

**IN THE MATTER OF** the *Public Utilities Act*, (the "Act"); and

**AND IN THE MATTER OF** an Application by Newfoundland and Labrador Hydro ("Hydro") for the approval, pursuant to Sections 71 and 75 of the Act, of certain rules, regulations and rates pertaining to the supply of electrical power and energy to one of its industrial customers, Aur Resources Inc.

**TO:** The Board of Commissioners of Public Utilities (the "Board")

**THE APPLICATION OF NEWFOUNDLAND AND LABRADOR HYDRO ("Hydro") STATES THAT:**

1. The Applicant is a corporation continued and existing under the *Hydro Corporation Act*, is a public utility within the meaning of the Act and is subject to the provisions of the *Electrical Power Control Act, 1994*.

**Service Agreement**

2. By Order No. P.U. 7 (2002-2003) the Board approved, *inter alia*, the "Service Agreements" for each of its Island Industrial Customers, which constitute the rules and regulations under which Hydro provides service to them. Subsequently, these service agreements were amended by Board Orders Nos. P.U. 11 (2002-2003), P.U. 12 (2002-2003), and P.U. 6 (2003).
3. By Board Order Nos. P.U. 3 (2005) and P.U. 12 (2005), the Board approved capital monies to be spent by Hydro, and to be recovered from Aur Resources Inc., a new intended Island Industrial Customer for Hydro, for the engineering and construction of a transmission interconnection for the Duck Pond Mine being developed by Aur Resources Inc.
4. Hydro and Aur Resources Inc. have negotiated and entered into a Service Agreement that is, in most respects, consistent with the Service

Agreements approved by the Board for the other Island Industrial Customers, a copy of which is attached hereto. Aur Resources Inc. needs to obtain electrical service from Hydro by January 20, 2006.

### **Rate Stabilization Plan**

5. By Order No P.U. 40 (2003) the Board approved changes to the Rate Stabilization Plan (RSP) for the Island Industrial Customers. One of the components of the revised RSP deals with the special treatment and recovery of a the "Historical Plan Balances" that have accumulated in the RSP as being owed to Hydro by its customers for energy consumed during periods ending December 31, 2003.
6. Pursuant to the RSP, the Historical Plan Balance annual recovery portion is converted to a mill rate, is added to the other components of the RSP (i.e. the current amount and the fuel rider), and is charged to customers as a component of their energy rate.
7. The Historical Plan Balance represents an exceptional and discrete element of the RSP that pertains strictly to costs incurred by Hydro to provide energy to its existing customers in prior years, which costs have been deferred to be recovered in future years.
8. While some element of cross-generational subsidy is inherent in any rate stabilization method, the deferral and future recovery of the Historical Plan Balance constitutes an exceptional rate recovery deferral, which, if imposed upon a new Island Industrial customer, would create an unfair and unintended result.
9. **THE APPLICANT THEREFORE REQUESTS** that the Board grant:
  - (a) an interim order, pursuant to section 75 of the Act, approving the provision of electrical service by Hydro to Aur Resources Inc. at the

rates that apply to the provision of electrical service by Hydro to its other Island Industrial Customers Service Agreement, and as calculated in accordance with the Service Agreements for those customers that have been approved by the Board governing the sale of electrical power and energy by Hydro, pending a final order to be made by the Board varying or confirming that rates determination.

(b) an order approving the proposed and attached service agreement as negotiated between the Applicant and its proposed Island Industrial Customer, Aur Resources Inc.; and

(b) an order approving that the rates to be charged by the Applicant to Aur Resources Inc. for the electrical energy it consumes be exclusive of the Island Industrial Customers Historical Plan Balance component of the Rate Stabilization Plan.

**DATED AT** St. John's in the Province of Newfoundland and Labrador this 18th day of January 2006.

**NEWFOUNDLAND AND LABRADOR HYDRO**

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