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September 5, 2013

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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: Hydro Application for Approval of RSP rules and Industrial Customer rates

Please find enclosed the original and twelve (12) copies of the Requests for Information IC-NLH-6 to IC-NLH-31 of the Island Industrial Customers in the above Application.

We trust you will find the enclosed to be in order.

Yours truly,

Stewart McKelvey

Paul L. Coxworthy

PLC/kmcd

Enclosures

- c. Mr. Geoffrey P. Young, Senior Legal Counsel, Newfoundland and Labrador Hydro
- Mr. Thomas J. Johnson, Consumer Advocate
- Mr. Gerard Hayes, Newfoundland Power
- Mr. Dean A. Porter, Poole Althouse
- Mr. Thomas O'Reilly, Q.C., Vale Newfoundland and Labrador Limited

IN THE MATTER OF the *Public Utilities Act*, RSNL 1990, Chapter P-47 (the Act) as amended; and

IN THE MATTER OF an Application by Newfoundland and Labrador Hydro for the approval, pursuant to Sections 70(1) and 76 of the Act, of the Rate Stabilization Plan rules and components of the rates to be charged to Industrial Customers.

1 REQUESTS FOR INFORMATION OF THE ISLAND INDUSTRIAL CUSTOMERS

2 IC-NLH-6 to IC-NLH-31

3 **IC-NLH-6** Island Industrial Customer rates were not made interim until
4 January 1, 2008. Is it Hydro's position that the Orders-in-Council
5 can only be validly interpreted so as to have the effect of changing
6 the RSP load variation rules applicable to final IIC rates in effect
7 prior to January 1, 2008? If Hydro's response to the foregoing
8 question is "yes", please provide Hydro's full justification for that
9 response.

10 **IC-NLH-7** Section 5.1 of the *Electrical Power Control Act, 1994* (EPCA) only
11 authorizes the Lieutenant-Governor in Council to "*direct the public*
12 *utilities board with respect to the policies and procedures to be*
13 *implemented by the board with respect to the determination of rate*
14 *structures of public utilities under the Public Utilities Act*".

15 Is it Hydro's position that changing the RSP load variation rules
16 applicable to final IIC rates in effect prior to January 1, 2008 would
17 be a direction "*with respect to the policies and procedures to be*
18 *implemented by the board with respect to the determination of rate*
19 *structures of public utilities under the Public Utilities Act*"? If Hydro's
20 response to the foregoing question is "yes", please provide Hydro's
21 full justification for that response.

22 **IC-NLH-8** Is it Hydro's position that a direction under section 5.1 of the EPCA
23 could change a final rate set for and paid by a Hydro customer, or
24 class of Hydro customers? If Hydro's response to the foregoing
25 question is "yes", please provide Hydro's full justification for that
26 response.

