests that a title such as “*Regional Assessment of Offshore Wind Development in Select Portions of the South and West Coast of the Island of Newfoundland*” is more appropriate, accurate, and reflective of the work undertaken.

Designation of Preliminary/Recommended License Areas: The interim report referred to determining “Preliminary Licence Areas” while the draft final report refers to “Recommended License Areas.” Energy NL finds no such terminology or requirement in the “Agreement to Conduct a Regional Assessment of Offshore Wind Development in Newfoundland and Labrador” or the Terms of Reference for the Committee. Objective 1.2 (d) of the “Agreement” specifically requires: “Describing how the findings or recommendations of the Regional Assessment **could be used to inform** future planning and licencing **processes** for these activities in a manner that fosters sustainability and enhances the effectiveness and efficiency of their impact assessments.” While recommendations such as the one related to using marine spatial planning in future licensing decisions would fall within this objective, recommendations on specific license areas appears to go beyond the work requested of the Committee. Furthermore, the very restrictive approach taken to the constraint analysis deployed for this assessment did not fully consider offshore wind coexisting with other activities. This assessment essentially resulted in the identification of areas where offshore wind activities would have minimal or no impact on other ocean activities or the environment. For this reason, Energy NL recommends changing any reference to “Recommended Licence Areas” in the draft final report to “Identified Areas of Minimum Impact.”

Reference to Bill C-49: On page 12 of the draft final report a reference is made to Bill C-49 and amendments to the Atlantic Accord Acts. The statement: “that the Governor in Council may make regulations to prohibit the commencement or continuation or renewable energy activities, or the issuance of interests, in respect of any portion of the offshore area that is located in an area that has been or may be identified as an area for environmental or wildlife conservation or protection” as described, is missing an important requirement. Such regulations can only be made with the Provincial Minister’s approval - a fact that needs to be fully explained to readers and users of this section of the final report. Below are the excerpts from the legislation, sections 7(1) and 56.1. The requirements outlined in Section 7(1) need to be referenced and considered when reference is made to 56.1.

**7 (1)** *Before a regulation is made under section 2.1, subsection 5(1), section 29.1, subsection 41(7), **section 56.1** or section 64, subsection 67(2), section 96.1, subsection 96.2(2), section 118, subsection 122(1), 125(1), 149(1), 162(2.3), 163(1.02), 183.19(6) or 183.25(1), section 183.29, subsection 183.3(3) or 202.01(1) or section 203, the Federal Minister shall consult the Provincial Minister with respect to the proposed regulation **and the regulation shall not be made without the Provincial Minister’s approval.***

**56.1** *Subject to section 7, the Governor in Council may, for the purpose of the protection of the environment, make regulations prohibiting, in respect of any portion of the offshore area that is specified in those regulations and that is located in an area that is or, in the opinion of the Governor in Council, may be identified under an Act of Parliament or of the Legislature of the Province as an area for environmental or wildlife conservation or protection,*

- **(a)** *the commencement or continuation of*
  - **(i)** *any work or activity relating to the exploration or drilling for or the production, conservation, processing or transportation of petroleum, or*
  - **(ii)** *an offshore renewable energy project; or*
- **(b)** *the issuance of interests.*

Joint management of offshore resources has been a tenet of the Newfoundland and Labrador offshore oil and gas industry and the role of the Government of Newfoundland and Labrador through the auspices of the provincial minister is critical for recognition as we discuss potential development of offshore wind and its associated legislation and regulation.

## **Conclusion**

The report of the Committee does provide some important details and considerations which can be used to inform potential future offshore wind development near areas of the south and west coast of the island of Newfoundland. Yet, Energy NL has a number of concerns about the approach taken, including but not limited to, the Committee adhering to the objectives of their study and the terms of reference established by the governments of Canada and Newfoundland and Labrador; the narrow focus area established and the evidence relied upon to establish said focus area; the lack of recognition of expertise of the Newfoundland and Labrador offshore industry, especially in terms of ice management;

and steps taken to establish “Preliminary Licence Areas” or “Recommended License Areas” which is also outside of the scope of the Committee.

Energy NL remains optimistic that its concerns once again outlined in this submission and those specific to the draft final report will be considered as the final report is prepared, and prior to its submission to the governments of Canada and Newfoundland and Labrador.

Thank you for the opportunity to put forth our views on the draft final report. Energy NL looks forward to seeing the final report and to working with various stakeholders towards development of a Newfoundland and Labrador offshore wind industry in an environmentally conscious and sustainable manner that may provide substantial benefits to the residents of the province and those adjacent to the resource.



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CC: The Honourable Dr. Andrew Furey, M.H.A., Premier of Newfoundland and Labrador  
The Honourable Jonathan Wilkinson, P.C., M.P, Minister of Energy and Natural  
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The Honourable Andrew Parsons, K.C., M.H.A., Minister of Energy, Industry and  
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