

April 30, 2018

Via Electronic Mail and Courier

Newfoundland and Labrador Board of
Commissioners of Public Utilities
120 Torbay Road
P.O. Box 21040
St. John's, NL A1A 5B2

**Attention: Ms. G. Cheryl Blundon, Director of Corporate Services
and Board Secretary**

Dear Ms. Blundon:

**Re: Application of Newfoundland and Labrador Hydro (Hydro) regarding a Motion for the
Deferral of Cost of Service Methodology Issues Raised in the 2017 General Rate
Application to the Cost of Service Methodology Review Hearing**

The Industrial Customers Group generally support Newfoundland and Labrador Hydro ("Hydro") upon the within Application. In particular, the Industrial Customers Group support Hydro's position that the issues outlined in paragraph 17 of the within Application should be dealt with in Hydro's 2017 General Rate Application (the "2017 GRA"), subject to our comments below with respect to the Corner Brook Pulp and Paper ("CBPP") Generation Credit Agreement. Further, we provide our commentary in relation to our position that the methodology for calculating specifically assigned charges should be decided in the 2017 GRA.

(i) CBPP Generation Credit Agreement

In the 2017 GRA (Section 5.3.1), Hydro had suggested that the CBPP Generation Credit Agreement, continued on a "pilot" basis following the 2013 GRA, be discontinued on December 31, 2018. However, this was premised on Hydro working with CBPP on initiating a new pilot project to start in 2019. This has not been done to date.

The Agreement provides CBPP great flexibility in terms of the usage with its hydraulic resources and relieves the requirement for the use of Holyrood generation. Further, Hydro is

Denis J. Fleming | Partner

Direct 709 570 5321 Main 709 738 7800 Fax 709 726 4972 Email dfleming@coxandpalmer.com
Suite 1100 Scotia Centre 235 Water Street St. John's NL A1C 1B6

able to call upon CBPP to maximize its generation to provide additional capacity to the grid under the Agreement.

Importantly, the continuation of the Agreement at present would not impose any financial consequences on any other party to this proceeding. The Industrial Customer Group would submit that consideration of this issue should be deferred to the Cost of Service review to be filed later in 2018, removing the need to consider this issue at present and allowing Hydro and CBPP to have discussions surrounding the new proposed pilot project for 2019, while continuing the Agreement in its current form until the Board's decision in the Cost of Service review.

This appears particularly reasonable given that Hydro's rationale for the discontinuance of the Agreement is that once Hydro is connected to the North American grid, the marginal system energy cost could vary materially by hour and will no longer be based solely on Holyrood fuel, and therefore CBPP should not be able to exceed its firm demand requirements without paying the non-firm energy rate reflecting marginal costs of supplying non-firm load. However, as it is now imminently clear that the 2018 Cost of Service review will likely be completed before Muskrat Falls commissioning, the need to consider this issue in this hearing is not mandated at present.

(ii) Methodology For Calculating Specifically Assigned Charges

As set out in detail in Vale Newfoundland and Labrador Limited's Final Submission on Hydro's Amended 2013 General Rate Application ("2013 GRA"), Vale submitted that the equation for calculating specifically assigned charges originally used by Hydro in the 2013 GRA resulted in some industrial customers being materially and inequitably overcharged for operating and maintenance costs. In particular, by failing to take into account the time value of money for plant in service, the methodology historically used by Hydro creates a perverse situation in which the oldest assets on the system are assigned the lowest pro rata share of Hydro's total operating and maintenance costs. Hydro ultimately agreed with Vale's position and, before the end of the 2013 GRA, Hydro proposed a revised methodology for calculating specifically assigned charges that accounted for this inequity.

In final submissions and during testimony at the 2013 GRA, Hydro agreed that there is no justifiable reason to delay implementation of the revised methodology until the issue was considered at a cost of service methodology hearing as there was sufficient evidence before the Board for a decision to be made and a decision to defer implementation until after a cost of service methodology hearing would result in two of the three members of the Industrial Customers Group continuing to pay an inequitable specifically assigned charge. While the Board, in its final order following the 2013 GRA (P.U 49 (2016)), ultimately deferred consideration of this issue until the cost of service methodology hearing, when the cost of service methodology hearing was delayed in September 2016, the Board allowed the delay on the express condition that the methodology for calculating specifically assigned charges would be considered at the 2017 GRA. If the methodology is not considered in the 2017 GRA, these Industrial Customers would continue to pay an inequitable specifically assigned charge until Hydro files its next GRA.

