

**NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

AN ORDER OF THE BOARD

NO. P.U. 9(2021)

1 **IN THE MATTER OF** the *Electrical Power*
2 *Control Act, 1994*, SNL 1994, Chapter E-5.1 (the
3 “*EPCA*”) and the *Public Utilities Act*, RSNL 1990,
4 Chapter P-47 (the “*Act*”), as amended, and regulations
5 thereunder; and
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7 **IN THE MATTER OF** an application by
8 Newfoundland and Labrador Hydro for approval of
9 two exceptions to financial reporting requirements
10 relating to the Muskrat Falls Power Purchase Agreement
11 and the deferral and recovery of capital-related overhead
12 costs, pursuant to section 58 of the *Act*.
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14

15 **WHEREAS** Newfoundland and Labrador Hydro (“Hydro”) is a corporation continued and
16 existing under the *Hydro Corporation Act, 2007*, is a public utility within the meaning of the *Act*,
17 and is also subject to the provisions of the *EPCA*; and
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19 **WHEREAS** in Order No. P.U. 13(2012) the Board approved, with certain exceptions, the adoption
20 and use of International Financial Reporting Standards (“IFRS”) by Hydro for financial reporting
21 for regulatory purposes, effective January 1, 2012; and
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23 **WHEREAS** on February 24, 2021 Hydro filed an application (the “Application”) requesting
24 approval to deviate from IFRS, using IFRS 14 – *Regulatory Deferral Accounts*, to allow Hydro to:

- 25 (i) recognize expenses related to the purchase of pre-commissioning energy in
26 accordance with the commercial terms of the Muskrat Falls Power Purchase
27 Agreement;
- 28 (ii) establish the Capitalized Overhead Deferral Account to enable the deferral and
29 recovery of capital-related overhead costs to become effective January 1, 2022; and
- 30 (iii) apply an overhead capitalization rate of 2.3%, on an interim basis, in determining the
31 annual transfers to the Capitalized Overhead Deferral Account; and
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33 **WHEREAS** Hydro requested an expedited regulatory review of the Application to maximize the
34 benefits for customers associated with the Application; and
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36 **WHEREAS** in response to NP-NLH-017 Hydro explained the expedited regulatory review of the
37 Application was requested to ensure that Hydro could maximize the potential benefits of the
38 purchase of pre-commissioning energy; and

1 **WHEREAS** on March 22, 2021 the Board informed the parties that, in order to address the
2 proposal related to the power purchase costs of pre-commissioning energy on an expedited basis,
3 the Board would bifurcate the Application and issue two separate orders; and
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5 **WHEREAS** the terms of the existing Muskrat Falls Power Purchase Agreement enable Hydro to
6 purchase energy produced during the commissioning period from the Muskrat Falls Corporation
7 for \$1 which results in cost savings for customers on the Island Interconnected system as it
8 provides Hydro the opportunity to displace less economical generation sources and power
9 purchases; and
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11 **WHEREAS** under IFRS 15 – *Revenue from Contracts with Customers* companies must recognize
12 revenues consistent with the completion of their performance obligation under a contract,
13 irrespective of the contractual timing of cash payments; and
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15 **WHEREAS** the Muskrat Falls Corporation is required to recognize revenues from its pre-
16 commissioning energy performance obligation based on the number of kWh delivered; and
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18 **WHEREAS** as a result, deliveries of pre-commissioning energy to the Island Interconnected
19 system would require Hydro, under IFRS, to recognize a power purchase expense that will not
20 match the amount invoiced to Hydro under the Muskrat Falls Power Purchase Agreement, which
21 does not trigger payment obligations until completion of full commissioning of the project; and
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23 **WHEREAS** while Hydro is currently able to accept energy from Muskrat Falls without incurring
24 the power purchase expense under IFRS, according to the Application Hydro anticipates that by
25 April 2021 it will not be able to continue to accept the energy without being required to recognize
26 a material power purchase expense; and
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28 **WHEREAS** Hydro expects to purchase approximately 400 GWh of pre-commissioning energy
29 for \$1 for use on the Island Interconnected system in 2021 to reduce the use of other generating
30 facilities; and
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32 **WHEREAS** using the current forecast No. 6 fuel price of approximately \$67 per barrel, the
33 purchase of pre-commissioning energy would provide fuel savings to customers of approximately
34 \$45 million in 2021 if the expense could be recognized in accordance with the terms of the Muskrat
35 Falls Power Purchase Agreement; and
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37 **WHEREAS** the Application stated that, without approval to deviate from IFRS, Hydro would be
38 required to record approximately \$68 million in additional power purchase costs in 2021; and
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40 **WHEREAS** pursuant to OC2003-343 Hydro is not permitted to recover any Muskrat Falls Project
41 costs prior to full commissioning; and
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43 **WHEREAS** Hydro's current rates do not reflect the power purchase expenses related to the
44 Muskrat Falls Project required to be recognized under IFRS; and

