

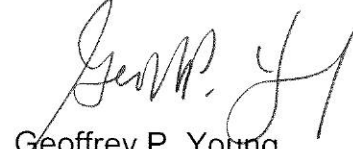
**IN THE MATTER OF** the *Public Utilities Act*, (the "Act"); and

**AND IN THE MATTER OF** an Application by Newfoundland and Labrador Hydro for the approval, pursuant to Section 71 of the Act, of the cost of Low Sulphur Fuel as a fuel cost component to be recovered through the Rate Stabilization Plan charged to Newfoundland Power Inc. and the Island Industrial Customers.

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

## **FINAL ARGUMENT**

**DATED AT** St. John's in the Province of Newfoundland and Labrador this 12<sup>TH</sup> day of May 2006.

  
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Re Newfoundland (Board of Commissioners of Public  
Utilities (1998) 164 Nfld. & P.E.I.R. 60;  
1998 CarswellNfld 150) (the "Stated Case")

Tab 1

1     **1.     INTRODUCTION**

2

3     The Applicant, Newfoundland and Labrador Hydro (“Hydro”) has made  
4     application to the Board of Commissioners of Public Utilities (the “Board”)  
5     requesting an Order approving the recovery as fuel related operating expenses  
6     collected through the operation of the Rate Stabilization Plan (“RSP”) its costs of  
7     purchasing 1.0% Sulphur No. 6 fuel for consumption at Hydro’s Holyrood  
8     Thermal Generating Station (“HTGS”).

9

10    Though this application arises out of the complex science of pollution  
11    measurement and regulation, in the main it involves straightforward public utility  
12    regulatory principles. The central issue in this application is whether Hydro is  
13    entitled to recover through rates reasonable expenses it incurs to enable it to  
14    comply with the law.

15

16    Hydro has incurred increased fuel related expenses in an effort to become  
17    compliant with environmental regulations. In incurring these expenses, Hydro  
18    was acting upon information received from the environmental regulator, the  
19    Department of Environment and Conservation (DOEC) of the Government of  
20    Newfoundland and Labrador. Hydro submits that taking action to reduce its  
21    emissions at the HTGS was a responsible initiative that enabled it to ensure the  
22    continued supply of reliable service in a manner that was in compliance with the  
23    law. Doing less would have amounted to a shirking of Hydro’s responsibilities

1 under the spirit and letter of the law, would have caused Hydro to have continued  
2 the emission of pollutants into the environment at levels and concentrations  
3 found to be hazardous to health and in excess of legal limits, and could possibly  
4 have exposed Hydro to stop work orders or prosecution.

5  
6  
7 **2. HISTORY**

8  
9 Until 2006, Hydro burned 2.0% sulphur fuel at the HTGS and prior to November  
10 2004, Hydro burned 2.2% sulphur fuel at the HTGS. (Information #1- Letter to the  
11 Board from Maureen Greene, Q.C. of Hydro dated November 3, 2004)

12  
13 Hydro has been burning 2.2% sulphur fuel for a number of years and has been  
14 carrying out air monitoring and emissions modeling for the HTGS since 1992.

15 (transcript May 5, p. 26). There have been numerous improvements and  
16 refinements in the procedures and modeling in recent years, especially  
17 concerning the meteorological effects. (transcript, May 5, pp. 46, 48)

18  
19 The modeling used by the Department of Environment and Conservation (DOEC)  
20 has shown that in 2004 and 2005, Hydro exceeded the maximum permitted  
21 levels for sulphur dioxide emissions. (IC 1(b) NLH – Senes Report, pp. ES-1, ES-  
22 2; transcript May 5, p. 84) Hydro has also recorded incidents of exceedance in  
23 its air monitoring processes. (PUB 6 NLH)

1 In 2005, Hydro attempted to negotiate a compliance agreement with DOEC, but  
2 no such agreement was reached. The evidence is that there was no realistic  
3 prospect of obtaining an agreement with the DOEC on the basis of Hydro not  
4 taking action to reduce emissions. (transcript, May 5, pp. 98,99) When Hydro  
5 informed the DOEC that it was reducing its emissions by switching to 1% sulphur  
6 fuel so that it would be in compliance with the *Air Pollution Control Regulations,*  
7 *2004*, Hydro was informed by DOEC officials that it was a “good start”.  
8 (transcript, May 8, p. 68)