- 1 **IC-NLH-9** Did Hydro specifically inform the Provincial Government, prior to
2 issuance of the Orders-in-Council, that Island Industrial Customers
3 rates were not made interim until January 1, 2008, and that IIC
4 rates for the period January 1, 2007 to December 31, 2007 were
5 final rates? If Hydro's response to the foregoing question is "yes",
6 please provide a copy of Hydro's communication specifically
7 informing the Provincial Government of this fact.
- 8 **IC-NLH-10** Assuming that the accumulated load variation surplus for the period
9 January 1, 2007 to December 31, 2007 did not form part of the
10 Rate Stabilization Plan Surplus intended to be allocated by the
11 Orders-in-Council, please identify all necessary changes that would
12 have to be made to Hydro's Application and to the supporting
13 evidence filed to date for Hydro's Application to fully reflect that
14 assumption, including without limiting the foregoing all necessary
15 changes to Tables 1, 2, 3 and 4 of Hydro's July 2013 Rate
16 Stabilization Evidence, and to all schedules and appendices
17 supporting or relating to those Tables.
- 18 **IC-NLH-11** With reference to Hydro's response to PUB-NLH-6, Hydro, in
19 response to the Board's request that Hydro explain why interim
20 rates charged to Industrial Customers over the period from January
21 1, 2008 to August 31, 2013 should be finalized at this time without
22 further review, identifies several facts and policy directives, but fails
23 to explain how those facts and policy directives have led Hydro to
24 this position. Please provide Hydro's full justification as to why
25 interim rates charged to Industrial Customers over the period from
26 January 1, 2008 to August 31, 2013 should be finalized at this time
27 without further review, and without limiting the foregoing, explain
- 28 (a) The significance of the Orders in Council having allocated the RSP
29 load variation (Rate Stabilization Plan Surplus) between the IIC class
30 and Newfoundland Power to Hydro's position;
- 31 (b) The significance of the Orders in Council having provided that no
32 future adjustment will be made to the \$49 million credited to the IIC
33 class RSP on August 31, 2013 to Hydro's position;
- 34 (c) The significance of Hydro's estimate of a \$39 million IIC class RSP
35 balance "owing to Hydro" to Hydro's position; and
- 36 (d) Whether Hydro's estimate of a \$39 million IIC class RSP balance
37 "owing to Hydro" is dependent upon the Board ordering that the
38 interim IIC rates for the period from January 1, 2008 to August 31,
39 2013 be made final "as is", or whether the Board could order final IIC
40 rates for the period from January 1, 2008 to August 31, 2013 different
41 from the interim IIC rates without affecting Hydro's estimate of the IIC
42 class RSP balance "owing to Hydro"?

- 1 **IC-NLH-12** What is the finalized amount of the RSP “deficit” (presently
2 estimated by Hydro at \$39 million) posited by Hydro to be owing by
3 the IIC class to Hydro? (The term “deficit” in the further questions
4 below should be understood to have the same meaning as
5 indicated by the foregoing question).
- 6 (a) Please provide, in table form, a detailed accounting of how this RSP
7 “deficit” accrued over the time period applicable to the “deficit”, either
8 based on the finalized amount of this “deficit” if available or if not
9 available, then based on Hydro’s estimates.
- 10 (b) If Hydro is not able at this time to provide the final “deficit” amount,
11 when will it be able to do so?
- 12 (c) Can the “deficit” amount be finalized without IIC rates for the period
13 January 1, 2008 to August 31, 2013 being made final by order of the
14 Board?
- 15 (d) Can the amount of the remaining balance of the Rate Stabilization
16 Plan Surplus allocated by the Orders in Council to the credit of
17 Newfoundland Power’s RSP be ascertained, with finality, without
18 finalizing the amount of the RSP “deficit” estimated by Hydro to be
19 owing by the IIC class to Hydro?
- 20 (e) (c) Once finalized, will the “deficit” amount owing by the IIC class to
21 Hydro be subject to future adjustment? If so, then what factors will or
22 may apply to such future adjustment? How would such adjustments
23 affect the remaining balance the Rate Stabilization Plan Surplus
24 allocated to the credit of Newfoundland Power’s RSP?
- 25 **IC-NLH-13** What would be the impact, on Hydro’s Application, of the Board
26 ordering that the \$39 million “deficit” estimated by Hydro to be
27 owing by the IIC class to Hydro not be paid to Hydro, and not
28 become a charge against the IC RSP Surplus amount of \$49
29 million? Does Hydro agree that, as this “deficit” was incurred while
30 IIC rates were interim, the Board retains the jurisdiction to make an
31 order that the \$39 million or a part of it not be paid to Hydro, and
32 not become a charge against the IC RSP Surplus amount of \$49
33 million?
- 34 **IC-NLH-14** If the change in the base rate for Vale and Praxair was phased in in
35 the same manner as is proposed by Hydro for Teck Resources,
36 please provide details (as were provided in response to PUB-NLH-
37 16) of the forecast impact on the base and RSP rates of the other
38 Industrial Customers compared to those proposed by Hydro’s
39 Application.

