

**P.U. 25(2003)**

**IN THE MATTER OF** the *Electrical Power Control Act, 1994* (the “*EPCA*”) and the *Public Utilities Act, R.S.N. 1990, Chapter P-47* (“the *Act*”);

**IN THE MATTER OF** an application by Newfoundland and Labrador Hydro (“Hydro”) for approval of, *inter alia*, rates to be charged its customers (the “Application”);

**AND IN THE MATTER OF** a motion by the Towns of Labrador City and Wabush respecting costs.

**WHEREAS** Hydro filed an application with the Board of Commissioners of Public Utilities (the “Board”) on May 21, 2003 for an Order of the Board approving, among other things, the proposed rates for the various customers of Hydro, to be effective January 1, 2004; and

**WHEREAS** Notice of the Application and Pre-hearing Conference was published in newspapers throughout Newfoundland and Labrador beginning on June 11, 2003; and

**WHEREAS** after publishing Notice, the Board received a Notice of Intervention and Submission from the Town of Labrador City, as well as Intervenor Submissions from Newfoundland Power Inc., the Consumer Advocate and the Island Industrial Customers; and

**WHEREAS** as part of the Notice of Intervention and Submission filed, the Town of Labrador City requested, among other things, that it be granted its costs of intervention; and

**WHEREAS** Newfoundland Power and Hydro both filed a reply to the motion with respect to costs; and

**WHEREAS** at the Pre-hearing Conference on July 18, 2003, the Board heard representations on the motion from the Towns of Labrador City and Wabush, as well as Hydro, Newfoundland Power and the Island Industrial Customers; and

**WHEREAS** Section 90(1) of the *Act* does not specifically permit the Board to deal with the issue of costs prior to the hearing, and therefore the Board does not have the jurisdiction to make a preliminary award of costs; and

**WHEREAS** the Board received directions from Government on July 15, 2003 pursuant to Section 5.1 of the *EPCA* with respect to conducting a hearing into the appropriate rate calculation methodology for the Labrador Interconnected System; and

**WHEREAS** the parties may argue at the conclusion of the proceeding that the directions from Government should be considered by the Board in exercising its discretion to award costs.

**IT IS THEREFORE ORDERED THAT:**

1. The motion of the Towns of Labrador City and Wabush is denied.
2. The issue of costs will be addressed upon motion of a party at the conclusion of the proceeding pursuant to Section 90(1) of the *Act*.

**DATED** at St. John's, Newfoundland and Labrador, this 23<sup>rd</sup> day of July 2003.

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Robert Noseworthy,  
Chair & Chief Executive Officer.

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Darlene Whalen, P.Eng.,  
Vice-Chairperson.

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G. Fred Saunders,  
Commissioner.

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G. Cheryl Blundon,  
Board Secretary.