

HAND DELIVERED

October 7, 2013

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

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

Ladies and Gentlemen:

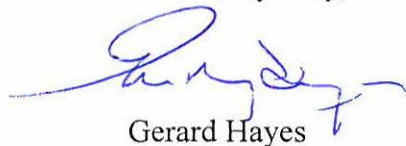
**Re: Newfoundland and Labrador Hydro 2014 Capital Budget Application**

Please find enclosed the original and 8 copies of Newfoundland Power's Submission in respect to the above-noted Application.

A copy of this letter, together with enclosures, has been forwarded directly to the parties listed below.

If you have any questions regarding the enclosed, please contact the undersigned at your convenience.

Yours very truly,



Gerard Hayes  
Senior Counsel

c. Geoffrey Young  
Newfoundland and Labrador Hydro

Dean Porter  
Poole Althouse

Thomas Johnson  
O'Dea Earle Law Offices

Paul Coxworthy  
Stewart McKelvey

Leanne O'Leary  
Cox and Palmer

**IN THE MATTER OF** the *Public Utilities Act*, (the “Act”); and

**IN THE MATTER OF** an Application by Newfoundland and Labrador Hydro for an Order approving: (1) its 2014 capital budget pursuant to s.41(1) of the Act; (2) its 2014 capital purchases, and construction projects in excess of \$50,000 pursuant to s.41 (3) (a) of the Act; (3) its leases in excess of \$5,000 pursuant to s.41 (3) (b) of the Act; and (4) its estimated contributions in aid of construction for 2014 pursuant to s.41 (5) of the Act and for an Order pursuant to s.78 of the Act fixing and determining its average rate base for 2012.

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**BRIEF OF ARGUMENT  
OF  
NEWFOUNDLAND POWER INC.  
OCTOBER 7, 2013**

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## 1.0 INTRODUCTION

Newfoundland and Labrador Hydro's ("Hydro") 2014 Capital Budget Application (the "Application") was filed with the Board of Commissioners of Public Utilities (the "Board") on August 5<sup>th</sup>, 2013. Newfoundland Power filed a Notice of Intention to Participate in the hearing of the Application on August 13<sup>th</sup>, 2013.

This is Newfoundland Power's submission with respect to the Application.

## 2.0 LEGISLATIVE FRAMEWORK

Section 37(1) of the *Public Utilities Act* states that a public utility shall provide service and facilities that are reasonably safe and adequate and just and reasonable. Section 37(1) is a cornerstone of Hydro's and Newfoundland Power's obligation to serve their customers.

Section 3(b) of the *Electrical Power Control Act, 1994* states that all sources and facilities for the production, transmission, and distribution of power in the province should be managed and operated in a manner that would result in:

- (i.) the most efficient production, transmission, and distribution of power,
- (ii.) consumers in the province having equitable access to an adequate supply of power, and
- (iii.) power being delivered to customers in the province at the lowest possible cost consistent with reliable service.

Section 3(b) does not create a hierarchy between these three principles; rather, each is equally important in the management and operation of electrical facilities in the province.

### 3.0 2014 CAPITAL BUDGET

#### 3.1 General

The principal question for the Board in its consideration of this proceeding is whether Hydro's proposed capital expenditures in 2014 are reasonably required for Hydro to meet its statutory obligation to provide reasonably safe and adequate, least cost service to its customers, including Newfoundland Power.

Newfoundland Power does not oppose any of the proposed 2014 capital expenditures included in this proceeding. Newfoundland Power's submission on Hydro's proposed 2014 capital expenditures focuses on the following 2 items:

- (i) Hydro's proposed 2014 capital expenditures of \$257,000 to address unspecified safety hazards at various sites (Remove Safety Hazards); and
- (ii) The process for Board approval of increases in multi-year projects as it relates to the 2009 project Upgrade Terminal Stations to 25kV - Labrador City.

#### 3.2 Remove Safety Hazards

##### *Background*

The *Remove Safety Hazards* project included in Hydro's 2014 Capital Budget proposes an expenditure of an estimated \$257,800 in 2014 to ensure adequate capital funding is available to quickly address safety hazards as they are identified through Hydro's Safe Work Observation Program (SWOP).