40

- 1 **IC-NLH-15** With reference to Hydro's response to CA-NLH-3, please confirm
 2 that Section E with respect to Historical Plan Balances forms part of
 3 the RSP rules which, as decided by the Board in P.U. 25 (2010),
 4 are not distinct from the interim IIC rates ordered for the period
 5 January 1, 2008 to August 31, 2013, commencing with P.U. 34
 6 (2007).
- 7 **IC-NLH-16** With reference to Hydro's responses to IC-NLH-3 and IC-NLH-7 in
 8 Hydro's 2009 Application with respect to RSP Components to be
 9 charged to the Industrial Customers (the "2009 RSP Application")
 10 please confirm that, as at December 31, 2007, there had been a
 11 \$1.383 million over recovery of the Historical Plan.
- 12 **IC-NLH-17** At what point in 2007 did the Historical Plan component of the
 13 Industrial Customer Rate Stabilization Plan cease being an amount
 14 owed by the Industrial Customers and become a credit balance?
- 15 **IC-NLH-18** Assuming the Board were to order that the final rate for the
 16 Industrial Customers Corner Brook Pulp & Paper (CBPP) and North
 17 Atlantic Refining (NARL) for the period January 1, 2008 to August
 18 31, 2013 be the same as the interim rate paid by Teck Resources
 19 (and its predecessor entities) during that period, without any other
 20 adjustments:
- 21 (a) What would be the total amount of the rate over recovery from the
 22 interim rates paid by Corner Brook Pulp & Paper and North Atlantic
 23 Refining for the period January 1, 2008 to August 31, 2013, including
 24 in that calculation the same financing methodology as Hydro has used
 25 for calculating the load variation component for this same period?
 26 Please support Hydro's answer with tables showing all facts and
 27 calculations used.
- 28 (b) Assuming the Board were to order that an over recovery calculated in
 29 accordance with the foregoing assumption and paragraph (a) be paid
 30 into a separate account for the Board's future determination as to how
 31 it should be disposed of, please identify all necessary changes that
 32 would have to be made to Hydro's Application and to the supporting
 33 evidence filed to date for Hydro's Application to fully reflect the
 34 foregoing assumptions posited by this RFI IC-NLH-18 and the
 35 calculations made in response to paragraph (a) hereof, including
 36 without limiting the foregoing all necessary changes to Tables 1, 2, 3
 37 and 4 of Hydro's July 2013 Rate Stabilization, and to all schedules
 38 and appendices supporting or relating to those Tables.
- 39

(c) Assuming the Board were to order that an over recovery calculated in accordance with the foregoing assumptions posited by this RFI IC-NLH-18 and in response to paragraph (a) hereof, be paid into a separate account for the Board's future determination as to how it should be disposed of, please separately identify each of the options available to the Board as to how such an over recovery amount could be disposed of, in accordance with the *Public Utilities Act* (PUA) and the *Electrical Power Control Act, 1994*.

IC-NLH-19

Assuming Hydro's estimate of a \$39 million IIC class RSP deficit for the period from January 1, 2008 to August 31, 2013 had been able to be recovered in rates paid by the Industrial Customer class during this January 1, 2008 to August 31, 2013 period, and assuming no other potential adjustments to the interim rates paid by the Industrial Customer class during this same period, please calculate the increased rates that would have had to have been paid by (a) Corner Brook Pulp & Paper and North Atlantic Refining, as compared to the interim rates paid by them and (b) Teck Resources, Vale and Praxair, as compared to the interim rates paid by them? If Hydro is able to provide, in response to IC-NLH-12, a finalized deficit amount, please substitute that final amount for the \$39 million estimate for the purposes of responding to the foregoing question.

IC-NLH-20

Please provide from the Orders in Council evidence that the phase-in rates for the Industrial Customers cannot, as of January 1, 2014, be subject to different RSP adjustments (as was the case, for example, as between Corner Book Pulp and Paper and North Atlantic Refining, on the one hand, and Teck Resources predecessor entity, on the other hand, in 2007).

