

November 30, 2015

VIA COURIER and ELECTRONIC MAIL

Ms. G. Cheryl Blundon, Board Secretary
Board of Commissioners of Public Utilities
120 Torbay Road
P.O. Box 21040
St. John's, NL A1A 5B2

Dear Ms. Blundon:

RE: Amended 2015 Cost Deferral Application

Enclosed are the original and twelve (12) copies of Vale's Written Submissions with respect to the above-noted Application.

We have provided a copy of this correspondence together with enclosures to all concerned parties.

We trust you will find the enclosed satisfactory.

Yours faithfully,



Thomas J. O'Reilly, Q.C.

TJOR/js
Encl.

c.c. Geoffrey P. Young, Newfoundland & Labrador Hydro
Gerard Hayes, Newfoundland Power
Thomas J. Johnson, O'Dea, Earle
Paul Coxworthy, Stewart McKelvey
Dennis Browne, Q.C., Browne Fitzgerald Morgan & Avis
Nancy Kleer, Olthuis, Leer, Townshend LLP
Yvonne Jones, MP Labrador
Genevieve M. Dawson, Benson Buffett

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IN THE MATTER OF the *Public Utilities Act*,
R.S.N.L. 1990, Chapter P-47 (the Act); and

AND IN THE MATTER OF a general rate
application by Newfoundland and Labrador
Hydro to establish customer electricity rates
for 2015; and

AND IN THE MATTER OF an Amended
application by Newfoundland and Labrador
Hydro ("Hydro") for approval of a proposed
cost deferral account to reduce Hydro's
forecast net income deficiency for 2015 until
the Board tests 2015 Test Year costs (the
"Amended 2015 Cost Deferral Application").

TO: The Board of Commissioners of Public Utilities ('the Board')

1 **WRITTEN SUBMISSIONS OF VALE NEWFOUNDLAND & LABRADOR LIMITED**

2 The following are the submissions of Vale Newfoundland and Labrador Limited ("Vale")
3 in relation to Hydro's Amended 2015 Cost Deferral Application seeking a \$60.5 million
4 deferral account to offset Hydro's stated 2015 net income deficiency and an interim
5 approval of the GRA Settlement Agreement dated August 14, 2015. As Vale was a
6 signatory to the GRA Settlement Agreement, it has no comment on this part of the
7 Application and limits its submission to the request for an income deficiency deferral
8 account.

9 In its Application, Hydro is seeking the creation of a \$60.5 million deferral account to
10 allow Hydro to reduce its 2015 revenue deficiency. This request is more than three
11 times the 2015 revenue deficiency deferral account requested by Hydro in July 2015.

1 Vale continues to question whether the requested relief achieves the stated goal for
2 Hydro as the creation of the deferral account provides no certainty that the Board will
3 ultimately accept that the amount requested accurately reflects Hydro's recoverable
4 revenue shortfall. In addition, while Vale is prepared to accept that Hydro may incur a
5 revenue deficiency in 2015 and that a portion of that deficiency may be subject to
6 recovery from Hydro's customers, Vale believes that the requested account would
7 likely include amounts that should not be recoverable from rate payers. In particular,
8 Vale questions whether Hydro's stated 2015 revenue deficiency accurately reflects its
9 actual recoverable year to date revenue shortfall as:

- 10 (i) Hydro's evidence has not been tested at a hearing;
- 11 (ii) Hydro's 'deficiency' includes a rate of return on equity of 8.8%¹, which is
12 almost double Hydro's existing approved rate of return on equity of
13 4.465%.² Hydro's position is that OC2009-063, which directed the
14 Board "for all future General Rate Applications" to calculate Hydro's
15 return on equity based on the same target most recently set for
16 Newfoundland Power, entitles Hydro to a rate of return on equity of
17 8.8%. Vale submits that Hydro's Application to recover its stated 2015
18 revenue deficiency is brought coincident with its 2013 Amended
19 General Rate Application but is not itself a general rate application. As
20 the revenue deficiency Application is not a general rate application, Vale
21 submits that OC2009-063 does not apply and any interim or final

¹ Source: 2015 Revenue Deficiency Application, statement 13, page 4 illustrates that Hydro is basing this deficiency on the 2015 test year. The Amended GRA, exhibit 13, 2015 Test Year COS, sch. 1.1, page 2 of 2, line 16, col. 2 shows that the ROE is 8.8%.

