

March 16, 2016

Paul L. Coxworthy
Direct Dial: 709.570.8830
pcoworthy@stewartmckelvey.com

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 by Newfoundland and Labrador Hydro ("Hydro") for a 2016 Standby
Fuel Deferral Account for Fuel Consumed in Combustion Turbines and Diesel
Generators**

- 1 We make this submission on behalf of the Island Industrial Customers Group or IIC Group
2 (Corner Brook Pulp and Paper Limited, North Atlantic Refining Limited and Teck Resources
3 Limited), in response the above noted Application.
- 4 The IIC Group are satisfied that Hydro has presented evidence that has not only identified that
5 the condition of low hydrology reserves has existed since at least January of this year, but has
6 also identified substantial risk that hydrology reserves will remain low into at least the summer of
7 2016. The IIC Group are also satisfied that this is a situation where it is prudent for Hydro to
8 increase its thermal generation, for the purpose of maintaining prudent levels of water storage
9 for hydraulic generation.
- 10 Having said this, the gist of the issue, from the regulatory and Hydro customer perspectives, is
11 Hydro's acknowledgement that if its primary thermal generation plant at Holyrood (the "Holyrood
12 TGS") was to be available at full capacity in 2016, the necessary thermal generation to offset
13 low hydrology would have been able to be produced by the Holyrood TGS (Reference: Hydro's
14 response to PUB-NLH-003). The fuel costs of such increased thermal generation by the
15 Holyrood TGS would have been captured by the existing RSP mechanisms. However, Hydro
16 has submitted that unscheduled events which resulted in derating of the Holyrood TGS Units 1
17 and 2 in January and February 2016 (Reference: Hydro's response to CA-NLH-006), and
18 scheduled major capital upgrades of Holyrood TGS Unit 3, will result in a reduction of Hydro's
19 firm energy generation from the Holyrood TGS, from the 2,996 GWh stated in Hydro's 2012
20 Generation Planning Issues Report to 2,475 GWh. In this circumstance, Hydro is using, and
21 proposes to continue to use, standby thermal generation (predominantly from the Holyrood 100
22 MW CT, in the Appendix C, D and E scenarios outlined in Hydro's Application, per Hydro's
23 response to IC-NLH-004) to offset low hydrology. It is the fuel costs of this increased standby
24 thermal generation that Hydro proposes be captured in a deferral account, to allow Hydro the
25 opportunity of the future recovery of these costs from its customers.

26 A further level of complexity, however, is introduced into this Application by Hydro's proposal to
27 also capture in the deferral account the fuel costs of standby thermal generation considered by
28 Hydro to be necessary due to "*increased reliability requirements due to load on the Avalon*
29 *Peninsula*", which Hydro submits are "*beyond Hydro's control*" (Reference: Hydro's Application,
30 page 13, lines 6-7.) Hydro goes further, in its responses to NP-NLH-008 and PUB-NLH-009, to
31 state that it "*expects that in most events of deployment of the Standby generation, it will be*
32 *understood to be providing both energy and reliability benefits simultaneously*" (PUB-NLH-009,
33 underlining added), and therefore "*it is not necessary to segregate the fuel costs [associated*
34 *with enhanced system reliability vs. Standby Generation fuel costs associated with low reservoir*
35 *levels] as all the standby fuel consumed has provided the energy needed to support Hydro's*
36 *reservoir storage system*" (NP-NLH-008, underlining added).

37 It is submitted that there is a meaningful distinction to be made between fuel costs of standby
38 thermal generation reasonably incurred to address low hydrology, on the one hand, and fuel
39 costs of standby generation incurred by Hydro to address system reliability concerns, on the
40 other hand. The circumstance of low hydrology is admittedly "beyond Hydro's control" but at
41 least some aspects of maintaining system reliability are matters that can be reasonably
42 expected to be within Hydro's ability to manage, in a manner that provides least cost, reliable
43 service to its customers. Hydro acknowledges the importance of this principle (which remains
44 the power policy statutorily mandated by the Province) by its statement in the Application that
45 "*Hydro will, at every opportunity, look to minimize the cost of additional fuel in 2016 and provide*
46 *least cost, reliable service to customers*" (Hydro's Application, page 13, lines 8-9, underlining
47 added).

48 The IIC Group do not oppose approval of the deferral account sought by Hydro's Application,
49 provided that it is indeed established in accordance with the principle that the Hydro will, at
50 every opportunity, look to minimize the use of standby thermal generation while still providing
51 reliable service to its customers. The IIC Group would submit that the following are measures
52 that the Board may wish to consider to promote this principle:

53 1. With reference to Hydro's responses to NP-NLH-003 and IC-NLH-007, the IIC Group
54 submit that there is a lack of clarity as to the content of the recommendations generated
55 by the Vista Decision Support System, and as to how Hydro integrates the Vista
56 recommendations with other factors such as weather and load forecasts, snow pack,
57 distribution of the storage within the reservoir system, and the available thermal
58 capacity. Hydro's response to NP-NLH-003 indicates that it is Hydro's analysis of the
59 Vista recommendations and of these other factors (and not Vista's recommendations
60 alone) that guide Hydro's decision making as to when it can reduce standby generation.
61 The IIC Group submit that Hydro, by the periodic reporting to the Board outlined in the
62 response to NP-NLH-010 (on a bi-weekly, monthly or quarterly basis, as the Board
63 deems appropriate) provide a substantive report detailing Vista's recommendations and
64 Hydro's analysis of those recommendations in conjunction with the other factors listed
65 above and any other factors considered by Hydro, as it relates to Hydro's decisions to
66 use, reduce or suspend standby generation during the reporting period. The IIC Group
67 submit that the periodic reporting be integrated, ie not dependent upon the Board or
68 intervenors having to themselves integrate information from multi-various Hydro
69 reporting (as apparently proposed/outlined in the response to NP-NLH-010) to
70 understand the basis for standby thermal generation decisions.

