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September 26, 2006

Board of Commissioners of Public Utilities
120 Torbay Road
P.O. Box 21040
St. John's, NL
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Attn: Ms. Cheryl Blundon,
Board Secretary

Re: Newfoundland and Labrador Hydro Inc.
Request for Deferral of Expenses Associated
With the Repair of Unit 2 at the Holyrood
Thermal Generating Station as a Major
Extraordinary Repair

Dear Ms. Blundon:

We are counsel to the Industrial Customers of Newfoundland and Labrador Hydro and we have received a copy of the Application dated July 24, 2006 in connection with the above-noted request. We have also reviewed the letter of Grant Thornton dated September 5, 2006 and the 1991 KPMG Report on this subject.

As the Board is aware, and as Grant Thornton has noted, generally accepted accounting principles would require these operating costs to be recognized as expenses in the fiscal year in which they are incurred. A company which was not a public utility would have no choice but to comply with the GAAP rules in this regard notwithstanding the effect that recognition of the expense would have on earnings. If Hydro wishes to conduct itself as a ordinary commercial corporation, it should not be seeking the type of relief that it has requested in this Application.

The ultimate goal of the regulation of public utilities is to ensure that service is provided to the customers of the utility and that the utility does not take advantage of a monopoly situation to extract inappropriate levels of profit from its customers. In this context, and in accordance with the generally accepted principles of public utility regulation, a provision to amortize extraordinary expenses may be justified when the result would be "rate shock" to the customers. If the Board makes no order in respect of the Application or denies the Application, there will be no rate shock to the customers since the expense will be charged off in the year prior to the test year for the upcoming General Rate Application. Incidentally, if an extraordinary expense were forecast for a test year, the forecast would be normalized to remove that effect and prevent setting rates based on an unusual expense year.

While it is part of the Board's responsibility to provide conditions under which the public utilities it regulates can be viable, this duty is simply derivative of its duty to ensure that service is provided to customers. There is no principle under which the Board, in any particular year, is under any duty to ensure any particular level of income or profit to a utility. Utilities operate in the market place and should bear the risks of extraordinary expenses except to the extent that their financial viability would be threatened so as to jeopardize their ability to provide service to their customers.

In our submission, it would only be a "shock" to Hydro's earnings which would potentially jeopardize its financial viability that could, in any circumstances, justify the deferral of a major extraordinary repair expense. While recognizing this expense in accordance with GAAP would increase Hydro's net loss in 2006, there is no suggestion that such a loss would jeopardize the financial viability of Hydro or represents so extraordinary a situation as to justify a departure from GAAP.

The Board should focus its attention on its primary duty, that to the consumers of electricity, and recognize that the treatment proposed by Hydro imposes financing costs of \$443,000.00 on customers. This is an addition to revenue requirement which would not exist but for this proposal by Hydro and considering (a) that the proposal is contrary to generally accepted accounting principles; (b) that an increase in the level of Hydro's net loss in 2006 will not jeopardize the financial viability of Hydro; and (c) that the result is the imposition of additional costs on the consumer, the Board should dismiss this Application and allow this expense to be treated as a normal operating expense for 2006. To the extent that Hydro's net loss needs to be addressed by the Board, that can and should be done in the pending General Rate Application given that the loss purports to justify the rate increases sought by Hydro in that Application.

The Industrial Customers do not request a hearing in respect of this Application, as it is not felt that anything might be added in the course of a hearing which would justify the cost of that procedure. This is a discrete issue which the Board can deal with on the basis of written representations and it is for this reason that we have been directed by our clients to provide this correspondence to you.

We look forward to the Board's disposition of the matter.

Yours very truly,

POOLE ALTHOUSE



Joseph S. Hutchings

JSH/sh

cc Mr. G. Young
Mr. Peter Alteen
Mr. Tom Johnson