1 The history of capital expenditure on the *Remove Safety Hazards* project is \$207,800, \$239,400  
2 and \$141,400 in 2010, 2011 and 2012, respectively. Hydro states that no 2013 capital  
3 expenditure forecast is available with respect to the project at this time.

4 Reference: Schedule D, Page 204 *et. seq.*  
5 Response to Requests for Information NP-NLH-015, NP-NLH-016 and  
6 NP-NLH-017  
7

8 Hydro has stated that, given the nature of the program, it is difficult to forecast the scope of work  
9 and generate a detailed estimate at the budget preparation stage. The budget estimate for this  
10 program is developed by Hydro through a review of the actual program expenditures to date,  
11 consideration as to the age and location of Hydro's assets and the application of engineering  
12 judgement in an effort to forecast the project scope and construction costs.

13 Reference: Response to Requests for Information NP-NLH-015  
14

15 Hydro has stated that while the actual expenditures have never exceeded the approved budget, it  
16 feels the requested funding amount is "both reasonable and fair."

17 Reference: Response to Request for Information NP-NLH-16  
18

### 19 ***Submission***

20 Newfoundland Power acknowledges that capital expenditures may be required in any year to  
21 ensure the safety of Hydro's workplace, and that such expenditures that are necessary for that  
22 purpose may properly be characterized as mandatory in accordance with the Capital Budget  
23 Application Guidelines (the "Guidelines"). However, the basis for Hydro's budget estimate of  
24 the capital expenditures required for such purpose in 2014 does not appear, in Newfoundland  
25 Power's view, to conform to the Guidelines.

1 According to the Guidelines, the 2014 proposed expenditures in the *Remove Safety Hazards*  
2 project are “pooled” expenditures, in that they are “neither inter-dependent nor related, but are  
3 nonetheless logically grouped together.” In relation to pooled capital expenditures, the  
4 Guidelines require supporting information that includes unit or aggregate costing data, as  
5 appropriate, and further require the applicant to show “amounts in relation to identified  
6 anticipated projects and amounts for expenditures anticipated ***based on historical spending or***  
7 ***other forecasting.***” (emphasis added)

8 Reference: Capital Budget Application Guidelines, paragraph 2 (a) (ii).  
9

10 Newfoundland Power submits that the Guidelines, in effect, require that where the scope and  
11 nature of a project do not allow for detailed engineering estimates of expenditure requirements or  
12 estimates based on unit costs, forecasting based on historical spending patterns should be used.  
13 It is Newfoundland Power’s submission that where historical spending information is available,  
14 as is the case for the *Remove Safety Hazards* project, a budget estimate based on the average of  
15 recent historical annual capital expenditures on the project would conform with the Guidelines,  
16 and would be a more “reasonable and fair” method for estimating expenditure requirements for  
17 safety hazards that have not yet been identified than the method described by Hydro.

18  
19 Hydro’s historical spending pattern in relation to this project over the 2010 through 2012 period  
20 is on the record of this proceeding. Newfoundland Power submits that the historical information  
21 is a reasonable basis for an estimate of the expenditure requirement.

### 3.3 Multi-year Project Process Issue

#### *Background*

Hydro's 2009 Capital Budget included a multi-year project titled *New 25 kV Terminal Station* with total expenditures estimated at approximately \$10.0 million. The project involved the construction of two new 46/25 kV terminal stations in Labrador City. The project was approved in Order No. P.U. 36 (2008).

Reference: Hydro's 2009 Capital Budget Application, Schedule B, Page B-6;  
Order No. P.U. 36 (2008).

In the Application, Hydro provided a detailed explanation of a budget variance on the project, now titled *Upgrade Terminal Stations to 25 kV - Labrador City*, of approximately \$3.1 million on an approved budget of approximately \$12.7 million.

Reference: Application, Section I, page I-21.

In response to a Request for Information in this proceeding, Hydro provided its current estimate of total expenditures on the project of approximately \$16,729,000, as of June 30, 2013.

Reference: Response to Request for Information PUB-NLH-5.

In response to a Request for Information regarding Board approval of revised expenditure estimates for the project, Hydro stated that, although formal approval by the Board of changes in project costs was not obtained, it had informed the Board of a change in the project costs from the initial estimate to approximately \$12.7 million in the Response to Request for Information PUB-NLH-36 in its 2012 Capital Budget Application, and reflected it in revised filings associated with Phase 1 of its 2012 Capital Application.