- 71 2. Given that Hydro's proposed deferral account apparently intends to capture, retroactive
72 to the Board's approval, standby generation fuel costs incurred dating back to January
73 2016, that Hydro be required to provide an integrated reporting, proposed by 1 above,
74 for the appropriate reporting periods commencing from January 1, 2016.
- 75 3. That Hydro, in its periodic reporting, should specifically identify the specifics of Vista
76 recommendations, including without limiting the foregoing, the periodicity of the
77 generation of Vista recommendations (ie. daily, weekly or otherwise), the periodicity of
78 Hydro's review and acting upon Vista recommendations (daily, weekly, or otherwise¹),
79 the date specific changes in Vista recommendations were generated during the reporting
80 period, the substantive content of Vista recommendations generated during the reporting
81 period, and the dates Hydro implemented changes in its thermal generation mix
82 (including relative usage of Holyrood TGS and of the respective standby thermal
83 generation sources) during the reporting period.
- 84 4. That Hydro define in its deferral account, and identify in its periodic reporting, the point,
85 or points, and periods throughout the currency of the deferral account when standby
86 generation is not required for hydrology, but is used for reliability, as contemplated by
87 Hydro's response to NP-NLH-009 (page 2, lines 5-9), and segregate the fuel costs
88 incurred accordingly within the deferral account.
- 89 5. That provision be made for the Board, by its own motion or at the request of one of the
90 intervenors, to require a more fulsome update or review of how the deferral account is
91 operating than what is provided by Hydro's periodic reporting, before the end of 2016.
- 92 6. That provision be made for the Board, by its own motion or by application of one of the
93 parties, to commence by an appropriate date in early 2017 a process to decide on
94 disposition of the amounts accrued in the deferral account and on whether the deferral
95 account, as presently proposed or with such amendments as may be appropriate at that
96 time, should be continued.

97 The IIC Group note that the Holyrood Black Start Diesels are included within the standby
98 generation to be covered by the proposed deferral account. Hydro's proposed purchase (and
99 consequent continued use) of the Black Start Diesels is the subject of a separate and ongoing
100 application before the Board, and the IIC Group's decision not to oppose the deferral account
101 should not be necessarily taken as support for Hydro's purchase of the Black Start Diesels.

102 As well, the IIC Group have noted that Hydro has sought, by its responses to CA-NLH-003 and
103 NP-NLH-001, to distinguish the deferral account sought by this Application from the Energy
104 Supply Cost Variance Account (ESCVA) proposed in Hydro's Amended 2013 General Rate
105 Application, and Hydro appears to consider the ESCVA to still be necessary, even if the deferral
106 account sought by this Application is approved. The IIC Group's decision not to oppose the
107 deferral account sought by this Application should not be taken as a withdrawal or amendment
108 of their opposition to approval of ESCVA in the GRA. The IIC Group maintain that consideration
109 of an ESCVA is appropriately deferred until it can be considered in the context of the review of

¹ The IIC Group acknowledge that Hydro's response to NP-NLH-003 indicates such review occurs on a weekly basis.

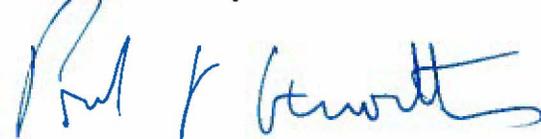
110 the RSP contemplated for later this year. The IIC Group note that deferral of consideration of
111 the ESCVA is supported by Hydro's apparent acknowledgment that the need for the ESCVA
112 excludes the period proposed to be covered by the 2016 Standby Fuel Deferral, per Hydro's
113 Response to NP-NLH-001 (page 2, lines 1-5).

114 The IIC Group respectively submit that their participation in this Application is an appropriate
115 circumstance for an award of costs. While low hydrology is a circumstance beyond Hydro's
116 control, the manner by which Hydro proposes to manage this circumstance, particularly when
117 commingled with management of system reliability, is a matter of legitimate concern for
118 industrial customers who are relying upon Hydro's statutory mandate to provide a least cost,
119 reliable supply of electrical power. Hydro, in its Application, has estimated a \$33 million
120 reduction in 2016 net income if the deferral account is not approved; this is an amount which
121 Hydro will be seeking to recover from its customers, approximately 10% of which would fall
122 upon the industrial customers². While the IIC Group have, after due scrutiny and consideration
123 of the evidence, decided not to oppose Hydro's Application, such due scrutiny and consideration
124 was reasonably necessary (and will continue to be so if the deferral account is approved). The
125 IIC Group respectfully submit that their intervention in the Application was warranted by these
126 interests, and contributed to the Board's consideration of the issues, and requests that an award
127 of its costs of participation (fees of legal counsel and of their consultant, InterGroup) be made.

128 All of which is respectfully submitted.

Yours truly,

Stewart McKelvey



Paul L. Coxworthy

PLC/kmcd

- c. Geoffrey P. Young, Senior Legal Counsel, Newfoundland and Labrador Hydro
Gerard Hayes, Newfoundland Power
Thomas J. Johnson, Q.C., Consumer Advocate
Thomas J. O'Reilly Q.C., Cox & Palmer
Denis Fleming, Vale Newfoundland and Labrador Limited
Dean A. Porter, Poole Althouse
Sheryl Nisenbaum, Praxair Canada Inc.

² The IIC Group's consultants estimate that based on actual reported standby generation use to date this year, the fuel costs accruing to the deferral account in 2016 may greatly exceed Hydro's \$33 million estimate.