

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

AN ORDER OF THE BOARD

NO. P.U. 36(2017)

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
4 1990, Chapter P-47 (the “*Act*”), as amended,
5 and regulations thereunder; and
6

7 **IN THE MATTER OF** a general rate
8 application by Newfoundland and Labrador
9 Hydro to establish customer electricity rates
10 for 2018 and 2019; and
11

12 **IN THE MATTER OF** a submission by
13 Newfoundland and Labrador Hydro setting out
14 reasons as to why it should not be required to
15 respond to certain requests for information filed
16 by the Consumer Advocate.
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18

19 **Background**

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21 On October 6, 2017 the Consumer Advocate filed requests for information (RFIs) CA-NLH-001
22 through CA-NLH-160.
23

24 On October 19, 2017 Newfoundland and Labrador Hydro (“Hydro”) filed a letter setting out its
25 position that certain of the Consumer Advocate’s RFIs are outside the scope of the proceeding as
26 they raise issues for consideration that are better dealt with in a future proceeding and that will not
27 be determined by the Board in the general rate application. Hydro submitted that RFIs CA-NLH-
28 007, 019, 031, 032, 90 and 122 should not be responded to and placed on the record in the general
29 rate application proceeding.
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31 On October 20, 2017 the Board provided the parties to the general rate application the opportunity
32 to comment on Hydro’s submission.
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34 On October 25, 2017 the Consumer Advocate filed a submission withdrawing CA-NLH-122 and
35 providing reasons as to why the remaining five RFIs should be responded to by Hydro.
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37 On October 27, 2017 Newfoundland Power and the Labrador Interconnected Group filed
38 comments.

1 On October 31, 2017 Hydro filed further comments.

2
3 **Submissions**

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5 Hydro submitted that CA-NLH-007 and CA-NLH-019 deal with the terms of the Muskrat Falls
6 Power Purchase Agreement and the projected open access transmission line tariff. According to
7 Hydro there will be no rate impacts from either of these matters within the time frame for rates to
8 be set in this proceeding. Hydro submitted that CA-NLH-031 and CA-NLH-032 raise questions
9 as to the potential impact on customer rates in 2021, which is outside the scope of the present
10 proceeding. With respect to CA-NLH-090, which deals with a change in allocation of a
11 transmission line between demand and energy, Hydro stated that this RFI deals with the cost of
12 service methodology for which no order is sought in this proceeding and which the Board has
13 determined is best dealt with in a generic cost of service hearing. Hydro submitted that CA-122-
14 NLH deals with Nalcor non-regulated companies and is not relevant to the matters under
15 consideration by the Board in this proceeding.

16
17 In his submission the Consumer Advocate retracted CA-NLH-122 as it referred to two companies
18 not within the Board's jurisdiction to regulate. With respect to CA-NLH-007 and CA-NLH-019
19 the Consumer Advocate disagreed with Hydro's assertion that there are no rate impacts arising
20 from the subject matter of these questions. According to the Consumer Advocate the Off-Island
21 Purchases Deferral Account, if approved, will make rates higher than otherwise and the rationale
22 for the proposed deferral account is the Muskrat Falls Power Purchase Agreement. Likewise the
23 open access transmission line tariff that is set will affect the costs to be mitigated for future
24 customers since any savings using these assets will be captured in the deferral account. The
25 Consumer Advocate submitted that Hydro has opened up the relevancy of future contingencies on
26 present rates by proposing the Off-Island Purchases Deferral Account. In relation to CA-NLH-031
27 and 032, which relate to the impact of conservation on rates, the Consumer Advocate noted, that
28 Hydro's energy conservation programs are included in the general rate application and consumers
29 need to know whether conservation efforts will have an impact with respect to the projected
30 increase in rates in 2021. The Consumer Advocate argued that CA-NLH-090 should be answered
31 on the basis that the Consumer Advocate is requesting a ruling from the Board on the
32 appropriateness of Hydro's proposed allocation of the costs of this new transmission asset for
33 which there has not yet been vetting with respect to cost recovery and allocation. The Consumer
34 Advocate also stated that it appears that the asset will be assigned to capacity while the evidence
35 suggests that there may also be energy benefits, and that the Board's expert witness suggested in
36 Hydro's last general rate application that there is a sound rationale for allocating transmission
37 network costs to both demand and energy. The Consumer Advocate noted that the Board
38 acknowledged that there may be some cost of service issues which should be addressed in this
39 proceeding and further that Hydro has proposed a change to the cost of service methodology.

40
41 Newfoundland Power submitted that Hydro's position with respect to CA-NLH-007 and CA-
42 NLH-019 is inconsistent with its proposal in the general rate application to establish the Off-Island
43 Purchases Deferral Account. According to Newfoundland Power there are rate impacts associated
44 with this deferral account and that, in the absence of more complete information regarding costs
45 and forecast customer rates in the post-interconnection period, it will be difficult for the parties to
46 properly consider the merits of the proposed deferral account. Newfoundland Power did not
47 comment on the remaining RFIs at issue.

