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Via Electronic Mail and Courier

Newfoundland and Labrador Board of Commissioners of Public Utilities
120 Torbay Road
P.O. Box 21040
St. John's, NL A1A 5B2

**Attention: Ms. G. Cheryl Blundon, Director of Corporate Services
and Board Secretary**

Dear Ms. Blundon:

Re: Hydro 2017 General Rate Application – Consumer Advocate’s Application to Delay

We write on behalf of the Island Industrial Customer (IIC) Group, to comment upon the Consumer Advocate's Application, filed on January 4, 2018, seeking the delay of any further steps in 2017 GRA until additional information, as identified in the Consumer Advocate's Application, is filed by Hydro.

Electrical Power Control Act, 1994 (the “EPCA”)

We submit that a starting point for consideration of the Consumer Advocate's Application is the power policy of the Province, set out in section 3 of the *EPCA*, which states (in part):

3. It is declared to be the policy of the province that

- (a) the rates to be charged, either generally or under specific contracts, for the supply of power within the province
 - (i) should be reasonable and not unjustly discriminatory,
 - (ii) should be established, wherever practicable, based on forecast costs for that supply of power for 1 or more years,

.....

- (b) all sources and facilities for the production, transmission and distribution of power in the province should be managed and operated in a manner
 - (i),
 - (ii),
 - (iii) that would result in power being delivered to consumers in the province at the lowest possible cost consistent with reliable service,

The concerns of the IIC Group in the GRA process

While there are other aspects of the Province's power policy set out in section 3 which are not reproduced above, the above provisions of section 3 of the EPCA are those which primarily speak to the overarching concerns of the IIC Group as industrial customers of Hydro. While the principle of lowest possible cost consistent with reliable service is every power customer's primary consideration, the other provisions of section 3 reproduced above speak to the means by which it is sought to achieve this primary consideration in the rates charged by Hydro to its customers. It is the perspective of the IIC Group that those means – reasonable rates based on forecast costs tested by a timely and efficient GRA process - should seek to achieve

- **rate certainty**, ie. interim rates ought not to be unduly prolonged;
- **rate stability**, ie. rate shock should be avoided and/or mitigated; and
- **rate predictability**, ie. RSP and other deferral account rate adjustment mechanisms should be carefully designed, periodically reviewed and occasionally have their operation suspended if allowing their operation would produce unreasonable results, to minimize variability in actual rates paid by customers in periods between GRAs.

Past experience of interim rates and rate uncertainty

The IIC Group's concerns regarding rate certainty are not hypothetical. Over the decade long period January 1, 2008 to December 31, 2017, Hydro's industrial customers were effectively under interim rates for all but the last 6 months. These extended periods under interim rates have proven problematic, giving rise to a RSP load variation surplus which, after proceedings before the Board and the Court of Appeal, was ultimately addressed by Orders-in-Council and, at the end of the Hydro Amended 2013 GRA process, to a dispute amongst Hydro and the members of IIC Group as to how to address a prolonged under-collection of SAC from 2 members of the IIC Group and the over-collection of SAC from the third. These issues arose from either over-long periods between GRAs (2007-2013), or overly-prolonged GRA proceedings (2013-2017), the latter due primarily to Hydro's filing of an amended 2013 GRA, in 2015, after the original 2013 GRA process had progressed to the brink of scheduled hearings. It is noteworthy that we are again at that same point – on the brink of what were scheduled hearings – in the 2017 GRA.

The Off-Island Purchases Deferral Account (OPDA)

The IIC Group share many of the concerns of the Consumer Advocate regarding the OPDA.

Hydro's responses to the IIC Group's RFIs in relation to the OPDA did not address the IIC Group's concern that the proposed OPDA mechanism appears to be insufficiently defined. Nor, it is submitted, has Hydro sufficiently addressed the concern raised by the Grant Thornton Financial Consultants Report (at page 104):

If the cost of the Off-Island Purchases exceeds the Fuel Consumption and Inventory Savings, a recovery from customers will result based on the proposed definition. Our understanding of the intent of this account was to allow rate payers to benefit from the savings associated with off-island purchases. As such,

the definition should be clarified to ensure no unintended consequences (i.e. that the account cannot have a negative balance).

The IIC Group further acknowledge the more fundamental issue raised by the Consumer Advocate's concerns – that is whether any OPDA mechanism should be approved (i.e. are the benefits of any savings from off-island power purchases in the 2018-2021 period more appropriately conferred on Hydro's customers concurrently (or near-concurrently) to when they are realized, or should any benefits to customers be deferred to 2021 and beyond). The IIC Group have not yet come to a final view on this fundamental question, and agree that it is a question that should be adjudicated through the GRA hearing process (the prospect of settlement of this issue appearing to be unlikely, based on the filings of the parties).

Hydro's Reply to the Consumer Advocate's Application

The IIC Group do not intend, in these comments, to address and state a comprehensive position on the deficiencies in Hydro's GRA evidence asserted by the Consumer Advocate's Application, or on Hydro's rebuttal of those deficiencies in its January 12, 2018 reply. This should not be taken as the IIC Group having come to conclusions on these issues that are in disagreement with the Consumer Advocate and in agreement with Hydro. The IIC Group reserve their right and opportunity to make their submissions on these issues in, and following, a full GRA hearing.

The IIC Group have noted that Hydro has estimated that providing the additional information requested by the Consumer Advocate would cause at least a six month delay in the GRA. The IIC Group would suggest that the filing of the additional information requested by the Consumer Advocate would be tantamount to an amended GRA filing, and that it is likely this would trigger a need for filing of amended RFI responses and expert pre-filed evidence and for one or more rounds of additional RFIs. The prolongation of the 2013 GRA process due to the amendment of that GRA filing is perhaps a more accurate yardstick by which to measure the potential length of delay of the current GRA if the Consumer Advocate's Application is granted. Respectfully, it would be difficult to characterize such a prolongation of the GRA process as a model for regulatory efficiency.

The IIC Group position

The IIC Group have raised above their concerns for **rate certainty**. After due consideration, the IIC Group are of the view that delay of the current GRA, to allow for the filing of the additional information requested by the Consumer Advocate, would raise the real prospect of an extended period under interim rates and consequent rate uncertainty in 2018 and likely extending into 2019.

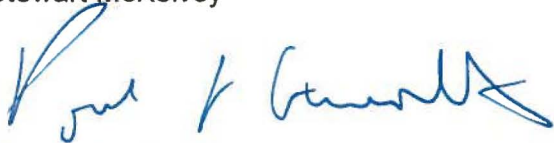
If deficiencies in Hydro's GRA evidence asserted by the Consumer Advocate are borne out in the GRA hearing, it is Hydro that bears the risk of its OPDA proposal not being approved. The IIC Group trusts that Hydro, in expressing its position that the GRA should proceed based on the evidentiary record filed to date, is prepared to address the possibility of its OPDA proposal ultimately not being approved in a full hearing process, so that its non-approval would not give rise to a prolonged period of rate uncertainty, under interim rates.

The IIC Group acknowledge that the Board will have to consider the positions and interests of all parties, and their representatives, and further acknowledge that it is for the Board to determine whether the evidentiary record is adequate to proceed to the GRA hearing.

We trust these comments will be found to be in order, and of assistance to the Board.

Yours truly,

Stewart McKelvey



Paul L. Coxworthy

PLC/kmcd

- c: Tracey Pennell, Senior Legal Counsel, Newfoundland and Labrador Hydro
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