Reference: Response to Request for Information NP-NLH-23.



1 The Board did not specifically reference the project in its approval of multi-year expenditures in  
2 Order No. P.U. 2 (2012) relative to Phase 1 of Hydro's 2012 Capital Budget Application.  
3 However, Hydro states that the total expenditure approved for Phase 1 of \$61,495,000 referred to  
4 in Order No. P.U. 5 (2012), included the forecast 2012 expenditure on the project.

5 Reference: Response to Request for Information NP-NLH-23.  
6

7 The Guidelines provide that, for a multi-year expenditure, where a utility shows in each  
8 subsequent year of a multi-year expenditure that the scope, nature and amount of the capital  
9 expenditures are consistent with the original approval, *further approval* is not required. The  
10 Guidelines further provide that expenditures in subsequent years are *subject to further review* if  
11 there is a material change in the scope, nature or forecast cost of the expenditure. The  
12 Guidelines provide that where the revised forecast expenditure exceeds the approved amount by  
13 10% or more, such change will be considered material.

14 Reference: Capital Budget Application Guidelines, paragraph 3 (b).  
15

16 It would appear from the information on the record that there has been no formal process of  
17 *further review* of the project, nor any specific reference to *further approval* of the project by the  
18 Board, since the initial approval. Hydro stated in response to a Request for Information that, as  
19 no further issues have been raised by the Board in this connection, Hydro assumes that these  
20 expenditures have been accepted by the Board and will be included in rate base.

21 Reference: Response to Request for Information NP-NLH-23.  
22

### 23 ***Submission***

24 In this Application, Hydro has not specifically requested that the Board approve any expenditure  
25 for the *Upgrade Terminal Stations to 25 kV - Labrador City* project in excess of the expenditure  
26 already approved by the Board. Hydro's current estimate for the total multi-year expenditure on

1 the project is \$16,729,000. The current estimated expenditure represents a “material change” as  
2 defined in the Guidelines, whether calculated relative to either the original approval in Order No.  
3 P.U. 36 (2008) or the revised expenditure estimate submitted in Hydro’s 2012 Capital Budget  
4 Application.

5  
6 Newfoundland Power’s customers do not bear any of the cost of Hydro’s capital expenditures on  
7 the Labrador Integrated System. However, the procedural requirements relative to Hydro capital  
8 expenditures are equally applicable to Newfoundland Power.

9  
10 Newfoundland Power does not take issue with Hydro’s stated view that the absence of specific  
11 comment by the Board indicates Board acceptance of the revised expenditure estimates for the  
12 *Upgrade Terminal Station to 25 kV - Labrador City* multi-year project. However,  
13 Newfoundland Power respectfully suggests that the Board may wish to take this opportunity to  
14 clarify the requirements of the Guidelines with respect to material changes in multi-year projects  
15 subsequent to their initial approval.

#### 16 17 **4.0 RATE BASE**

18 The Application requests that the Board fix and determine Hydro’s average rate base for 2012 in  
19 the amount of \$1,526,051,000 pursuant to section 78 of the Act.

20 Reference: Application, paragraph 18 (4).  
21

22 Grant Thornton has reported to the Board on its review of Hydro’s calculation of its 2012  
23 average rate base and average deferred charges. In its report, Grant Thornton noted that Board  
24 approvals remain outstanding on certain capital expenditure items included in the calculation of

Hydro's 2011 and 2012 average rate base.

Reference: *Re: Newfoundland and Labrador Hydro, 2012 Average Rate Base and 2012 Average Deferred Charges*, Grant Thornton letter to the Board dated September 20, 2013.

**Submission**

It is Newfoundland Power's submission that section 78 of the Act, and current regulatory practice, requires a utility to justify its capital expenditures prior to their inclusion in the utility's rate base, and that capital expenditures that are prudent and reasonably incurred in the fulfillment of the utility's obligation to serve its customers should be admitted to the utility's rate base.

Accordingly, Newfoundland Power submits that the Board should approve the inclusion in Hydro's rate base of all those capital expenditures of Hydro that are shown to have been prudent and reasonably incurred in the fulfillment of Hydro's obligation to serve its customers.

**RESPECTFULLY SUBMITTED** at St. John's, Newfoundland and Labrador, this 7<sup>th</sup> day of October, 2013.



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