

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

AN ORDER OF THE BOARD

NO. P.U. 48(2016)

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 Newfoundland
8 and Labrador Hydro for approval of a capital expenditure
9 to supplement the 2016 Allowance for Unforeseen Items for
10 the construction and purchase of certain improvements and
11 additions to its property pursuant to section 41 of the *Act*.
12
13

14 **WHEREAS** Newfoundland and Labrador Hydro (“Hydro”) is a corporation continued and
15 existing under the *Hydro Corporation Act*, is a public utility within the meaning of the *Act*, and is
16 also subject to the provisions of the *EPCA*; and
17

18 **WHEREAS** in Order No. P.U. 33(2015) the Board approved Hydro’s 2016 Capital Budget, in the
19 amount of \$183,082,800; and
20

21 **WHEREAS** section 41 of the *Act* states that a public utility shall not proceed with the construction,
22 purchase or lease of improvements or additions to its property where:
23

- 24 a) the cost of construction or purchase is in excess of \$50,000; or
 - 25 b) the cost of the lease is in excess of \$5,000 in a year of the lease
- 26

27 without prior approval of the Board; and
28

29 **WHEREAS** by February 2016 Hydro had depleted the Allowance for Unforeseen Items approved
30 in Order No. P.U. 33(2015) and in Order No. P.U. 8(2016) the Board approved a supplementary
31 amount of \$1,000,000 to the 2016 Allowance for Unforeseen Items; and
32

33 **WHEREAS** on October 28, 2016 Hydro filed a second application with the Board requesting
34 approval of another amount of \$1,000,000 to be added to the 2016 Allowance for Unforeseen Items
35 (the “Application”); and

1 **WHEREAS** the Application states that Hydro anticipates exceeding the supplementary Allowance
2 for Unforeseen Items as a result of unforeseen expenditures for i) the refurbishment of Bay
3 d’Espoir Access Roads; and ii) the refurbishment of Bay d’Espoir Penstock 1; and
4

5 **WHEREAS** Hydro submits that it is prudent to maintain a sufficient amount in the Allowance for
6 Unforeseen Items to permit Hydro to address unforeseen events that may arise during the
7 remainder of 2016, and requests that the Board approve a supplementary amount of \$1,000,000
8 for that purpose; and
9

10 **WHEREAS** the Application was copied to: Newfoundland Power Inc.; the Consumer Advocate,
11 Mr. Dennis Browne; Corner Brook Pulp and Paper Limited and NARL Refining Limited
12 Partnership (the “Industrial Customer Group”), Teck Resources Limited; Vale Newfoundland &
13 Labrador Limited; and Praxair Canada Inc.; and
14

15 **WHEREAS** Newfoundland Power submits that an appropriate balance should be maintained in
16 the Allowance for Unforeseen Items and supports approval of the Application; and
17

18 **WHEREAS** Newfoundland Power states that the projects involve material expenditures which
19 must be justified as prudent and requests an opportunity to comment on the expenditures once
20 Hydro has filed final detailed reports on the project expenditures; and
21

22 **WHEREAS** the Industrial Customer Group raises issues relating to the legal interest in the
23 roadways being repaired and recourse for substandard workmanship on the penstock; and
24

25 **WHEREAS** the Industrial Customer Group questions whether the capital costs of the projects
26 should eventually be included in rate base; and
27

28 **WHEREAS** the Board did not receive comments on the Application from the other parties; and
29

30 **WHEREAS** in its reply submission Hydro states that the projects required Hydro to act
31 expeditiously and that Hydro could not wait for specific approval of the projects from the Board,
32 which is consistent with the use of the Allowance for Unforeseen Items in the Capital Budget
33 Guidelines; and
34

35 **WHEREAS** Hydro submits that inclusion of the expenditures in rate base will be determined by
36 a further application to the Board to fix and determine Hydro’s rate base and that the issues raised
37 by Newfoundland Power and the Island Industrial Customers can be raised and addressed at that
38 time; and
39

40 **WHEREAS** Hydro further submits that it will file a complete root cause analysis on the
41 unacceptable welds to determine whether substandard workmanship was a contributing factor; and
42

43 **WHEREAS** the Capital Budget Guidelines (the “Guidelines”) issued by the Board in October
44 2007 permit a utility to apply for approval of a supplementary amount provided the utility shows
45 that usage of the Allowance for Unforeseen Items has been consistent with the Guidelines; and

1 **WHEREAS** interim reports of the use of the Allowance for Unforeseen Items have been received
2 and reviewed by the Board; and
3

4 **WHEREAS** the Board is satisfied that the 2016 Allowance for Unforeseen Items should be
5 replenished by \$1,000,000 effective immediately to allow Hydro to proceed expeditiously with
6 emergency capital expenditures where the nature of these expenditures is such that an application
7 under s. 41 of the *Act* for prior approval is not practical or possible; and
8

9 **WHEREAS** the Board finds that, until final reports are received on the projects and expenditures,
10 no determination will be made at this time as to how the costs of these projects should be treated
11 from a regulatory perspective; and
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13 **WHEREAS** Hydro will be required to separate and record the variance above the Allowance for
14 Unforeseen Items approved in Order No. P.U. 8(2016) associated with the expenditures in relation
15 to the Bay d'Espoir Access Roads Refurbishment and the Bay d'Espoir Penstock 1 Refurbishment
16 in an account and Hydro may subsequently file an application for the inclusion of this variance in
17 rate base.

IT IS THEREFORE ORDERED THAT:

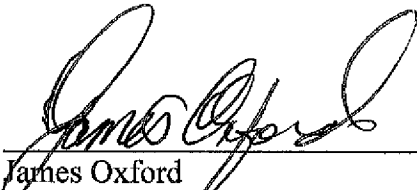
1. The addition of a supplementary amount of \$1,000,000 to the 2016 Allowance for Unforeseen Items is approved.
2. Hydro will establish a separate account to record the variance above the \$1,000,000 Allowance for Unforeseen items approved in Order No. P.U. 8(2016) associated with the expenditures related to:
 - i) the Bay d'Espoir Access Roads Refurbishment; and
 - ii) Bay d'Espoir Penstock 1 Refurbishment

with the recovery of this variance to be addressed in a subsequent order of the Board following a further application by Hydro.
3. Hydro shall pay all expenses of the Board arising from this Application.

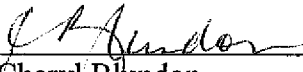
DATED at St. John's, Newfoundland and Labrador, this 24th day of November 2016.



 Darlene Whalen, P.Eng.
 Vice-Chair



 James Oxford
 Commissioner



 Cheryl Blundon
 Board Secretary