9  
10 In February of 2006, Hydro was issued a Certificate of Approval for the operation  
11 of the HTGS. The Certificate of Approval requires Hydro to conform to the  
12 emission standards set out in the *Air Pollution Control Regulations, 2004*. (Tab 3  
13 attached to Hydro’s Pre-filed Testimony, at p. 4 of 20)

### 16 **3. LEGISLATIVE REQUIREMENTS**

17  
18 Ensuring that public utilities comply with legislation is a key mandate of this  
19 Board as set out in section 16 of the Public Utilities Act (“PUA”):

#### 20 **General powers of board**

21 **16.** The board shall have the general supervision of all public utilities,  
22 and may make all necessary examinations and inquiries and keep itself informed  
23 as to the compliance by public utilities with the law and shall have the right to  
24 obtain from a public utility all information necessary to enable the board to fulfil  
25 its duties.

1 Hydro's emissions from the HTGS are subject to the provisions of the  
2 Environmental Protection Act, S.N.L. 2002, c. E-14-2, and the *Air Pollution*  
3 *Control Regulations, 2004* made under that Act. (Tabs 2, 3 to Hydro's Pre-filed  
4 Testimony )

5

6 Subsection 7(2) of the Environmental Protection Act states that:

7 7(2) A person shall not release or permit the release of a substance into the  
8 environment in an amount, concentration or level or at a rate of release exceeding  
9 that expressly authorized under this Act or an approval issued under this Act.  
10

11

12 Section 99 of that Environmental Protection Act empowers the Minister  
13 responsible to issue an order to shut down the HTGS operations where the  
14 minister on reasonable grounds believes that the Act, or an approval issued  
15 pursuant to the Act, will be contravened.

16

17 The *Air Pollution Control Regulations, 2004* set out the limits for which certain  
18 substances may be emitted into the air. Sulphur dioxide is item 20 of Schedule A  
19 of those Regulations. Subsection 3(2) of the Regulations states that the  
20 concentration of air contaminants from all sources shall not exceed the standards  
21 prescribed in Schedule A. The standards for sulphur dioxide in Schedule A of  
22 the Regulations include the following:

23

- 24 • 900 micrograms per cubic metre of air for one hour; and
- 25 • 600 micrograms per cubic metre of air for three hours.

1 Section 21 of the *Air Pollution Control Regulations, 2004*, in part, reads as

2 follows:

3  
4 21. All measurements, recordings and analyses conducted under these regulations  
5 shall be  
6 (a) performed at locations and by devices and methods acceptable to the  
7 department  
8

9

10 The method determined to be acceptable to the Department of Environment and  
11 Conservation for determining compliance with the maximum levels of pollution  
12 set out above are contained in “guidance documents”. The guidance document  
13 dealing with air emissions compliance is titled “Determination of Compliance with  
14 the Ambient Air Quality Standards – Compliance Determination GD-PPD-009.2”  
15 (CA-18(a))

16

17 Paragraphs 2 and 3 of GD-PPD-009.2 read as follows:

18

19 2. For all facilities covered by this guideline, compliance with the ambient  
20 air quality standards will be determined through a **dispersion model**, registered  
21 with the department and conducted in accordance with GD-PPD-019.

22

23 3. Compliance for a facility will be determined based on the **predicted levels**  
24 for all locations at or beyond the administrative boundary as defined in the  
25 associated Certificate of Approval.  
26 (emphasis added)  
27

28

29 The Certificate of Approval for the HTGS defines the administrative boundary as  
30 the boundary of the HTGS. (Tab 3, Hydro’s Pre-filed Testimony, App. A, p. 1)

1 The Certificate of Approval was made under the authority of section 83 of the  
2 Environmental Protection Act. It sets out a number of restrictions on Hydro's  
3 activities at the HTGS. Paragraph 4 of the Certificate of Approval requires that  
4 "[a]ll necessary measures be taken to ensure compliance with all applicable acts,  
5 regulations, policies and guidelines, including . . . the Environmental Protection  
6 Act and the *Air Pollution Control Regulations, 2004*."

7  
8 Paragraph 5 of the Certificate of Approval requires Hydro to take all reasonable  
9 efforts to minimize the impact of the HTGS on the environment, including the  
10 minimization of air pollution. Paragraph 75 of the Certificate of Approval sets out  
11 the methodologies to be used for, *inter alia*, dispersion modeling.