1 **WHEREAS** in response to NP-NLH-011 Hydro stated it would not accept delivery of pre-
2 commissioning energy without approval to deviate from IFRS as energy would be available from
3 other generating facilities at a lower cost; and

4
5 **WHEREAS** Hydro stated that the deviation from IFRS would have no impact on customers; and

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7 **WHEREAS** the Application was copied to: Newfoundland Power Inc. (“Newfoundland Power”);
8 the Consumer Advocate, Dennis Browne, Q.C.; a group of Island Industrial Customers: Corner
9 Brook Pulp and Paper Limited, NARL Refining Limited Partnership and Vale Newfoundland and
10 Labrador Limited (the “Industrial Customer Group”); Praxair Canada Inc.; and Teck Resources
11 Limited; and

12
13 **WHEREAS** on March 17, 2021 Newfoundland Power and the Industrial Customer Group advised
14 that, based on their understanding of the information on the record, they are supportive of Hydro’s
15 proposal with respect to the deviation from IFRS relating to the power purchase expense of the
16 pre-commissioning energy; and

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18 **WHEREAS** the Board did not receive any other comments on this proposal as set out in the
19 Application; and

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21 **WHEREAS** on March 19, 2021 Hydro filed a reply noting that both Newfoundland Power and
22 the Industrial Customer Group were supportive of Hydro’s proposal to deviate from IFRS with
23 respect to the recognition of power purchase expense relating to pre-commissioning energy and
24 requesting the Board approve the Application proposal with respect to the recognition of pre-
25 commissioning energy power purchase expense; and

26
27 **WHEREAS** the Board is satisfied that the proposal to deviate from IFRS, using IFRS 14 –
28 *Regulatory Deferral Accounts*, which would allow Hydro to recognize the power purchase costs
29 relating to pre-commissioning energy in accordance with the terms of the commercial terms of the
30 Muskrat Falls Power Purchase Agreement and displace more expensive thermal generation to the
31 benefit of customers on the Island Interconnected System, should be approved.

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34 **IT IS THEREFORE ORDERED THAT:**

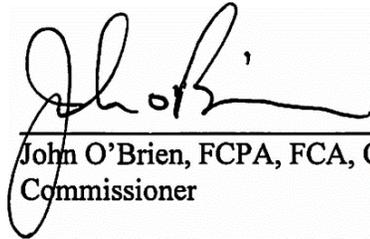
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36 1. Hydro’s proposal to deviate from IFRS, using IFRS 14 – *Regulatory Deferral Accounts*, to
37 allow recognition of expenses related to the purchase of pre-commissioning energy in
38 accordance with the terms of the Muskrat Falls Power Purchase Agreement is approved.

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40 2. Hydro shall pay all expenses of the Board arising from this Application.

DATED at St. John's, Newfoundland and Labrador, this 26th day of March, 2021.



Darlene Whalen, P. Eng., FEC
Chair and Chief Executive Officer



John O'Brien, FCPA, FCA, CISA
Commissioner



Cheryl Blundon
Board Secretary