

October 31, 2013

Board of Commissioners of Public Utilities  
Prince Charles Building  
120 Torbay Road, P.O. Box 21040  
St. John's, NL  
A1A 5B2

**ATTENTION: Ms. Cheryl Blundon**  
**Director of Corporate Services & Board Secretary**

Dear Ms. Blundon:

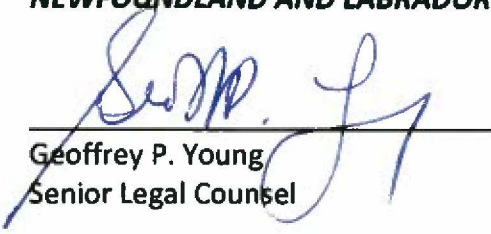
**Re: An Application by Newfoundland and Labrador Hydro pursuant to Sections 70 (1) and 76 of the Act for approval of the Rate Stabilization Plan rules and refunds to Newfoundland Power and Hydro Rural Customers**

Please find enclosed the original and nine copies of the above-noted Application, plus supporting affidavit and evidence.

Should you have any questions, please contact the undersigned.

Yours truly,

**NEWFOUNDLAND AND LABRADOR HYDRO**

  
\_\_\_\_\_  
Geoffrey P. Young  
Senior Legal Counsel

GPY/jc

cc: Gerard Hayes – Newfoundland Power  
Paul Coxworthy – Stewart McKelvey Stirling Scales  
Greg Moores – Stewart McKelvey Stirling Scales  
Sheryl Nisenbaum – Praxair Canada Inc.

Thomas Johnson – Consumer Advocate  
Dean Porter – Poole Althouse  
Mark Sheppard – Vale NL Limited

**IN THE MATTER OF** the *Electrical Power Control Act*, RSNL 1994, Chapter E-5.1 (the *EPCA*) and the *Public Utilities Act*, RSNL 1990, Chapter P-47 (the *Act*), and regulations thereunder;

**IN THE MATTER OF** an Application  
by Newfoundland and Labrador Hydro for the  
approval, pursuant to Sections 70 (1) and 76 of  
the Act, of the Rate Stabilization Plan rules and  
a refund to be provided to Newfoundland Power  
Inc. customers and to Newfoundland and Labrador  
Hydro Rural Customers.

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

**THE APPLICATION OF NEWFOUNDLAND AND LABRADOR HYDRO (Hydro) STATES THAT:**

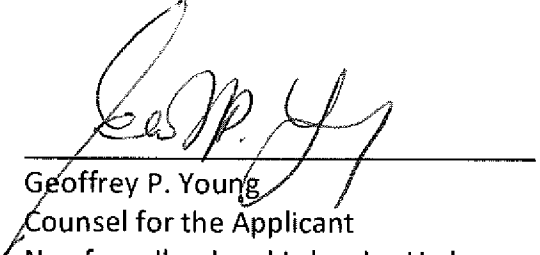
1. Hydro is a corporation continued and existing under the *Hydro Corporation Act, 2007*, is a public utility within the meaning of the Act and is subject to the provisions of the *Electrical Power Control Act, 1994*.
2. Order No. P.U. 6(2013) sets out that Hydro shall on August 31, 2013: (i) credit \$49 million to the Island Industrial customers' Rate Stabilization Plan; and (ii) transfer the remaining balance in the January 1, 2007 to August 31, 2013 accumulated Load Variation component of the Rate Stabilization Plan to the credit of the Newfoundland Power Inc. Rate Stabilization Plan.
3. Order in Council (OC) OC2013-089 issued by the Lieutenant Governor in Council on April 4, 2013, together with the amending OC2013-207 dated July 16, 2013, direct

the Board as to the disposition of certain matters with respect to a Rate Stabilization Plan ("RSP") Surplus refund plan. Details and supporting information as to Hydro's proposal to bring about the disposition prescribed by the Orders in Council are included in the evidence filed with this application.