² GRA RFI IC-NLH-002.

1 revenue deficiency recovery relief should be based on a return on equity
2 of 4.465%;

3 (iii) Hydro's stated revenue deficiency includes more than \$7 million in a
4 supply cost deferral account that has not yet been approved by the
5 Board and, even if the deferral account is approved, the amounts in the
6 account will be contingent on Board approval before recovery occurs;

7 (iv) Hydro's stated revenue deficiency includes more than \$2 million in a
8 Holyrood Conversion Rate deferral account that has not yet been
9 approved by the Board;

10 (v) Hydro's stated revenue deficiency includes \$1.2 million in GRA costs.
11 As the length and complexity of the GRA was contributed to by Hydro's
12 choice not to file a GRA in 7 years and to amend the GRA on the eve of
13 the hearing scheduled in July 2014, Vale questions whether all of these
14 costs should be recoverable from rate payers; and

15 (vi) Hydro's stated revenue deficiency includes costs that Liberty Consulting
16 has found were imprudently incurred by Hydro including a portion of a
17 \$1.2 million deferral account for catch up maintenance that Liberty
18 found to be imprudently incurred and which are now forecast to cost
19 less than \$800,000.³

20 Vale submits that these factors will need to be accounted for when the Board
21 determines whether Hydro has sustained a recoverable 2015 revenue deficiency and,

³ The Liberty Consulting Group: Prudence Review of Newfoundland and Labrador Hydro Decisions and Actions Final Report dated July 6, 2015; V-NLH-89 Rev. 1.

1 if so, the proper recoverable amount of that deficiency. The importance of carefully
2 scrutinizing Hydro's recoverable deficiency is magnified by the fact that the recovery of
3 past revenue shortfalls through deferral accounts to be repaid by future customers
4 creates the potential for intergenerational inequity.

5 While Vale is concerned that Hydro has significantly overstated its recoverable 2015
6 revenue deficiency, Vale's concerns are somewhat alleviated by the fact that the
7 creation of a deferral account does not create an entitlement to recovery. On the
8 condition that its agreement to the remedy being sought by Hydro is not an
9 endorsement of the accuracy of Hydro's calculation of its recoverable revenue
10 deficiency and that the Order requested does not give rise to a presumption of
11 entitlement by Hydro to a 2015 revenue deficiency deferral account at the end of the
12 GRA, Vale does not object to the creation of the deferral account. For the reasons
13 already stated, Vale questions whether the deferral account should include the full
14 amount requested by Hydro.

15 Issue 3: Costs

16 Vale requests that the Board award Vale its costs of the within Application on the same
17 basis as any award of costs made in favor of the Consumer Advocate and/or the
18 Industrial Customer Group. An award of costs in favor of Vale is justified based on the
19 fact that:

- 20 1. Vale's energy consumption is steadily increasing with time and, when
21 Vale's Long Harbour processing facility completes production ramp-up, Vale will

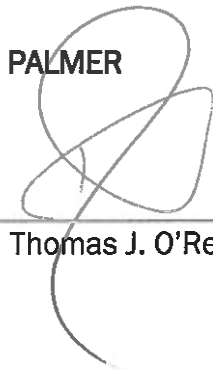
1 be the single largest industrial customer of Hydro. As such, Vale had a
2 significant interest in participating in the within Application; and

3 2. Vale's interests in the within Application are discreet from the interests
4 of the Industrial Customer Group. In particular, Vale and the Industrial
5 Customer group may not be aligned on manner of recovering past deficiencies
6 through future rate riders.

7 The within Application was made necessary by the complexity of and delays in the
8 general rate application process as a result of the fact that Hydro elected to allow
9 seven years between GRAs. For this reason, Vale submits that all or a significant
10 percentage of the costs of the within Application should be borne by Hydro and should
11 not form part of Hydro's rate base.

DATED at St. John's, in the Province of Newfoundland and Labrador, this 30th day
of November, 2015.

COX & PALMER

Per: 
Thomas J. O'Reilly, Q.C.

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Attention: Board Secretary

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TO: Newfoundland Power
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Attention: Gerard Hayes
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TO: Thomas J. Johnson, Consumer Advocate
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Attention: Yvonne Jones, MP Labrador