IC-NLH-21

Assuming that the \$49 million credited to the IC RSP was to be allocated among all of the current Industrial Customers, based on respective sales by Hydro to the current Industrial Customers in the January 1, 2008 to August 31, 2013 period, both in respect of the IC RSP deficit (at the \$39 million estimated by Hydro or at the finalized deficit amount, if available) and in respect the remaining IC RSP surplus balance (at the \$10 million estimated by Hydro or at the finalized surplus amount, if available), please prepare a table similar to that prepared by Hydro in response to PUB-NLH-25 in the 2009 RSP Application (but in accordance with the foregoing assumptions omitting Newfoundland Power and Abitibi, and adding Vale and Praxair) setting out the respective shares (based on a respective January 1, 2008 to August 31, 2013 period sales allocation, per the foregoing assumptions) of each current Industrial Customer in the IC RSP deficit and in the remaining IC RSP surplus balance.

IC-NLH-22

With reference to the responses made by Hydro to all Requests for Information directed to Hydro in the 2009 RSP Application, please, for the purpose of incorporating those responses into the record for this Application, provide responses to each of those Requests for Information as if set out here for Hydro's response today. In the cases where there would be no change between Hydro's response in the 2009 RSP Application to an RFI made in that Application and Hydro's response to the same RFI in the present Application, Hydro's confirmation of this would be sufficient. In the cases where there would be a change between Hydro's response in the 2009 RSP Application to an RFI made in that Application and Hydro's response to the same RFI in the present Application, whether due to the need to bring the response up to date or for other reasons, please provide Hydro's changed response to that RFI, and clearly identify the change in the response.

IC-NLH-23

Preamble: The IC query how Hydro proposes to give effect to section 73(1) of the PUA (rates to be the same for all service under substantially similar circumstances) in respect of January 1, 2008 to August 31, 2013 interim rates paid by the Industrial Customers. In particular, CBPP and NARL during this period paid a rate which included a charge, "frozen" by interim rates starting from January 1, 2008, which was only ever intended to effect recovery of the old "historical RSP" balance. This additional charge on rates paid by CBPP and NARL persisted despite the historical RSP balance being fully recovered by approximately October 2007.

Question: (a) Hydro previously accepted, in 2007, that this charge should not be imposed on Teck Resources' predecessor entity, due to Teck Resources having not contributed to the historical RSP balance; how is this logically distinguishable from the circumstances that obtained, vis-à-vis CBPP and NARL, once the historical balance had been fully recovered in 2007, when considered in light of the need to give effect to section 73(1) of the PUA.

(b) Assuming some portion of the present \$49 million IC RSP Surplus were to be reserved to the benefit of CBPP and NARL to correct for section 73(1) disparities since October 2007, what balance would need to be recorded to the benefit of CBPP and NARL, based on the total difference between what was paid by CBPP and NARL since (approximately) October 2007 to August 31, 2013 versus what CBPP and NARL would have paid under the interim rate applicable to other Industrial Customers (including accrued interest)?

IC-NLH-24

Re: PUB-NLH-1. Preamble: Hydro indicates that step 1(a) of the proposed transaction is to remove the "RSP Surplus" from the "respective customer class plan" and then allocate this amount to the various classes pursuant to an allocation method prescribed by Orders-in-Council. The reallocation proposed by Hydro removes approximately \$159 million from the IC RSP balance (per Appendix D) as the IC portion of the "RSP Surplus". After moving this proposed amount from the IC plan as per step 1(a), the IC plan is revised from a positive balance (surplus) of approximately \$120 million, to a deficit of approximately \$39 million (per Table 1, page 6 of the filing).

Question: (a) How can Hydro define the IC "RSP Surplus" as being \$159 million when the IC plan only has a surplus of \$120 million? Why does removal of the "RSP Surplus" leave the IC plan in step 1(a) a deficit position such that the IC must use a substantial portion of their \$49 million allocation simply to recover from the major RSP deficit of \$39 million and leave these funds unavailable for other uses such as a full 3 year transition to the new rates?