12  
13 Section 76 of the Certificate of Approval sets out timing requirements for stack  
14 emissions testing, which shall be once every four years or every two years  
15 depending upon whether or not air emission standards are compliant. It is  
16 important to distinguish between stack emission testing, which is an input into the  
17 dispersion modeling, and dispersion modeling itself. Mr. Haynes explained this  
18 distinction while being cross-examined by Mr. Coxworthy. He was asked  
19 whether there was any consequence of non-compliance with the Certificate of  
20 Approval other than the frequency of stack testing. In response, Mr. Haynes  
21 explained that the stack testing information is only an input into the CALPUFF  
22 modeling. (transcript May 8, page 56).

23



1 There should be no confusion about this point: the frequency of stack testing has  
2 no direct bearing upon the frequency that data can be obtained from air  
3 dispersion modeling. Air dispersion modeling is a continuous process in that it  
4 uses data obtained from stack testing, meteorological sources, etc. and  
5 calculates from that data the predicted concentrations of air pollutants for each  
6 hour of the year and at each point in a defined area. (IC1(b) – “Senes Report” –  
7 Executive Summary)

8  
9 Read together, Hydro is obliged under the legislation, regulations, guidance  
10 documents and Certificate of Approval to avoid operating in a manner whereby it  
11 will be exceeding the maximum permitted levels as predicted by the approved air  
12 dispersion model.

13  
14

#### 15 **4. DISPERSION MODELING AND AIR MONITORING**

16

17 It is obvious from the evidence that the measurement of air pollution, while  
18 essential to the protection of the environment, is a challenging process. The  
19 evidence is that the CALPUFF emissions dispersion modeling method used by  
20 the Department of Environment and Conservation in this province is one that is  
21 commonly used in numerous jurisdictions throughout North America. This  
22 approach has wide acceptance and it has the endorsement of reputable user  
23 groups (transcript, May 5, p. 71). The emission concentration limits that are in

1 place (e.g. 900 ug/m<sup>3</sup> for one hour) are set as maximum allowable amounts  
2 because there are health concerns with emissions above those levels. The  
3 environmental regulatory authorities in numerous jurisdictions use these  
4 maximum permitted levels together with the same emission modeling methods  
5 used in this jurisdiction. (transcript, May 5, pp.169-170) More to the point for the  
6 present matter, the air dispersion modeling method chosen by the environmental  
7 regulator for use in this province has the force of law.

8  
9 The air dispersion modeling method has shown Hydro to be emitting sulphur  
10 dioxide in concentrations in excess of the permitted limits. (IC 1(b) – Senes  
11 report, transcript May 5, p. 84) Hydro has accepted this information and has  
12 determined that it is required to reduce its emissions accordingly. This decision  
13 was taken by Hydro after years of discussions and consultations with officials  
14 with the Department of Environment and Conservation. (transcript, May 8, pp.  
15 112-113)

16  
17 Hydro has been conducting its own ambient air monitoring since 1992 and is a  
18 sophisticated user of that technology (transcript, May 5, pp. 28-29). The  
19 evidence is that while ambient air monitoring can be instructive, it cannot replace  
20 the information obtained by dispersion modeling which calculates (or predicts)  
21 maximum concentrations of pollution in various locations within a geographical  
22 area. Air monitoring is limited to the actual location of the air monitoring

1 equipment and there are a number of practical limitations as to where these can  
2 be sited. (transcript, May 5, pp. 24, 25, 27)

3

4 There are inconsistencies between air monitoring data and predicted emission  
5 dispersion modeling results. A considerable amount of time was spent cross-  
6 examining Mr. Frank Ricketts as to the modeling and monitoring data and the  
7 Board may be invited to draw the inference that the emission dispersion  
8 modeling is unreliable. With due respect, Hydro submits that it would be  
9 presumptuous in the extreme for this Board to reject the results obtained from the  
10 air pollution measurement methodologies chosen by the Minister of Environment  
11 and Conservation as authorized by the legislature, or for the Board to otherwise  
12 substitute its own judgment in this very specialized and technical area.

13

14 It is noteworthy that the Senes Consulting Engineering report on CALPUFF Air  
15 dispersion modeling did not raise concerns about the discrepancies between the  
16 air monitoring data and the air dispersion modeling data and concluded that the  
17 CALPUFF modeled results “compared favourably with the concentrations  
18 monitored at the four nearby monitoring stations.” (IC 1(b) NLH, page ES-1)

19

20 Counsel for the Intervenors have implied through cross-examination that Hydro  
21 ought to have negotiated a compliance agreement pursuant to paragraphs 9 of  
22 Guidance Document GD-PPD-009.2. (reference CA 18(a) NLH) The Board may  
23 be invited to draw an inference from the existence of these provisions that it was

1 incumbent upon Hydro to enter into a compliance agreement for the purpose of  
2 deferring its obligation to comply with the legislated emission limits or to further  
3 investigate whether the dispersion modeling results could be challenged through  
4 two more years of ambient air monitoring at the emission levels caused by  
5 burning 2% sulphur. Such a conclusion can be reached only through errors of  
6 logic or misunderstandings of proper regulatory policy.

