

1 Q. **Reference: CA-NP-110 of NP's 2022-2023 GRA**

2 Mr. Coyne states that he *“agrees that regulation is intended to serve as a substitute or surrogate*  
3 *for competition in markets that are not competitive, such as regulated public utilities, which are*  
4 *generally considered to be natural monopolies.”*

5 a) Does Hydro agree? Is this statement universally accepted both in this jurisdiction and  
6 elsewhere in Canada and the United States?

7 b) Does Hydro agree that it is a monopoly electric generation, transmission and  
8 distribution service provider in its designated franchise area?

9 c) Does Hydro agree that regulation has two primary functions: 1) to serve as a surrogate  
10 or substitute for competition in markets that are not competitive, and 2) to ensure  
11 customers are not subjected to market power abuse and predatory pricing practices by  
12 monopoly service providers?

13 d) Is it the Board's responsibility to regulate Hydro and Newfoundland Power to ensure  
14 that: 1) the regulatory regime serves as a surrogate or substitute for competition in the  
15 Province's electricity sector, and 2) customers are not subjected to market power abuse  
16 and predatory pricing practices, or do the utilities also bear some of this responsibility?

17 e) Under current legislation, what actions are available to the Board if it finds that a utility  
18 is practicing predatory pricing?

19

20

21 A. a) Newfoundland and Labrador Hydro (“Hydro”) agrees with the quoted statement in the  
22 question above. Hydro has not completed comprehensive research to conclusively answer  
23 whether the statement is universally accepted in any jurisdiction.

- 1 b) Generally speaking, electricity distribution and transmission are considered to be natural  
2 monopolies due to the unique characteristics surrounding energy supply and delivery.  
3 Specifically, the *Electrical Power Control Act, 1994* (“EPCA”) provides Hydro with “. . . the  
4 exclusive right to supply, distribute and sell electrical power or energy to a retailer or an  
5 industrial customer in respect of the business or operations of that retailer or industrial  
6 customer on the island portion of the province.”<sup>1</sup> Hydro agrees that it is a monopoly in much  
7 of its services.
- 8 c) Please refer to the response to part a). Generally, regulation of a monopoly protects the  
9 interests of consumers. Specifically, the *Public Utilities Act* (“Act”) provides the Board of  
10 Commissioners of Public Utilities (“Board”) with general powers of supervision over a public  
11 utility, including powers to review and set rates and other charges to a customer by the  
12 utility. This ensures that customers are provided with and subject to fair and reasonable  
13 service at approved rates.
- 14 d) Please refer to the response to parts a) and c). The utilities subject to the jurisdiction of the  
15 *Act* must apply to the Board for approval of rates, tolls, and charges before it charges,  
16 demands, collects, or receives compensation for any service it provides,<sup>2</sup> and for approval to  
17 collect only those expenses that are fair and reasonable<sup>3</sup> along with a “just and reasonable  
18 return”<sup>4</sup> that is also determined by the Board. The power policy of Newfoundland and  
19 Labrador, as set out in the *EPCA* also notes that the rates to be charged for the supply of  
20 power within the province should be reasonable and not unjustly discriminatory, and  
21 includes provisions regarding efficient and equitable provision of power within the province.  
22 Although the Board enforces this, the utility is required to operate under these mandates  
23 and to apply to the Board for approval of proposals which meet these requirements.
- 24 e) Sections 84 and 87 of the *Act*<sup>5</sup> detail the powers of the Board with respect to a complaint  
25 and/or finding that rates are unreasonable or unjustly discriminatory.

---

<sup>1</sup> *Electrical Power Control Act, 1994*, SNL 1994, c E-5.1, s 14.1(1)(a).

<sup>2</sup> *Public Utilities Act*, RSNL 1990, c P-47, s 70.

<sup>3</sup> *Ibid.*, s 78.

<sup>4</sup> *Ibid.*, s 80.

<sup>5</sup> *Ibid.*, s 84 and 87.