(b) In the event the Board concluded that only the positive balance in the IC plan (\$120 million) was to be reallocated as the "RSP Surplus", and of this amount \$49 million was to be credited to the IC RSP Surplus balance, please confirm that this would change the amounts to be allocated to NP's RSP Surplus. Please indicate Hydro's understanding of finalizing the RSP Surplus transfer by September 16, 2013 when the opportunity for substantive arguments in regards to how to calculate this balance will not occur until September 23, 2013. Please indicate Hydro's ability to adjust (after September 23, 2013) for conclusions of the Board as to the calculation of the NP RSP Surplus, despite Hydro having purportedly "finalized" the NP RSP Surplus amount as of September 16, 2013.

IC-NLH-25

Please indicate if Hydro had adopted or otherwise subscribed to or testified to a threshold that would distinguish the presence of "rate shock". Please provide all relevant references in support to regulatory literature, publications, and previous PUB decisions.

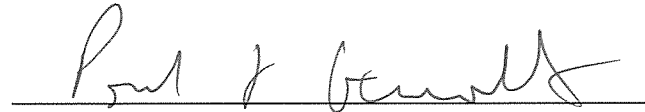
IC-NLH-26

Please confirm that the response to IC-NLH-1 indicates that, based on present load and rate forecasts, the \$10 million proposed to be allocated to the IC RSP surplus for the purpose of phasing in rates over 3 years is insufficient to fund all phase in activities beyond approximately month 20 (April 2015) and that the IC plan would be projected to be driven to a deficit position. If confirmed, please clarify how Hydro has "estimated" (per OIC 2013-089) that \$10 million is sufficient for the phase-in.

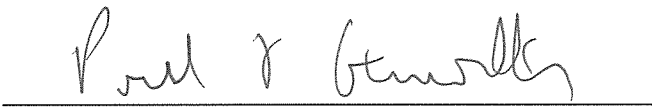
- 1 **IC-NLH-27** Re: V-NLH-1. The net effect of Hydro having a load variation
2 provision in the RSP is that Hydro is not exposed to financial risks
3 related to changes in load. This provision was first implemented in
4 1992 (V-NLH-2) and remains in place in the same substantive form
5 in terms of the effects on Hydro's net income due to load changes.
- 6 Question: Please provide, for each year since 1992, the actual
7 and/or approved Hydro net income or return on equity including as
8 proposed for the test years. Please indicate if this change in the
9 scale of shareholder returns to equity indicates a potential shift in
10 the purpose and necessity of a load variation provision being
11 included at all in the RSP.
- 12 **IC-NLH-28** Please provide the most recent RSP monthly Report. Please
13 provide the same data for the additional months between last actual
14 RSP report to August 31, 2013 using forecast values.
- 15 **IC-NLH-29** Please recalculate and extend the table in IC-NLH-1 (pages 1-3) on
16 the basis that a 3 year phase in comprised 36 months of rates
17 below the full GRA level (with roughly equal annual percentage
18 increases), rather than 24 months as shown. Please specifically
19 indicate the Cumulative Net Balance in the IC RSP Surplus.
- 20 **IC-NLH-30** Please perform the same calculation as for the RFI IC-NLH-29
21 (remodeling the results of IC-NHL-1) but in this case revise the
22 approach to have Vale and Praxair face the same rate progression
23 rules as is described for Teck.
- 24 **IC-NLH-31** Please provide a 5 year IC RSP scenario (showing all monthly
25 calculations, transactions and balances) based on all of the
26 following components – (1) of the \$49 million IC RSP surplus, a
27 portion of the balance is held to the benefit of CBPP and NARL to
28 give effect to section 73(1) of the Act as per IC-NLH-23 above, (2)
29 the IC rate phase-in is to occur over a full 36 months, with the last
30 rate change to the full new GRA rate level occurring at September
31 1, 2016 using approximately equal annual rate changes throughout
32 the period, (3) The residual IC RSP deficit as of September 1, 2013
33 is amortized over 5 years (equal charge per kW.h) to all IC
34 customers being served at any given point in time.

DATED at St. John's, in the Province of Newfoundland and Labrador, this 5th day of September, 2013.

POOLE ALTHOUSE

Per: 
Dean A. Porter

STEWART MCKELVEY

Per: 
Paul L. Coxworthy

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