

NEWFOUNDLAND AND LABRADOR  
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

AN ORDER OF THE BOARD

NO. P.U. 56(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** an application by  
8 Newfoundland and Labrador Hydro for approval of  
9 the deferral and recovery of expenses in the amount  
10 of \$9,650,000 associated with increased capacity-related  
11 supply costs on the Island Interconnected system in 2014  
12 pursuant to sections 78 and 80 of the *Act*.  
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14

15 **The Application**  
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17 On October 8, 2014 Newfoundland and Labrador Hydro ("Hydro") filed an application (the  
18 "Application") with the Board requesting approval of the deferral and recovery of \$9,650,000 in  
19 additional capacity-related supply costs that were incurred by Hydro in the first quarter of 2014.  
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21 The Application was circulated to Newfoundland Power Inc. ("Newfoundland Power"), the  
22 Consumer Advocate, a group of three Island Industrial customers: Corner Brook Pulp and Paper  
23 Limited, North Atlantic Refining Limited and Teck Resources Limited (the "Industrial Customer  
24 Group"), Vale Newfoundland and Labrador Limited ("Vale"), and Praxair Canada Inc.  
25 ("Praxair").  
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27 Requests for information in relation to the Application were issued by Newfoundland Power and  
28 the Consumer Advocate. Responses were filed by Hydro on November 12, 2014.  
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30 The Board received submissions from Newfoundland Power and the Consumer Advocate on or  
31 before November 18, 2014. The Industrial Customer Group and Vale advised that they would not  
32 be filing comments. The Board did not receive any comments from Praxair. Hydro filed a  
33 submission on November 24, 2014.  
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35 **Background**  
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37 The Application states that in December of 2013 Hydro determined that there may be difficulty  
38 in supplying required customer demand on the Island Interconnected system based on available

1 generation capacity, weather and short-term daily customer load forecasts. As a result Hydro  
2 negotiated a short-term interruptible arrangement with Corner Brook Pulp and Paper Limited to  
3 access up to 60 MW of capacity to provide service to customers. This arrangement was later  
4 extended to March 31, 2014. Hydro requested capacity support under this agreement for 148  
5 hours in total over the period January to March 2014, with the majority of requests in early  
6 January. Hydro states in CA-NLH-004 that the ability to obtain capacity from Corner Brook Pulp  
7 and Paper Limited was critical to system integrity and materially reduced the requirement for  
8 customer outages to deal with capacity constraints. During this time Hydro was also required to  
9 utilise its combustion turbines and diesel generation for extended periods, and also requested  
10 Newfoundland Power to operate its thermal generation. These efforts to manage system capacity  
11 constraints resulted in Hydro incurring an additional \$9,650,000 in capacity-related supply costs  
12 during the first quarter of 2014.

13  
14 In the Application Hydro states, on page 4, that the \$9,650,000 of capacity related supply costs  
15 would “*cause a rate shock or a shock in Hydro’s earnings that is considered unreasonably high*  
16 *were they to be expensed in the year in which these were incurred*”. Hydro submits that these  
17 additional supply costs will have a material impact on it’s ability to earn a reasonable return in  
18 2014 as the costs are not included in the test year forecast used to determine existing rates and  
19 are not subject to recovery through the Rate Stabilization Plan. Hydro states in NP-NLH-001 that  
20 it is important to have a determination from the Board prior to year-end so that these costs can be  
21 removed from Hydro’s balance sheet as a deferred asset. Hydro proposes that the Board approve  
22 the deferral and recovery of these costs from customers.

23  
24 Hydro states that the Board’s past regulatory treatment of Major Extraordinary Repairs is similar  
25 to the current situation. The capacity-related supply costs are non-capital expenses that are  
26 extraordinary in nature. The costs exceed the threshold amount of \$500,000 and would be a  
27 significant shock to Hydro’s earnings if recognized in 2014. In these circumstances Hydro  
28 submits that it would be appropriate for it to be provided the opportunity to recover, on a  
29 deferred basis, the necessary costs incurred to provide service to its customers.

