

1 **Q. Severability**

2 Would the agreements fail if the Board determines that they should be read
3 to require that: a) the framework and process for the negotiations, reviews,
4 technical conferences and other procedures contemplated in the agreements
5 must first be approved by the Board; and b) these procedures may involve
6 the participation of the Board, at its discretion?

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9 **A.** The procedures contemplated in the agreements pertain to a variety of rate
10 design matters: RSP, wholesale rate design for Newfoundland Power, and
11 rate design for Industrial Customers. The agreements to carry on these
12 negotiations, reviews, and technical conferences outside of contested
13 hearing proceedings were motivated by a common desire to use processes
14 that will allow for the full consideration of the issues by the parties using the
15 most productive means.

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17 Ultimately, the purpose of each agreed process is to assist in the overall rate
18 design process, a matter that is within the core jurisdiction of the Board.
19 Were the Board to determine that any of these processes were inappropriate
20 or deficient in some manner such that they would be unlikely to result in
21 acceptable rate design outcomes, it would be unwise for the parties to
22 proceed with them. For that reason, Hydro would undertake to provide the
23 Board with an overview of the terms of reference or intended agenda and
24 methodologies at the outset of these processes and at meaningful intervals
25 thereafter. This would permit the Board the opportunity to provide guidance
26 and direction to the parties as deemed necessary.

1 Hydro did not contemplate making specific applications to the Board for the
2 pre-approval of the negotiations, reviews, technical conferences and other
3 procedures.