

P.U. 34 (2003)

IN THE MATTER OF the *Electrical Power Control Act*, 1994 (the “*EPCA*”) and 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 (“Hydro”) for approval of, *inter alia*, rates to be charged its customers (the “Application”);

AND IN THE MATTER OF a complaint from the Towns of Labrador City and Wabush, that the Rates proposed for Labrador West by Hydro in its Application are discriminatory;

AND IN THE MATTER OF a motion by the Towns of Labrador City and Wabush requesting that the hearings in Labrador scheduled to commence on November 3, 2003 be rescheduled to a later date convenient to all parties and the Board.

Before:

Robert Noseworthy
Chair and Chief Executive Officer

Darlene Whalen, P. Eng.
Vice-Chair

G. Fred Saunders
Commissioner

1 The Board received a motion from the Towns of Labrador City and Wabush on October 29, 2003
2 requesting that the hearings in Labrador which were scheduled to begin on November 3, 2003 be
3 rescheduled to a later date convenient to all the parties. This motion was made to allow time for
4 the consideration of revised evidence which Hydro intends to file on October 31, 2003.

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6 The Board received a response from Hydro on October 30, 2003 asking that the motion be
7 denied. Newfoundland Power's response stated that it had no position on the motion. Neither
8 the Industrial Customers nor the Consumer Advocate submitted a formal response to the motion.

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10 Hydro noted that the two principal changes arising from the revised evidence affecting Labrador
11 Interconnected Customers are:

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13 a) a reduction in the credit from the secondary sales to Five-Wing Goose Bay; and
14 b) an increase in the operating expense associated with the Wabush Terminal
15 Station.

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17 Hydro argued in its response that the changes which impact on the Towns of Labrador City and
18 Wabush are not policy related and are not by their nature significant enough to require a
19 postponement in the hearing. Hydro submitted that a delay is not required to provide adequate
20 opportunity for the Towns of Labrador City and Wabush to review the revised information and
21 prepare an appropriate response. Hydro also suggested that based on the current schedule there
22 is no time readily available before the end of 2003 to hold hearings in Labrador West.

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24 A compromise schedule which was circulated by Board Counsel delayed the start of the
25 Labrador portion of the hearing but generally preserved the hearing schedule. All parties,
26 including Hydro and the Towns of Labrador City and Wabush indicated, either in writing or
27 verbally to Board Counsel, that the proposed schedule was acceptable. Newfoundland Power
28 and the Industrial Customers suggested however that the time allowed for the testimony of the
29 Cost of Service experts may not be sufficient.

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1 The Board notes that a general rate application, such as is before it, is a complex and protracted
2 matter involving forecasts which are often subject to change. As such it is common in this
3 jurisdiction for a utility throughout such a proceeding to submit updates to the forecasts so that
4 the Board has the most up to date information when making its decision. While the Board does
5 not expect that such filings will result in delays, as they may be considered to be a normal part of
6 such proceedings, the Board recognizes that there are some occasions when a delay may be
7 warranted.

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9 The Board notes that Hydro has indicated that the revised evidence will not be submitted until
10 Friday, October 31, 2003. Travel to Labrador was scheduled for Sunday, November 2, 2003 with
11 testimony to begin in Labrador West on Monday, November 3, 2003. Given the travel dates, the
12 Board must decide this motion immediately, in advance of the parties and the Board having the
13 opportunity to review the particulars of the changes contained in the evidence.

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15 The Board finds that the two issues raised by Hydro may affect Labrador Interconnected
16 customers both in terms of the specific changes and the overall rate impacts. Because it is not
17 possible to determine at this stage the impact of the revised evidence and given the timing the
18 Board finds that a delay is justified under these circumstances. Labrador Interconnected
19 customers therefore should be allowed adequate opportunity to review the revised filing. Having
20 considered the motion and the responses of the parties the Board is satisfied that fairness requires
21 that the proceedings scheduled to commence on November 3, 2003 in Labrador be rescheduled
22 to a later date consistent with the proposed schedule.

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24 **IT IS THEREFORE ORDERED THAT:**

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26 The motion of the Towns of Labrador City and Wabush is hereby granted and the proceedings
27 scheduled to commence on November 3, 2003 in Labrador are postponed.

DATED at St. John's, Newfoundland and Labrador, this 30th day of October 2003.

Robert Noseworthy,
Chair & Chief Executive Officer.

Darlene Whalen, P.Eng.,
Vice-Chair.

G. Fred Saunders,
Commissioner.

G. Cheryl Blundon,
Board Secretary.