

1 Q. (a) Provide the excerpts from the legislation to support, in Hydro's
2 view, the statement "the legislative amendments indicate that, as a
3 matter of public policy, Hydro is intended to operate as a fully
4 regulated utility, more similar to that of an investor-owned utility"
5 (WEW, page 6 lines 20-22).

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7 (b) In addition to the legislation, what does Hydro view as the
8 similarities between the way Hydro is intended to operate and the
9 manner in which an investor-owned utility operates?

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11 A. (a) Pursuant to Chapter 37 of the Statutes of Newfoundland 1995,
12 there were a series of legislative amendments affecting Hydro. The
13 effect of these amendments was to repeal certain provisions that
14 had existed under the *Hydro Corporation Act*, Revised Statutes of
15 Newfoundland, 1990, as amended to that time, and under various
16 other statutes. Prior to the repealing of these provisions, a number
17 of special legislative treatments usually associated with crown
18 corporations and government agencies had applied to Hydro.

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20 Section 5 of Chapter 37 reads as follows:

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22 "5. Section 14 of the Act is repealed."

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24 Section 14 of the *Hydro Corporation Act* provided Hydro with the
25 exclusive franchise to develop all previously un-granted hydro-
26 electric sites on the island portion of the province.

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29 Section 6 of Chapter 37 reads as follows:

1 “6. Paragraph 16(1)(h) of the Act is repealed and the following
2 substituted:

3 “(h) deposit money or securities with a bank, trustee, trust
4 company, or other depository in Canada or outside Canada;”

5 Prior to this amendment, the prior approval of the Lieutenant-
6 Governor in Council was required to deposit money or securities
7 outside Canada.

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10 Section 7 of Chapter 37 starts as follows:

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12 “7. Sections 17, 18, 19, 20 and 21 of the Act are repealed”

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14 Under section 17, Hydro had access to special powers of
15 expropriation under the *Expropriation Act*. Section 19 provided
16 Hydro with the ability to obtain rights to water powers and lands
17 through an assurance of the Lieutenant-Governor in Council.
18 Under sections 20 and 21, respectively, Hydro was exempt from
19 the *Crown Lands Act* and the *Public Utilities Act*.

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22 Section 8 of Chapter 37 reads as follows:

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24 “8. Sections 22 and 23 of the Act are repealed.”

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26 Under section 22, Hydro was subject to the *Public Service*
27 *Collective Bargaining Act*. Subsection 19(1) of the *Hydro*
28 *Corporation Act* as amended by Chapter 37 reads as follows:

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30 “19.(1) The *Labour Relations Act* applies to the corporation.”

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Section 10 of Chapter 37 reads as follows:

“10. Section 26 of the Act is repealed.”

Section 26 of the *Hydro Corporation Act* provided Hydro with certain rights to obtain franchise rights to those hydro-electric sites in Labrador not subject to prior grants by the Crown.

Section 11 of Chapter 37 reads as follows:

“11. Subsection 40(2) of the Act is repealed.”

Subsection 40(2) of the *Hydro Corporation Act* required Hydro to obtain the approval of the Lieutenant-Governor in Council for borrowing programs reflected in its budget.

Section 12 of Chapter 37 reads as follows:

“12. Subsection 41(3) of the Act is repealed and the following substituted:

“(3) The annual financial statement of the corporation shall be audited by a firm of auditors.”

Prior to this amendment, the Act provided that the auditors be appointed by the Lieutenant-Governor in Council.

Section 13 of Chapter 37 reads as follows:

1 (2) the Schedule to the Act is amended by deleting the
2 words "Newfoundland and Labrador Hydro".

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4 The *Electrical Power Control Act*, 1994 revised the power policies
5 that had earlier been set out in the *Electrical Power Control Act*.
6 The legislature removed from the 1994 statute the special
7 treatment that had existed for Hydro as to the margin of profit. The
8 provision that applies at present is the same for Hydro as it is for
9 Newfoundland Power:

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11 "3. It is declared to be the policy of the province that

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13 (a) the rates to be charged, either generally or
14 under specific contacts, for the supply of power within
15 the province

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17 (iii) should provide sufficient revenue to the
18 producer or retailer of the power to enable it to
19 earn a just and reasonable return as construed
20 under the *Public Utilities Act* so that it is able to
21 achieve and maintain a sound credit rating in
22 the financial markets of the world . . ."

23
24 (b) Hydro views the following similarities between the way Hydro is
25 intended to operate and the manner in which an investor-owned
26 utility operates.

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28 • Operate in an efficient and least cost basis
29 • Achieve an appropriate return on rate base
30 • Achieve an appropriate return on equity

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- Achieve appropriate debt/equity ratios
 - Provide an appropriate dividend payout