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May 12, 2020

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Via Electronic Mail

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 Application to Delay Filing of 2020 General Rate Application

We write on behalf of the Island Industrial Customer (IIC) Group: Corner Brook Pulp & Paper Limited, NARL Refining Limited Partnership and Vale Newfoundland & Labrador Limited.

The IIC Group accepts that it is appropriate to delay the filing of Hydro's next General Rate Application, originally scheduled to be filed by no later than September 30, 2020, pursuant to P.U. 16 (2019).

However, the IIC Group does not accept that it is necessary or appropriate to grant Hydro's request that the Board order that:

- (i) Hydro's filing of its next GRA be no later than nine months from the date upon which both the revised financial structure for the Muskrat Falls PPA and Government's rate mitigation plan have been finalized and publicly communicated (hereinafter referred to as the "Proposed Pre-Conditions"); and
- (ii) The GRA filing should be based on a 2021 Test Year and additional test years, if required.

By its response to IC-NLH-001, Hydro has acknowledged that it does not know when the Proposed Pre-Conditions will be met. The statement made by Hydro's Application that the next GRA "may not be filed until mid-2021" is therefore not a reliable predictor of the time frame within which the Proposed Pre-Conditions will be met. It is reasonable to posit the possibility, given the increased uncertainty arising from the Covid-19 pandemic, that the Proposed Pre-Conditions may not be met in sufficient time to permit the filing of a GRA based on the Proposed Pre-Conditions until the third quarter of 2021, and perhaps even later.

The Board, by PUB-NLH-001, adverted to the possibility of setting a new date for the next GRA filing if the Proposed Pre-Conditions were not met within a certain time. The IIC Group accept that now is not the time to set such a contingent new date for the next GRA filing. However, the IIC Group do not accept that the Board should order at this time that the next GRA will be

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necessarily delayed to a pre-determined period (no more than nine months) after the Proposed Pre-Conditions are met. Instead, the IIC Group submit that, if the Proposed Pre-Conditions are not met by September 30, 2020, then Hydro should be required on a quarterly basis, starting in the last quarter of 2020, to report to the Board Hydro's updated information regarding the expected time frame within which the Proposed Pre-Conditions are expected to be met. It is respectfully submitted that the Board should reserve its decision, to be based on those quarterly Hydro updates, such other evolving circumstances as may be relevant to its decision (discussed below), and the submissions of the interested parties, on whether a new fixed date for the next GRA filing should be set in the case of a prolonged or indefinite delay in meeting the Proposed Pre-Conditions. The IIC Group submit that that such quarterly updates and reservation of the Board's decision on the next GRA filing date would be most consistent with the Board's mandate of general supervision of Hydro as a public utility pursuant to section 16 of the *Public Utilities Act*. The IIC Group do not accept, as submitted by Hydro in its response to CA-NLH-008, that Hydro's "regular filings" will necessarily provide sufficient information to allow the Board to exercise its general supervision role on this critical issue.

The IIC Group also do not accept that it is appropriate to accede to Hydro's request that the Board in effect pre-approve the filing of the next GRA based on a 2021 Test Year and additional test years, if Hydro deems it to be required. Hydro did not obtain the Board's pre-approval to its 2017 GRA being based on 2018 and 2019 Test Years, and had to make the case by its 2017 GRA and the GRA process as to why multiple test years were justified. In the submission of the IIC Group, Hydro should be required to make the case for multiple test years in its next GRA Application, based on the relevant circumstances at the time of its filing.

Having said this, the IIC Group are discouraged that Hydro is already projecting, not even mid-way through 2020 and mere months after conclusion of the 2017 GRA process, that even without consideration of Muskrat Falls Costs¹, its 2021 earnings will be below the lower end of the range of its allowed rate of return on rate base, primarily as a result of increased capital investments and increased borrowing since 2019. Even if some or all of these increased capital investments and increased borrowing since 2019 are ultimately shown to be justified so as to be recoverable from Hydro's customers, the assumption that Hydro cannot and will not find any other savings to offset their impact does not speak to a concerted effort by Hydro to identify and implement saving opportunities, something which Hydro had committed to do in the 2017 GRA process as a necessary step to mitigate MFP and LIL costs. As it stands, timely GRA filings and proceedings are the only means of gauging Hydro's efforts to identify and implement saving opportunities. If the next GRA filing is to be delayed, then the IIC Group submit that Hydro should be required to report to the Board, by January 2021, on its identification and implementation of savings opportunities in 2020 and 2021, including a quantification of those savings. The Covid-19 pandemic is not a sufficient reason for Hydro to delay these savings measures; notwithstanding Covid-19, other businesses do not have the luxury of delaying or avoiding cost savings measures and simply passing on their costs to their customers.

It is submitted that Hydro should also be required to report by January 2021 on any then-projected 2021 revenue deficiency and the options for mitigating its rate impact, to the extent the revenue deficiency may not be able to be mitigated by the savings measures discussed above. It is submitted that the opportunity to consider and address these issues should not be

¹ Per Hydro's response to IC-NLH-005.

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held hostage to an indefinite, and perhaps prolonged, delay in Hydro's filing of a GRA based on the Proposed Pre-Conditions.

We trust the Board will find these submissions to be in order.

Yours truly,

Stewart McKelvey



Paul L. Coxworthy

PLC/

c: Shirley Walsh, NL Hydro
Gerard Hayes, Newfoundland Power
Dennis Browne, Q.C., Consumer Advocate
Dean Porter, Poole Althouse
Dennis J. Fleming, Cox & Palmer