### 30 31 **Submissions**

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33 Newfoundland Power submits that the evidence filed in support of the Application proves Hydro  
34 incurred the additional capacity costs and that these costs contribute to Hydro’s forecast failure  
35 to earn a just and reasonable return in 2014. According to Newfoundland Power the evidence  
36 does not prove that deferred recovery of the additional capacity costs are “appropriate and  
37 necessary in the circumstances” as required by current regulatory practice. Newfoundland Power  
38 states that Hydro’s assertions that the additional capacity costs were extraordinary and  
39 unexpected and were prudently incurred seem inconsistent with the findings of the Board in its  
40 Investigation and Hearing into Supply Issues and Power Outages on the Island Interconnected  
41 system. Newfoundland Power further states that Hydro’s responses to Requests for Information  
42 appear to imply that the electrical system conditions which gave rise to the additional capacity  
43 costs could not have been avoided. Newfoundland Power submits that this is also inconsistent  
44 with a number of the Board’s findings. Newfoundland Power submits that the deferred recovery  
45 as proposed in the Application should be denied.

1 The Consumer Advocate states that Hydro's claim that the costs have been prudently incurred  
2 cannot be supported prior to issuance of the Board's report on its Investigation and Hearing into  
3 Supply Issues and Power Outages on the Island Interconnected system. The Consumer Advocate  
4 submits the issues identified in the investigation have a direct bearing on the prudence of the  
5 costs incurred by Hydro. The Consumer Advocate recommends that the Board deny the  
6 Application pending the outcome of the investigation.  
7

8 In its submission Hydro notes that neither Newfoundland Power nor the Consumer Advocate  
9 take issue with the fact that Hydro incurred additional capacity-related supply costs that were not  
10 otherwise included in rates or challenge the Board's jurisdiction to grant the relief requested.  
11 Hydro states that the main issue raised by both Newfoundland Power and the Consumer  
12 Advocate appears to be one of timing. Hydro submits that it is critical for Hydro to have a  
13 determination from the Board prior to year-end. However, Hydro acknowledges that the Board's  
14 investigation is ongoing and, in light of the submissions of Newfoundland Power and the  
15 Consumer Advocate, Hydro submits that it would be appropriate for the Board to approve the  
16 creation of a deferral account in the amount of \$9,650,000 and set aside the issue of recovery of  
17 this amount until Phase One of the investigation is complete.  
18

### 19 **Board Findings**

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21 The Board's Investigation and Hearing into Supply Issues and Power Outages on the Island  
22 Interconnected system is ongoing, with Phase One expected to be completed in the spring of  
23 2015. The Application seeks approval to treat the additional 2014 supply related costs as an  
24 extraordinary expense and to defer the expenses for recovery over a period of five years  
25 beginning in 2015. This would require a finding from the Board based on the evidence that the  
26 expenses were prudently incurred, were appropriate and necessary, and that the amount should  
27 be recovered from customers. In its submission Hydro requests that the Board approve the  
28 creation of a deferral account in 2014 but set aside the issue of cost recovery to be addressed in a  
29 subsequent process following the conclusion of Phase One of the Board's investigation.  
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31 The Board accepts that Hydro incurred the expense in 2014 to provide service and that the total  
32 amount of the expense is \$9,650,000. The Board also accepts that, to ensure that the Board  
33 maintains its jurisdiction to address these expenses in 2015, the deferral account should be  
34 established prior to year end. However the Board agrees with the submissions of the Consumer  
35 Advocate that the recovery of these costs should not be approved in advance of the conclusion of  
36 Phase One of the Board's investigation. The Board will approve the creation of a deferral  
37 account and the transfer of the amount of \$9,650,000 to the account in 2014 with the issue of  
38 recovery of this amount by Hydro to be determined in a further Order of the Board.


1 **IT IS THEREFORE ORDERED THAT:**  
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- 3 1. The creation of a deferral account for the additional capacity-related supply costs of  
4 \$9,650,000 incurred in the first quarter 2014, as set out in Schedule A, is approved, with  
5 the recovery of these expenditures to be addressed in a subsequent Order of the Board.  
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7 2. Hydro shall pay all expenses of the Board arising from this Application.

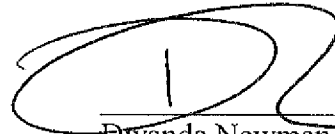
**DATED** at St. John's, Newfoundland and Labrador this 24<sup>th</sup> day of December 2014.



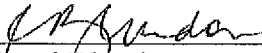
Andy Wells  
Chair & Chief Executive Officer



Darlene Whalen, P.Eng.  
Vice-Chair



Dwanda Newman, LL.B.  
Commissioner



Cheryl Blundon  
Board Secretary

**2014 Capacity-Related Supply Costs Deferral Account**

This account shall be charged with 2014 capacity-related supply costs in the amount of \$9,650,000.