

M e m o r a n d u m

TO: Senate Chairman Louis Luchini, House Chairman Chris Caiazzo and Members of the Joint Committee on Veterans and Legal Affairs

FR: François Ramsay, General Counsel, Hydro-Québec

DA: March 18, 2021

RE: Requested follow up information from the March 15th public hearing on LD 194, LD 479 and LD 641

The purpose of this memo is to communicate the information requested of Hydro-Québec by the Committee during the public hearing testimony of HQ President and CEO Sophie Brochu earlier this week on LD 194, LD 479 and LD 641.

1. The first request was for Hydro-Québec to provide additional information on the referendum process in Québec, with a focus on whether foreign nationals or foreign corporations may participate in Québec referenda.

Response: It is important to note at the outset that the political systems relating to referenda in the state of Maine and the Province of Québec are not appropriately compared because they are different in several ways.

The referendum mechanism in Québec has only been invoked in very limited instances according to the provision of Québec law below:

*“The holding of a referendum is instituted by a writ of the Government addressed to the chief electoral officer. This writ enjoins [the officer] to hold a referendum on the date fixed therein.”*¹

For example, other than a Prohibition referendum in 1919, referenda in Québec have only been initiated for foundational constitutional matters (Québec sovereignty in 1980 and 1995) and are not used for the purpose of specific policy considerations. In only these three instances has the referenda mechanism been used in Québec’s history.

It is also important to consider Québec’s referendum process in the broader context of Québec election laws. As a general matter, nearly all campaign funding comes from public sources. In addition, only individuals can make contributions². No corporation or entity (whether domestic or foreign) is allowed to make contributions in Québec referendum elections.³ In this regard, all corporations and entities are treated equally as it relates to involvement in referendum elections.

¹ *Referendum Act*, CQLR c. C-64.1, section 13.

² *Election Act*, CQLR c. E-3.3, sections 1, 87 and 90.

³ *Referendum Act*, CQLR c. C-64, sections 1 and 37 (c); *Election Act*, CQLR c. E-3.3, section 1.

We are pleased to provide this information as follow up to our testimony. However, in our view questions that have arisen about Québec's referendum process are not relevant to the bills before the Committee for the following reasons:

- The Maine Constitution has a totally different referendum mechanism from Québec where only a writ of the Government can initiate a provincial referendum and *both* national and foreign corporations are barred from contributing.
- As advised by Attorney Woodcock in his legal testimony, the Maine and US Constitutions have different provisions than Québec in that free speech and participation by both domestic and foreign corporations in State referenda and issue advocacy is permitted in the US system⁴; and
- the validity of the bills before the committee must be decided by the laws of Maine and US.

2. The second request was for Hydro-Québec to describe the extent to which it has been impacted by state referenda in the US where it does business.

The short answer is that Hydro-Québec has never been directly impacted by a state referendum in the US. We understand several States in the Northeast have referendum provisions, but none have impacted HQ to date.

For your convenience, I have included some background information on the nature of our export related commercial activities in the seven Northeast states, where we do almost all of our US business.

Hydro-Québec is a market participant in the supplier sector in the ISO New England (six states) and NY ISO (one state) wholesale electricity market systems and physically delivers large quantities of energy into the respective transmission grids and has been doing so for decades.

In addition to supplying through the wholesale electricity market systems, Hydro-Québec also has an existing long-term supply obligation to provide hydroelectricity and environmental attributes to utilities serving the state of Vermont. Going back several decades, Hydro-Québec had two overlapping long-term supply contracts with all of the utilities in New England from the mid-80s to 2000. These contracts supported development of the existing New England-Québec HVDC Interconnection referred to as Phase II.

Hydro-Québec will be monitoring the ongoing discussions of the Committee on these matters. Please don't hesitate to contact us if you have any questions or if additional information is needed.

⁴ *Bluman v. Federal Election Commission*, 800 F. Supp. 2nd 281, 284 (D.D.C. 2011); *First National Bank of Boston v. Billotti*, 535 US 765 (1978).