

**IN THE MATTER** of the *Public Utilities Act*, (the “Act”), and

**IN THE MATTER OF** capital expenditures and rate base of Newfoundland Power Inc.; and

**IN THE MATTER OF** an application by Newfoundland Power for an order pursuant to sections 41 and 78 of the Act:

- (a) approving its 2004 capital budget; and
- (b) fixing and determining its average rate base for 2002 in the amount of \$573,337,000

**TO:** The Board of Commissioners of Public Utilities (the “Board”)

**BRIEF OF FINAL ARGUMENT  
OF NEWFOUNDLAND AND LABRADOR HYDRO**

The intervention by Newfoundland and Labrador Hydro (“Hydro”) in this hearing was primarily directed towards the policies and procedures this Board applies to the regulation of the capital budgets of the public utilities that come before it. Hydro intervened to receive information that would be filed, to assess that information and compare it to the information it files in its own capital budget applications, and to raise questions, both in the Request for Information process and through cross-examination, that would assist the Board in its consideration of the application with regard to the policies and procedures applicable to capital budget regulation. Hydro does not take issue with any particular project that has been proposed by the Applicant, Newfoundland Power (“NP”).

Hydro’s intervention was carried out with consideration to the proposed technical conference that the Board has stated in Order No. P.U. 36 (2003-2003) that it intends to hold for the purpose of clarifying the responsibilities of the utilities with respect to the capital budget approval process. To that end, Hydro submits that the Board should refrain from making firm decisions as to the utilities’ capital budget filing requirements

arising from considerations made in this hearing, rather it should await that technical conference.

At present, Hydro and NP are bound by essentially identical “Conditions for Future Filings” as set out in Schedule C to Order No. P.U. 36 (2003-2003) and Schedule 3 to Order No. P.U. 7 (2002-2003). It appears, however, that there have been some differences in the interpretation of these conditions by Hydro and NP. These differences in approach may be relevant to the deliberations that the Board will be undertaking presently on NP’s capital budget application. For the purposes of this discussion, it is sufficient to make reference to only those projects in the Energy Supply section of the Application.

#### Definition of a “project”

The first issue is the definition of what constitutes a “project” under item (i) of Schedule C. That is, does each capital improvement constitute a “project” or is it appropriate to cluster a number of distinct capital improvements together so that all capital items that pertain to the same facility constitute a single “project”. Examples of the grouping of various capital improvements under a single “project” are the Hydro Plants Facility Rehabilitation and the New Chelsea Hydro Plant Rehabilitation. Whether a project is defined as a capital improvement to a single major facility component, or as a grouping of projects on a number of similar facilities, can have important implications for the capital budget approval process.

The Hydro Plants Facility Rehabilitation “project” consists of six different components: four separately enumerated capital upgrades to specific hydro plants, a protection and control proposal for five hydro plants, and an additional component for small amounts to be spent on two separate plants. In all, capital funding under this project is proposed for ten different hydro-electric plants. In the case of the New Chelsea Hydro Plant Refurbishment project, a number of different improvements have been proposed.

If a utility is carrying out a number of improvements to a facility, or to a number of facilities, some of them may be justifiable because of safety concerns; others may be justifiable primarily due to the overall cost savings they provide; others may be required for reliability; still others may be of questionable justification. The economic justification for one of those clustered capital improvements may be so large that the overall economic benefits, when averaged over all of the capital works pertaining to the facility (or facilities), justify proceeding with the “project”. Upon closer examination, it may be that only one of the capital improvements can be justified on an economic basis and there may be others that are not justifiable if considered independent from the other improvements. In such a case there is some risk that a regulator would approve uneconomic capital items because, based upon the information filed, it may be impossible to sift through the proposals to separate the uneconomic endeavours from the ones that merit approval.

#### Justification of a Generating Project Based upon Annual Production

A related concern is the use of an overall annual generating capability of a plant as justification for a particular project. Such information is useful only as a general description of the plant. Unless the particular capital project is critical to at least a full year’s total production, providing this number, without more, is of little use to the particular analysis. In some instances it would be more meaningful to provide information as to the amount of energy that would be expected to be lost due to the continued inefficient operation of the plant, or of the additional construction costs or the additional amount of lost energy production that would be attributable to an unplanned outage.

This is not to say that every analysis should include a consideration of the “run to fail” option because, particularly for critical assets, this would be an irresponsible approach. Hydro submits that the utility and this Board must make realistic and prudent assessments as to when the “do nothing” approach can be considered, which should, for generation

projects, relate to the importance of the particular facility to the delivery of power and energy into the interconnected power system, and ultimately to the customers.

### Level of Engineering

A balance must be struck as to the level of engineering to be completed prior to a capital project proposal being made to this Board. Hydro and NP both await the approval of projects by this Board before they commence final engineering and design. While this inevitably means that the level of information available at the capital budget application stage will require refinement following approval, it allows projects to be proposed in a timely manner with sufficient information being completed to ensure a reasonable level of accuracy without requiring an improvident expenditure of engineering effort for projects that may not ultimately be approved.

### Conclusion

Hydro's intervention in the present matter was intended to provide its perspective on a limited number of capital budget approval process issues and it is hoped that Hydro's participation has been beneficial in that regard. Hydro looks forward to the proposed Technical Conference at which time these matters can be more thoroughly explored.

**DATED** at St. John's in the Province of Newfoundland and Labrador Hydro this 17th day of September 2003.

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