7

8 First, it is predicated upon a belief that Hydro should be distrustful of the validity  
9 of the emissions dispersion modeling methodology. Second, it is premised upon  
10 an attitude about environmental regulation that holds that using every available  
11 procedural opportunity to defer or avoid compliance with environmental  
12 legislation is reasonable and responsible. Third, it assumes that Hydro would be  
13 able to secure from the DOEC through negotiation a compliance agreement that  
14 would contain the attributes and terms required to permit extended ambient air  
15 monitoring testing upon agreed locations of maximum predicted non-compliance  
16 or mutually acceptable nearby locations that will enable similar data to be  
17 obtained.

18

19 While Hydro acknowledges that all modeling methodologies can be subject to  
20 interpretation and margins of error, it recognizes that the CALPUFF model has  
21 received wide acceptance amongst a number of environmental regulators and,  
22 most importantly, is relied upon by the DOEC. Hydro believes that the several  
23 sources of evidence it has considered together, including air monitoring data,

1 evidence of damage to plant life, observations of smoke hugging the ground, and  
2 complaints received as to negative health effects (transcript May 5, pp. 54, 77;  
3 transcript May 8, pp. 113-114, 130) all corroborate the evidence of non-compliant  
4 emissions indicated by dispersion modeling. Hydro recognized that it was, based  
5 on convincing information, in violation of the regulations. It did not elect to  
6 pursue a compliance agreement providing that more testing be undertaken, the  
7 purpose or result of which would be to defer emissions reductions. Instead,  
8 Hydro opted to take action to reduce its emissions so that it would be in  
9 compliance with the law.

10

11 The Board may be asked to draw an inference that Hydro could have negotiated  
12 harder with the DOEC to reach an agreement as to continued air monitoring.

13 The evidence is that Hydro had been in discussions as to the possible contents  
14 of a compliance agreement for a number of months during 2005 and that there  
15 was no reason to believe that the DOEC would have been willing to enter into a  
16 compliance agreement that did not, as a term of the agreement, first require that  
17 actions are being taken to reduce emission to compliant levels. (transcript, May  
18 5, p.166) There is no evidence that the DOEC claimed that there were concerns  
19 about the reliability of the modeling outcomes or that they had suggested that  
20 further monitoring was warranted before a reduction in emissions would be  
21 required. The evidence is to the contrary that the reduction to 1% sulphur was a  
22 “good start”, suggesting that further emissions reductions may be required.  
23 (transcript, May 8, p. 68)

1 After years of considering information received from the dispersion modeling,  
2 ambient air monitoring, and from other sources, and after being informed in  
3 discussions with the DOEC (subsequently confirmed in writing) Hydro's  
4 management determined that continuing to pollute the environment to an extent  
5 that the regulator found to be illegal was unacceptable. Hydro was entitled to  
6 respond in that manner to this information from this authority. Hydro should not  
7 be expected to challenge this position further by asking for more testing to be  
8 done.

9  
10

## 11 **5. ALTERNATIVES TO 1% SULPHUR FUEL**

12

### 13 **5.1 Staged Reductions**

14

15 Having determined that Hydro was non-compliant with the *Air Pollution Control*  
16 *Regulations, 2004*, in the autumn of 2005 Hydro considered its options as to a  
17 remedy to that situation. As Hydro had been concerned about its sulphur  
18 emissions for a number of years, it had already undertaken engineering studies  
19 to identify the available means of reducing sulphur emissions and had compared  
20 the costs of those options. (SGE Acres Report – appended to Application; Alstom  
21 report – IC 1(a) NLH) In previous years, consideration was given to a staged  
22 reduction of sulphur fuel content so that the sulphur level would be reduced from  
23 2% to 1% over a period of years. A significant factor in that consideration was

1 the substantial price differential of 1% sulphur fuel at the time. (transcript, May 8,  
2 pp. 4, 5, 70)

3

4 By the autumn of 2005, it was observed that the price differential had reduced  
5 considerably (transcript, May 8, p. 5). Meanwhile, the No. 6 fuel sulphur content  
6 level required in order for Hydro to be assured of compliance was calculated to  
7 be 0.6% sulphur. (PUB 9 NLH; CA 9 NLH). Hydro management considered this  
8 information and decided that in 2006 it would purchase 1% sulphur fuel. It was  
9 hoped that this significant reduction in fuel sulphur content, with the assistance of  
10 production level management, would be enough to attain compliance with the *Air*  
11 *Pollution Control Regulations, 2004* while not requiring too high of an increase in  
12 rates.

