

**NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

AN ORDER OF THE BOARD

NO. P.U. 54(2014)

1 **IN THE MATTER OF** the *Electrical Power*
2 *Control Act, 1994*, SNL 1994, Chapter E-5.1 (the
3 "*EPCA*") and the *Public Utilities Act*, RSNL 1990,
4 Chapter P-47 (the "*Act*"), as amended, and regulations
5 thereunder; and
6

7 **IN THE MATTER OF** a general rate application
8 by Newfoundland and Labrador Hydro to establish
9 customer electricity rates; and
10

11 **IN THE MATTER OF** an application by Newfoundland
12 and Labrador Hydro, dated May 12, 2014, for approval of,
13 on an interim basis: i) the transfer of \$29.4 million to
14 be recognized as revenue; and, ii) changes to Island
15 Industrial customer rates and rules; and
16

17 **IN THE MATTER OF** an award of costs to Vale
18 Newfoundland and Labrador Limited.
19
20

21 **WHEREAS** Newfoundland and Labrador Hydro ("Hydro") is a corporation continued and
22 existing under the *Hydro Corporation Act*, is a public utility within the meaning of the *Act*, and
23 is also subject to the provisions of the *EPCA*; and
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25 **WHEREAS** section 90 of the *Act* gives the Board the authority and discretion to award costs in
26 a proceeding before the Board; and
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28 **WHEREAS** in Order No. P.U. 39(2014) the Board denied Hydro's application for interim relief
29 without addressing Vale Newfoundland & Labrador Limited ("Vale") request to be awarded its
30 cost of intervening in the proceeding; and
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32 **WHEREAS** on September 30, 2014 Vale filed a request for consideration of its claim for costs
33 and submitted a bill of costs in the amount of \$29,809.45 for the Board's consideration; and
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35 **WHEREAS** in comments filed on October 31, 2014 Hydro submitted that, while Vale's
36 contribution to the matter was reasonable, Vale's costs appear inordinately high and
37 unreasonable given the level of complexity of the matter; and

1 **WHEREAS** Hydro requests that the Board exercise its discretion and award Vale partial costs
2 for its legal fees, which is fair and reasonable and reflective of Vale's contribution and the
3 complexity of the proceeding; and
4

5 **WHEREAS** in its response filed on November 24, 2014 Vale states it does not agree with
6 Hydro's suggestion that the application lacked complexity and that the nature of the rate
7 applications filed by Hydro since July of 2013 meant that Vale's analysis could not be
8 considered in isolation from the other applications; and
9

10 **WHEREAS** Vale submits that, once the Board makes the determination that Vale's participation
11 was effective and of assistance to the Board in its consideration of the application, it should
12 consider as having reasonably been incurred by Vale the legal costs of its participation unless it
13 can be shown by Hydro, on a reasoned basis, the extent to which the amount of such costs was
14 unreasonable; and
15

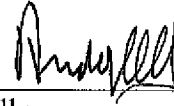
16 **WHEREAS** the Board finds that the participation of Vale was helpful to the Board in its
17 consideration of the application and contributed to the Board's understanding of the issues and
18 that Vale should be awarded costs in this matter; and
19

20 **WHEREAS** the Board has reviewed the bill of costs submitted by Vale and is satisfied that the
21 amount claimed is fair and reasonable given the scope and nature of the issues in this matter and
22 that Vale's costs should be fixed in the amount of \$29,809.45.
23

24 **IT IS THEREFORE ORDERED THAT:**
25

- 26 1. Vale Newfoundland and Labrador Limited is entitled to an award of costs in the amount
27 of \$29,809.45.
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- 29 2. Hydro shall, within thirty days, pay costs to Vale Newfoundland and Labrador Limited in
30 the amount of \$29,809.45.

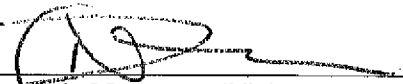
DATED at St. John's, Newfoundland and Labrador this 16th day of December 2014.



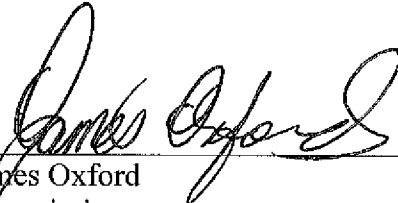
Andy Wells
Chair & Chief Executive Officer



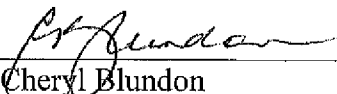
Darlene Whalen, P.Eng.
Vice-Chair



Dwanda Newman, LL.B.
Commissioner



James Oxford
Commissioner



Cheryl Blundon
Board Secretary