



NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

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2024-01-03

Shirley Walsh
Senior Legal Counsel, Regulatory
Newfoundland and Labrador Hydro
P.O. Box 12400
Hydro Place, Columbus Drive
St. John's, NL A1B 4K7

Dear Ms. Walsh:

**Re: Newfoundland and Labrador Hydro – 2021 Capital Budget Supplemental Application
Approval of the Construction of Hydro's Long-term Supply Plan for Southern Labrador –
To NLH – Request for Further Information**

On December 18, 2023 Hydro filed its reply in relation to its application for approval of the construction of Hydro's long term supply plan for Southern Labrador. In its reply, Hydro requested that the Board approve the application, conditional on fulfilment of the duty to consult and receipt of environmental approval.

Hydro's request for conditional approval is new and changes the request in the Application for approval of the full project and all associated expenditures without conditions. The Board does not believe that the request for conditional approval is sufficiently clear for the Board, intervenors and interested persons to understand the implications of the change. In particular, the Board requires additional information to address the following questions:

- (i) Is Hydro requesting conditional approval of the full project and all proposed expenditures?
- (ii) Is there work and expenditures which Hydro will not begin until the Board determines that the conditions are satisfied? If so, please provide details.
- (iii) Is there work and expenditures which would not be subject to the conditions? If so, please provide details.
- (iv) Please describe the specific conditions that must be met for final approval.
- (v) Should a deadline be established for Hydro to demonstrate that the conditions have been met? If so, what is the proposed deadline?

- (vi) In the absence of an agreement between the parties, how will Hydro demonstrate that the duty to consult has been met? How would potential timelines associated with demonstrating that the duty to consult has been met impact the progress of the project?
- (vii) Environmental acceptance is not normally a condition for Board approval. Why should it be a condition in this case?
- (viii) Does the legislation provide the Board with the authority to issue a conditional approval and is such an approval consistent with regulatory practice?
- (ix) What is the impact of a conditional approval and how will the costs be treated in terms of inclusion in rate base and recovery from customers until the determination is made as to whether the conditions are satisfied?
- (x) How will the costs be treated in terms of inclusion in rate base and recovery from customers if the conditions are not satisfied?
- (xi) What is the expected timeline and process for a determination as to whether the conditions have been met? Will Hydro provide updated information at that time with respect to the project and whether there have been any changes in circumstances?
- (xii) Hydro stated in its reply, "To start the environmental assessment process, Hydro requires an approved project to submit for assessment." Does Hydro require Board approval prior to submitting the project for environmental assessment? If so, does conditional approval of the Board impact the start of the environmental assessment process?
- (xiii) Hydro stated in its reply, "To obtain some of the information necessary both for effective consultation with the NCC and to progress the environmental assessment process, Hydro will have to incur capital expenditures for third-party experts. Expenditures for certain capital assets will also be required as information needed for both the consultation process and environmental assessment process is specific to the asset purchased." Please detail the specific work and expenditures which are required with an explanation as to why it is necessary.
- (xiv) Hydro stated in its reply, "Conditional approval would address the NCC's concerns by precluding Hydro from proceeding with construction prior to confirmation that the duty to consult has been fulfilled and environmental approval granted, and would also provide Hydro with the required assurance to continue with the next critical steps in a time-sensitive schedule." Please provide the proposed language of the condition which would preclude Hydro from proceeding with construction.

The Board requests that Hydro file this information by Friday, January 12, 2024. Upon receipt of the requested information, the Board will determine the next steps which will include the opportunity for intervenors to provide further comment on Hydro's revised request.

If you have any questions, please do not hesitate to contact the Board's Legal Counsel, Ms. Jacquelyn, by email, jglynn@pub.nl.ca or by telephone 709-726-6781.

Sincerely,



Jo-Anne Galarneau
Executive Director and Board Secretary

JG/rr

ecc **Newfoundland and Labrador Hydro**

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