13

14 While an increase in rates is always undesirable, the level of rate increases that  
15 would be caused by the present Application is expected to be modest at 1% to  
16 Newfoundland Power's and Hydro's Rural Island Interconnected customers, and  
17 2% to Hydro's Island Industrial customers.

18

19 Hydro's management had determined that it was not willing to continue to be in  
20 violation of the law so not taking action that would not likely provide sufficient  
21 reductions in sulphur emissions was not an acceptable option. The option of  
22 reducing emissions through switching to a cleaner fuel was, in Hydro's judgment,  
23 preferable to its alternatives.

1 **5.2 Capital Expenditures for Emissions Reductions Equipment**

2  
3 Hydro thoroughly considered emission reductions equipment methods as a  
4 means to attain compliant emission levels. These means, though effective and  
5 widely used by other thermal generating stations elsewhere, are considerably  
6 more expensive than fuel sulphur reductions and would require significant  
7 additional funding for both capital investments and operating expenditures. (SGE  
8 Acres Report, section 4, – appended to Application; PUB 8 NLH - attachment).

9 The choice of using 1% sulphur versus the capital improvement option  
10 (FGD/ESP equipment retrofit) remains the prudent choice from an economic  
11 viewpoint until the price premium for this fuel choice exceeds \$9.90/bbl. (CA 4  
12 NLH) Hydro's fuel forecasts indicate that the price differential between 1%  
13 sulphur No. 6 fuel and 2% sulphur No.6 fuel over the next 20 years is anticipated  
14 to be far below that amount, ranging between \$1.40/bbl to \$3.85/bbl. (CA 11  
15 NLH)

16  
17 An additional and very significant disadvantage to the capital improvement  
18 options relate to the possibility that these considerable capital investments could,  
19 in the future, turn out to have been wasted should Hydro either (1) convert the  
20 HTGS to burn natural gas, or (2) obtain a transmission in-feed from Labrador,  
21 thus displacing Holyrood as a significant source of energy generation. Either of  
22 these potentialities would render the investment in emission reduction equipment  
23 obsolete.



1 Meanwhile, choosing the lower sulphur fuel option does not rule out the  
2 FGD/ESP option should the price differential increase dramatically from the  
3 present fuel forecast; burning low sulphur fuel in the interim would not prevent  
4 Hydro from installing this equipment in the future. However, opting for the  
5 FGD/ESP capital expenditure would mean that the very significant operating and  
6 carrying costs associated with that choice would have to be recovered.

7

8

## 9 **6. RECOVERABLE OPERATING EXPENSES**

10

11 Section 80 of the Public Utilities Act (“PUA”) provides that expenses that are  
12 “reasonable and prudent and properly chargeable to operating account” may be  
13 allowed by the Board in the rate setting process. Meanwhile, section 4 of the  
14 Electrical Power Control Act, 1994 requires the Board to “apply tests which are  
15 consistent with generally accepted sound public utility practice.”

16

17 The combined effect of these provisions is clear, the Board may allow a public  
18 utility to recover through its rates reasonably incurred operating expenses, and in  
19 determining the reasonableness of the operating expenses, the Board should  
20 apply sound regulatory practices.

21

1 Regulatory oversight of operating expenses is an issue that was dealt with by the  
2 Newfoundland and Labrador Court of Appeal in the "Stated Case". The opinion  
3 expressed by the Court on the matter contains the following important passage:

4 Accordingly, the power to determine reasonable rates necessarily requires  
5 supervision of operating expenses.

6  
7 118 In defining the parameters of such supervisory power, however, the Board  
8 must account for a competing principle, namely, that the Board is not the  
9 manager of the utility and should not as a general rule substitute its judgment on  
10 managerial and business issues for that of the officers of the enterprise.<sup>83</sup>

11 119 Nevertheless, it is recognized that regulatory boards have a wide  
12 discretion to disallow or adjust the components of both rate base and expense<sup>84</sup>.  
13 In an American case<sup>85</sup> the matter was put as follows:

14 The contention is that the amount to be expended for these purposes is  
15 purely a question of managerial judgment. But this overlooks the  
16 consideration that the charge is for a public service, and regulation cannot  
17 be frustrated by a requirement that the rate be made to compensate  
18 extravagant or unnecessary costs for these or any other purposes.

