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**RE: 2023 General Rate Application – Request to Commence Settlement
Negotiations
Docket: UE20946**

On January 5, 2023, the Commission received a request from the legal counsel for the applicant, Maritime Electric Company, Limited ("MECL") to approve it entering into settlement negotiations with the Intervener, Prince Edward Island Energy Corporation ("PEIEC") in respect of the general rate application ("GRA"), UE20946. The request was made in accordance with section 3 of the *Rules of Procedures for Negotiated Settlement in Matter of Utility Regulation* ("Rules"), which provide the settlement negotiations may only be commenced after first receiving approval of the Commission. On January 6, 2023, legal counsel for PEIEC advised the Commission that it supports the request of MECL and requests approval to participate in the negotiated settlement process with MECL in accordance with section 4 of the *Rules*.

Counsel for PEIEC has advised that they will also participate in the negotiated settlement as agent for the Government of Prince Edward Island in accordance with section 5 of the *Rules*.

Counsels for MECL and PEIEC have requested that "all other aspects of the GRA process be paused, until further direction by the Commission".

Counsels for MECL and PEIEC have also advised the Commission that in their view, there is no need for them to receive or consider the report to be received from the Commission's independent expert, London Economics International, as it relates to an appropriate allowable rate of return on equity for MECL.

Counsels for MECL and PEIEC have requested the Commission designate an individual to represent the Commission in any negotiations.

DIRECTION OF THE COMMISSION

As stated in Commission Order, UE16-04R, the Commission endorsed use of negotiated settlements in the context of utility regulation. The Commission follows the same basic process as other utility tribunals in Canada when dealing with negotiated settlements. This allows for the streamlining of rate and other utility applications. Negotiated settlements allow the applicant and interveners an opportunity to determine what matters are agreed upon and what matters are in contention. This allows for efficient rate application adjudication. A negotiated settlement in a utility tribunal rate application context is far different from that of a negotiated settlement in a civil court process. In that process, it is quite often that the negotiated settlement becomes the final determination on the matter. This is not the case in utility matters.

The Commission follows the standard practice used by utility tribunals across Canada. When the Commission is presented with a negotiated settlement it is subject to review and evaluation by the Commission and considered by the Commissions in its complete review of the GRA. This was clearly stated by the Commission in Order UE16-04R, which states in part:

Once the interested parties reach a negotiated settlement, the agreement is not simply approved by “rubber stamp” of the regulator. Instead, a regulator presented with a negotiated settlement is required to determine if the agreement is in the public interest (see Nova Scotia Power Inc. (Re), 2012 NSUARB 227 at para. 24). A settlement agreement does not replace an “appropriate and informed review by the Board as to what is in the overall public interest” (see ATCO Electric Ltd. v. Alberta (Energy and Utilities Board), 2004 ABCA 215 [ATCO] at para. 139).

More recently, the Commission’s role has been restated in the *Rules*.

The *Rules* are consistent with section 20 of the *Electric Power Act*, which gives the Commission the power to approve a schedule of rates in whole or in part, or to determine and fix new rates as the Commission sees fit.

If an agreement is reached between the parties, it must be filed with the Commission, together with the information and documentation as required in section 9 of the *Rules*. Once filed, the Commission will give public notice of the agreement and invite public input.

The Commission will then evaluate the agreement through either a written or oral public hearing.

The Commission will continue to process the GRA application in the ordinary course.

The Commission will not be designating an individual to represent the Commission in the negotiations.

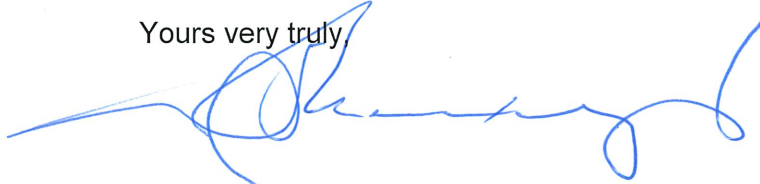
The Commission will be receiving a report from the Commission's independent expert, London Economics International, on an appropriate rate of return on equity for MECL. Once received, the report will be provided to the parties for review and made publicly available via

the Commission website. As this report forms part of the evidentiary record in the GRA, the parties are not permitted to file any settlement agreement until after the London Economics report has been filed and provided to them for review.

In accordance with and subject to the foregoing, the Commission approves the request of MECL and PEIEC to enter into settlement negotiations with respect to all matters contained in the GRA.

The Commission has scheduled a preliminary hearing for 10:00AM on Monday, January 16, 2023, to further discuss these matters with the parties and their legal counsel. The preliminary hearing will be held in the Commission hearing room and will be recorded. The audio recording will form part of the record in Docket UE20946.

Yours very truly,

A handwritten signature in blue ink, appearing to read 'J. Scott Mackenzie', with a stylized flourish at the end.

J. Scott Mackenzie, K. C.
Chair and Chief Executive Officer