

BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

ORDER NUMBER: P.U. 7 (2002-2003)

APPENDIX G

IN THE MATTER OF the *Public Utilities Act*, (R.S.N. 1990, Chapter P-47 (the “Act”))

AND

IN THE MATTER OF an Application by Newfoundland and Labrador Hydro for approvals of: (1) Under Section 70 of the Act, changes in the rates to be charged for the supply of power and energy to its Retail Customer, Newfoundland Power, its Rural Customers and its Industrial Customers; (2) Under Section 71 of the Act, its Rules and Regulations applicable to the supply of electricity to its Rural Customers; (3) Under Section 71 of the Act, the contracts setting out the terms and conditions applicable to the supply of electricity to its Industrial Customers; and (4) Under Section 41 of the Act, its 2002 Capital Budget.

TO: The Board of Commissioners of Public Utilities (the “Board”)

THE APPLICATION of Newfoundland and Labrador Hydro (the “Applicant”)

STATES that: -

1. On May 31, 2001, the Applicant filed an application requesting an Order of the Board to, inter alia, (1) set the rates to be charged Newfoundland Power, Rural Customers and Industrial Customers, to be effective January 1, 2002 and (2) approve the Applicant’s 2002 capital budget.

2. By Order No. P.U. 25 (2000-2001) the Board extended the interim rates for Industrial Customers set by Order No. 23 (1999 – 2000) until December 31, 2001.
3. The public hearing with respect to the application dated May 31, 2001 commenced on September 24, 2001 and is continuing as of the date of this Application. The most recent tentative schedule reviewed by counsel contemplates evidence will not conclude until, at the earliest, December 21, 2001. While no date has been set for the filing of written argument or the hearing of oral argument, it is most unlikely that this will occur until January, 2002.
4. Based on the current schedule described in paragraph 3, it is clear that the Board will not be in a position to review the matters raised in this proceeding and issue an Order by December 31, 2001.
5. Hydro, therefore, proposes: (i) that the rates now charged Industrial Customers pursuant to Order No. 25 (2000 – 2001) be extended until such time as the Board issues a new Order in this proceeding revising the rates charged Industrial Customers and (ii) that the application for approval of the 2002 capital budget be separated from the other matters raised in the May 31, 2001 Application and be addressed at this time.
6. Hydro's proposed 2002 capital budget provides for projects which, in Hydro's judgment, are required to provide reliable electrical service to its customers in 2002 in a safe environment for employees and the public. Evidence has been presented in this proceeding on behalf of Hydro to explain these projects, to support the rationale for seeking approval for these projects for 2002 and explaining Hydro's capital budget process.

7. Under s.41 (3) of the *Public Utilities Act*, the Applicant may not proceed with a capital project in excess of \$50,000 or a lease in excess of \$5,000, without the prior approval of the Board.
8. Discussions have recently taken place between counsel for all the parties and it is the Applicant's understanding from these discussions that the other parties are in a position to identify those capital projects proposed by the Applicant for 2002 that they do not intend to object to or take a position on and those that they intend to submit argument on to object to their approval. Counsel for two of the parties have already advised the Applicant of their position on the specific proposed 2002 capital projects.
9. The Applicant proposes that its 2002 capital budget be dealt with at this time as follows:
 - (i) the Board review as soon as possible those 2002 capital projects with which no party is taking exception. To assist with this, the parties should be requested to advise immediately of those 2002 capital projects to which they object.
 - (ii) argument be submitted by the parties on the projects to which objection is taken at the same time as argument is submitted (probably January, 2002) in this general rate proceeding.
10. In the discussions with counsel referred in paragraph 8 hereof, the Applicant agreed with counsel for the Industrial Customers that any agreement to proceed at this time to seek approval for those 2002 capital projects to which no party objected would be without prejudice to the other parties' right to address argument on (1) the sufficiency of

the documentation supplied to support a capital project generally or the principles and procedures applied in the capital budget process and (2) an adjustment to reflect the Applicant's past capital spending experience.

11. The Applicant seeks an Order at this time
 - (i) extending the interim rates charged Industrial Customers under Order No. P.U. 25 (2000-2001) until such time as an Order is issued revising such rates; and
 - (ii) approving those 2002 capital projects to which no party makes an objection.

The Applicant proposes that those projects on which parties wish to submit argument be dealt with in final legal argument by the parties and reviewed by the Board at the conclusion of this hearing, along with any submissions on those issues referred to in paragraph 10 hereof.

Dated at St. John's, Newfoundland this 20th day of November, 2001.

NEWFOUNDLAND & LABRADOR HYDRO

Maureen P. Greene
Counsel to Newfoundland & Labrador Hydro
Hydro Place, Columbus Drive
P.O. Box 12400
St. John's, Newfoundland
A1B 4K7

c.c. Gillian Butler, Q.C. and Peter Alteen
Counsel to Newfoundland Power Inc.
55 Kenmount Road
P.O. Box 8910
St. John's, Newfoundland
A1B 3P6

Janet M. Henley Andrews and
Stewart McKelvey Stirling Scales
Cabot Place, 100 New Gower St.
P.O. Box 5038
St. John's, Newfoundland
A1C 5V3

Joseph S. Hutchings
Poole Althouse Thompson & Thomas
P.O. Box 812, 49-51 Park Street
A2H 6H7

Dennis Browne, Q.C.
Consumer Advocate
c/o Browne Fitzgerald Morgan & Avis
P.O. Box 23135
Terrace on the Square, Level II
St. John's, Newfoundland
A1B 4J9

Mr. Edward M. Hearn, Q.C.
Miller & Hearn
450 Avalon Drive
P.O. Box 129
Labrador City, Newfoundland
A2V 2K3

Mr. Dennis Peck
Director of Economic Development
Town of Happy Valley-Goose Bay
P.O. Box 40, Station B
Happy Valley-Goose Bay
Labrador, Newfoundland
AOP 1EO

MPG/mgw