19  
20 120 Having said that, however, there will normally be a presumption of  
21 managerial good faith and a certain latitude given to management in their  
22 decisions with respect to expenditures. In the United States, the test for  
23 disallowance is usually "abuse of discretion" showing "inefficiency or  
24 improvidence" or "extravagant or unnecessary costs".<sup>86</sup>

25  
26  
27 (Re Newfoundland (Board of Commissioners of Public Utilities) (1998) 164 Nfld.  
28 & P.E.I.R. 60; 1998 CarswellNfld 150)

29  
30  
31 It is clear from this passage that this Board should review operating expenses to  
32 ensure that they are free from abuses of discretion, inefficiencies, and  
33 improvidence. It is also clear from this passage that there is a presumption of  
34 managerial good faith and that a decision made by a public utility should be given  
35 appropriate latitude.

1 Perhaps the most important element of this passage for the present matter is  
2 with respect to the caution given to the Board by the Court as to substituting its  
3 own judgment for that of management on matters pertaining to the business or  
4 enterprise. The evidence is that Hydro has an approach to environmental issues  
5 that is well thought out and administered, consisting of centralized expertise and  
6 distributed responsibility around the system. Hydro uses both in-house and  
7 external expertise in managing its environmental affairs and makes considered  
8 and deliberate decisions on these matters upon reviewing its options, both  
9 operating and capital, to resolve environmental issues in a least cost manner with  
10 due consideration for the life span and utilization of the assets involved.

11 (transcript May 5, p. 38-41; Pre-filed Testimony of James R. Haynes, pp. 2,3)

12

13 Moreover, the evidence received by this Board in this and numerous previous  
14 proceedings establish that Hydro's operations at the HTGS are consistently  
15 carried out with a high level of attention to maximizing efficiency and minimizing  
16 costs. In the present matter, Hydro has shown that it concluded that it was in  
17 violation of the legislation based upon information received through well-  
18 established criteria and methodologies, evidence it had gathered itself through air  
19 monitoring and other environmental sampling, and in consultation with the  
20 environmental regulator and independent consultants. Its choice of the least cost  
21 means of resolving this problem was made only after studying and considering  
22 the various capital and non-capital solutions available to it.

1 There is at least one other reason that the Board should show restraint in second  
2 guessing decisions of Hydro's management as to environmental compliance:  
3 under section 117 of the Environmental Protection Act, the officers, directors and  
4 agents of Hydro can be held personally liable for authorizing or acquiescing in  
5 the violation of that Act. The legislature has thereby sent a clear message that  
6 those who evince a cavalier attitude towards environmental impacts, do so at  
7 their peril.

8

9

## 10 **7. RECOVERY THROUGH THE RSP**

11

12 The established practice of this Board is to permit Hydro to recover its fuel  
13 related operating expenses. Due to the volatility of prices for No. 6 fuel, the  
14 Board has ordered that fuel related costs are recovered through the operation of  
15 the RSP. The RSP permits the recovery of Hydro's full costs of fuel by adjusting  
16 rates to reflect changes in actual fuel costs, be they differences arising from fuel  
17 prices or volumes consumed. These differences are then refunded to customers,  
18 or recovered from customers, (as the case may) over a defined period of years.

19

20 In this manner, customers' rates are smoothed, rates volatility is mitigated, and  
21 Hydro's financial health is not exposed to variations in fuel costs, a factor that is  
22 outside of Hydro's control. Fuel recovery plans are a common means employed  
23 by regulators to stabilize public utility revenues and such plans, therefore, meet

1 the criterion of being “consistent with generally accepted sound public utility  
2 practice”.

3

4 The costs of purchasing 1% sulphur No. 6 fuel are reasonable and prudent  
5 expenses for Hydro to incur as they permit Hydro to provide reliable power in a  
6 manner that complies with applicable environmental legislation. As it is Hydro’s  
7 approved practice for variances from forecast fuel costs to be recovered from or  
8 refunded to customers through the RSP, and as this change in fuel grade is the  
9 least cost means to comply with environmental legislation, Hydro submits that it  
10 is consistent with the established practice of this Board, and with generally  
11 accepted sound public utility practice, for Hydro to recover its actual costs of  
12 acquiring 1% sulphur No. 6 fuel through the RSP.