1 The Labrador Interconnected Group agreed with the submissions of the Consumer Advocate.
2 According to the Labrador Interconnected Group Hydro's objection is centered on the degree of
3 relevance of the Consumer Advocate's questions to the proceeding and, while Hydro is aware of
4 the facts and may have views on the relevance of those facts, the parties and the Board are not.
5 They submitted that this is "precisely the purpose of the RFIs" and that "ultimately it is for the
6 Board to make its own determination of how relevant a particular fact is after being apprised of
7 those facts through the evidentiary process".
8

9 In its reply submission Hydro expressed its general agreement with the comments of the Labrador
10 Interconnected Group. With respect to the specific RFIs at issue, Hydro submitted:

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12 CA-NLH-007: While Hydro maintains this RFI is still outside the scope of the present general rate
13 application it will provide a response.
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15 CA-NLH-019: Hydro maintains that this question requires details about costs which are yet to be
16 determined and which are outside the test years, and that it is unable to provide a response at this
17 time due to uncertainties with respect to the Cost of Service assumptions.
18

19 CA-NLH-031 and CA-NLH-032: Hydro maintains that these RFIs are still outside the scope of
20 the present general rate application but that it can, if the Board so orders, provide responses based
21 on the assumption that the question is about aggregate customer energy consumption and not
22 system peak demand, and other stated assumptions.
23

24 CA-NLH-90: Hydro noted that this RFI asks for cost of service studies to be run on five different
25 hypothetical bases, none of which have been approved by the Board, and that these are more
26 appropriately dealt with in a generic proceeding of cost of service methodology. Hydro provided
27 the specific cost of service assumptions under which it would provide a response to this RFI, if the
28 Board so orders, which should provide indicative evidence of the cost assignment impacts which
29 should be used is assessing the impact of this methodological change.
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31 CA-NLH-122: Hydro noted this RFI has been withdrawn.
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33 **Board Findings**

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35 In Order No. P.U. 35(2017) the Board addressed the request of the Labrador Interconnected Group
36 to direct Hydro to answer several RFIs filed by the group in this proceeding. The Board found that
37 Hydro should provide answers to all but one of the outstanding questions and stated:

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39 The Board believes that effective and efficient regulation is served by full disclosure of information
40 which may be relevant early in the process to allow for appropriate focus on relevant matters as the
41 matter progresses.
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43 The within matter addresses six questions asked by the Consumer Advocate which Hydro argues
44 are outside of the scope of this proceeding. The Board notes that the Consumer Advocate has
45 withdrawn CA-NLH-122 and that Hydro has indicated it will provide a response to CA-NLH-007.
46 There are four RFIs remaining at issue.

1 With respect to CA-NLH-019 this question asks for the projected open access transmission line
2 tariff after Muskrat Falls is online. Hydro argued that this RFI raises issues that are beyond the
3 time frame for which rates will be set in this proceeding. The Board notes that Hydro has requested
4 approval of the Off-Island Power Purchases Deferral Account to allow for the mitigation of the
5 anticipated increases in customer rates following the commissioning of Muskrat Falls. The Board
6 believes that the proposed Off-Island Power Purchases Deferral Account opens up the relevancy
7 of future contingencies on present rates. The Board acknowledges Hydro's explanation that there
8 is not sufficient reliable information available at this time to provide a meaningful response to this
9 question but finds that Hydro should provide a response indicating such with a full explanation as
10 to how and when this information will become available. Hydro will be required to answer CA-
11 NLH-019.

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13 CA-NLH-031 and CA-NLH-032 ask Hydro to assess the impact on the expected 2021 customer
14 rate if customer demand is reduced by 5% and 10% as the result of improved conservation. Hydro
15 argued that these RFIs also raise issues that are beyond the time frame for which rates will be set
16 in this proceeding. The Board believes that the impact of conservation efforts by customers on
17 electricity costs both before and after interconnection may be relevant, given the expected rate
18 increases and the issues related to rate mitigation. Hydro will be required to answer CA-NLH-031
19 and 032, clearly stating any assumptions it has used in providing its response.

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21 With respect to CA-NLH-090 this RFI asks Hydro to quantify the impact of the new transmission
22 line TL267 on customer classes in terms of revenue allocation and rate impacts if 10%, 20%, 30%,
23 40% and 50% of the associated costs are classified as energy. Hydro argued that this RFI deals
24 with issues relating to the cost of service methodology for which no ruling or order is sought in
25 this proceeding and further that these issues should be addressed in a generic hearing on cost of
26 service methodology. The Board agrees that, in general, the cost of service methodology issues
27 should be addressed together in the upcoming generic hearing. However TL267 is a significant
28 asset which is being added to the rate base as of 2018 for which customers will begin to pay in
29 rates arising from this proceeding. As such the Board acknowledges that the fair classification and
30 allocation of costs for the TL267 transmission line may be an issue which the parties may wish to
31 argue should be addressed in this proceeding in advance of the scheduled cost of service hearing.
32 While the Board may ultimately determine that such issues should be left to be addressed in the
33 cost of service proceeding, the Board believes that it is reasonable at this stage to allow parties to
34 gather information with respect to this issue. The Board acknowledges Hydro's submission that
35 running five cost of service studies would be onerous and that it would not be able to provide an
36 answer to this RFI in the set timeframe for responses. The Board accepts that it is appropriate for
37 Hydro to make reasonable assumptions to provide indicative evidence of the cost assignment
38 impacts. Hydro will be required to answer CA-NLH-090 based on this approach.

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40 **IT IS THEREFORE ORDERED THAT:**

- 41
42 1. Hydro shall provide a response to the following Requests for Information in accordance with
43 the findings of the Board: CA-NLH-007, CA-NLH-019, CA-NLH-031, CA-NLH-032 and
44 CA-NLH-090.
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46 2. Hydro shall pay all expenses of the Board arising from this Application.

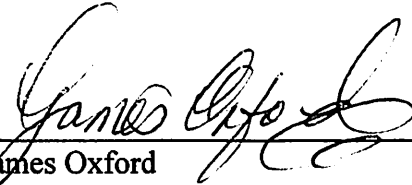
DATED at St. John's, Newfoundland and Labrador, this 3rd day of November, 2017.



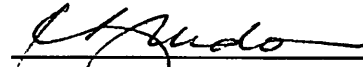
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Vice-Chair



Dwanda Newman, LL.B.
Commissioner



James Oxford
Commissioner



Cheryl Blundon
Board Secretary