Hydro filed its evidence on the 2017 GRA in September 2017. In its evidence, Hydro (i) once again supported a change in the methodology for calculating specifically assigned charges that accounts for the time value of money and (ii) included a report from CA Energy that addressed the concerns that led to the Board deferring the change in methodology as part of the 2013 GRA and, in particular, canvassed the method used for calculating specifically assigned charges in other jurisdictions. Despite having Hydro's evidence for more than 6 months and being aware since the 2013 GRA that this was an important issue for the Industrial Customers Group, none of the Intervenors have provided evidence challenging the accuracy of the CA Energy report or provided a reasoned basis on which Hydro's proposed change to the methodology for calculating specifically assigned charges should not be adopted in the rates set following the 2017 GRA. As such, any further delay in this issue being decided would result in two of the Industrial Customers continuing to pay inequitable rates for no justifiable reason.

Hydro has indicated that it has begun (in 2018) to track operating and maintenance costs for each industrial customer, a practice consistent with the position of Mr. Patrick Bowman in his expert evidence in the 2017 GRA that even under the now proposed approach, individual adjustments may still be "transparently justified to achieve a fair result". However, it is now apparent from the recent response to RFI CA-NLH-272 that such tracked data will not be presented at the 2018 Cost of Service hearing (but rather in the next GRA). In this regard, there is no rationale to delay the adjudication of Hydro's current proposal to the 2018 Cost of Service hearing as all evidence that will be available at the 2018 Cost of Service hearing is now before the Board.

Conclusion

While the Industrial Customers Group support Hydro's submission that only those issues raised in paragraph 17 of Hydro's Application should be decided in the 2017 GRA, the Industrial Customers Group's position is that the parties should not be restricted from asking questions on any cost of service issues raised in any of the evidence filed. The Industrial Customers Group expects that Hydro's witnesses can and should provide answers to all cost of service issues to the extent the evidentiary record reasonably allows. Permitting such questioning not only results in an open hearing, it would allow the parties and the Board to generate a record that will be required for the efficient conduct of the future cost of service review.

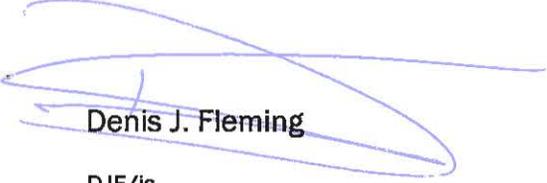
Support for this approach comes from the consideration of the methodology for calculating specifically assigned charges in the 2013 GRA. This issue was fully litigated in the 2013 GRA and the evidentiary record on this issue from the 2013 GRA allowed the parties to understand the issue and determine what the Board required before making a decision on this matter. Therefore, the parties had the opportunity to file substantive evidence on this issue in the 2017 GRA. Despite all parties having an opportunity to file evidence on the issue, only the Industrial Customers Group and Hydro filed substantive evidence on the issue. While the Consumer Advocate's expert mentioned the issue in his evidence, the Consumer Advocate has not filed any substantive analysis of the issue or provided a reasoned justification for maintaining a status quo that the record has shown is inequitable. As Hydro has responded to the Board's comments in Order P.U 49 (2016), and has now, in

April 30, 2018

the Industrial Customer Group's view, provided the evidence required by the Board to decide this issue, it is respectfully submitted that this issue can and should be dealt with in the 2017 GRA.

The evidence available on the methodology for calculating specifically assigned charges can be contrasted with the evidentiary record on the classification of transmission line TL267 and Newfoundland Power's rate design. Unlike specifically assigned charge methodology, these issues have not been substantively addressed in past hearings, have not been ordered by the Board to be decided in the 2017 GRA, were not put in issue for determination by Hydro in the 2017 GRA and have not been substantively addressed in the evidence filed to date. As such, the evidentiary record does not contain the necessary pre-filed expert and fact evidence for the Board to fully test the various options on these issues and to make a reasoned decision. It is respectfully submitted that these issues can be investigated at the 2017 GRA through questioning but reasonably deferred for final determination in the cost of service review.

Yours very truly,



Denis J. Fleming

DJF/js

c.c. Geoffrey P. Young, Newfoundland & Labrador Hydro
Gerard Hayes, Newfoundland Power
Dennis M. Browne, Q.C., Browne Fitzgerald Morgan & Avis
Paul Coxworthy, Stewart McKevey
Dean A. Porter, Poole Althouse
Van Alexopoulos, Iron Ore Company
Benoit Pepin, Rio Tinto
Senwung Luk, Olthius Kleer Townshend LLP