Q. **Reference: Volume I, Section 5.3, Table 5-7, Issue Topic: Working Capital Allowance Methodology**

Does OC2013-343 and the Muskrat Falls Project Exemption Order exempt costs associated with the working capital allowance related to Muskrat Falls from disallowance, reduction, or regulatory adjustment?

A. The Muskrat Falls Project Exemption Order ("Exemption Order") was made by the Lieutenant-Governor in Council under the authority of section 5.2 of the *Electrical Power Control Act, 1994* ("*EPCA*") and section 4.1 of the *Public Utilities Act* ("*Act*"). Paragraph 4(1) of the Exemption Order exempts Newfoundland and Labrador Hydro ("Hydro") from the application of the *Act* and Part II of the *EPCA* in respect of expenditures, payments, and compensation paid to Muskrat Falls Corporation and the Labrador-Island Link ("LIL") Parties, and in respect of activities related to the power and energy provided by Muskrat Falls Corporation and the transmission services provided by the LIL Parties.

Order in Council OC2013-343 was made by the Lieutenant-Governor in Council under the authority of section 5.2 of the *EPCA*. It directed the Board of Commissioners of Public Utilities ("Board") to adopt a policy that payments made by Hydro to Muskrat Falls Corporation and the LIL Parties to which the Exemption Order applies:

> …shall be included as costs, expenses or allowances, without disallowance, reduction or alteration of those amounts, in Newfoundland and Labrador Hydro's cost of service calculation in any rate application and rate setting process, so that those costs, expenses or allowances shall be recovered in full by Newfoundland and Labrador Hydro in Island interconnected rates charged to the appropriate classes of ratepayers.[1]

[1] Government of Newfoundland and Labrador, *Order in Council OC2013-343,* November 29, 2013.

While it is possible that the working capital allowance could be exempt from the *EPCA* and *Act* pursuant to paragraph 4(1)(b) of the Exemption Order,[2] the allowance is not a payment made by Hydro to Muskrat Falls Corporation or the LIL Parties, or to a system operator, and therefore is not captured by Order in Council OC2013-343.

[2] This section exempts Hydro in respect of any "activity relating to the receipt, delivery, storage or enjoyment by Newfoundland and Labrador Hydro of any electrical power and energy, interconnection facilities, ancillary services and greenhouse gas credits under paragraph (a)." The exemption is not limited to payments made to Muskrat Falls Corporation and therefore appears to be intended to include other Hydro expenses that are sufficiently related to the power and energy supplied by Muskrat Falls Corporation.