4. Hydro therefore makes application applying for an Order approving:
  - a) That the Newfoundland Power Rate Stabilization Plan Surplus refund be paid to Newfoundland Power, and to those Hydro Rural customers whose rates are based on the rates charged by Newfoundland Power, and be shared amongst Newfoundland Power and Hydro Rural customers based on proportionate retail energy sales for their total energy consumption on bills issued during the period January 2013 to December 2013.
  - b) That the RSP Surplus be refunded to Newfoundland Power customers on their April 2014 electricity bills and be based on their total energy consumption on bills issued during the period January 2013 to December 2013.
  - c) That Hydro's Rural customers, whose rates are based on Newfoundland Power rates, will also receive a similar refund on their April 2014 electricity bills based on their total electricity consumption on bills issued during the period January 2013 to December 2013.

- d) That the refund to Rural customers be funded from a portion of the Newfoundland Power Rate Stabilization Plan surplus that is set aside for that purpose.
- e) That any net refund to Newfoundland Power's customers and Rural customers be in the form of a credit to each customer's account.
- f) Hydro shall pay the expenses of the Board incurred in connection with this matter.

**DATED AT** St. John's in the Province of Newfoundland and Labrador this 31st day of October 2013.



Geoffrey P. Young  
Counsel for the Applicant  
Newfoundland and Labrador Hydro,  
500 Columbus Drive, P.O. Box 12400  
St. John's, Newfoundland, A1B 4K7  
Telephone: (709) 737-1277  
Facsimile: (709) 737-1782

**IN THE MATTER OF** the *Electrical Power Control Act*, RSNL 1994, Chapter E-5.1 (the *EPCA*) and the *Public Utilities Act*, RSNL 1990, Chapter P-47 (the *Act*), and regulations thereunder;

**IN THE MATTER OF** an Application by Newfoundland and Labrador Hydro for the approval, pursuant to Sections 70 (1) and 76 of the Act, of the Rate Stabilization Plan rules and a refund to be provided to Newfoundland Power Inc. customers and to Newfoundland and Labrador Hydro Rural Customers.

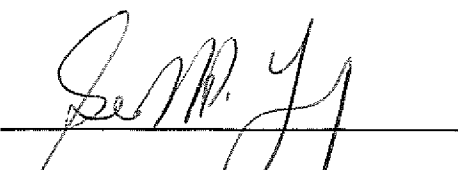
**TO:** The Board of Commissioners of Public Utilities (the Board)

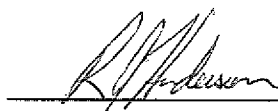
### **AFFIDAVIT**

I, Robert J. Henderson, Professional Engineer, of the City of St. John's, in the Province of Newfoundland and Labrador, make oath and swear as follows:

1. THAT I am Vice-President, Newfoundland and Labrador Hydro, the Applicant named in the attached Application.
2. THAT I have personal knowledge or I have been so informed and do verily believe, as the case may be, of the matters and things to which I have herein deposed and I make this affidavit in support of the within Application.

SWORN TO BEFORE ME in )  
the City of St. John's, in the Province )  
of Newfoundland and Labrador this 31<sup>st</sup> )  
day of October 2013. )

  
\_\_\_\_\_  
Barrister – Newfoundland and Labrador

  
\_\_\_\_\_  
Robert J. Henderson

1 (DRAFT ORDER)  
2 NEWFOUNDLAND AND LABRADOR  
3 BOARD OF COMMISSIONERS OF PUBLIC UTILITIES  
4

5 AN ORDER OF THE BOARD  
6

7 NO. P.U. \_\_ (2013)  
8

9 **IN THE MATTER OF** the *Electrical Power*  
10 *Control Act*, RSNL 1994, Chapter E-5.1 (the  
11 *EPCA*) and the *Public Utilities Act*, RSNL 1990,  
12 Chapter P-47 (the *Act*), and regulations thereunder;  
13

14 **IN THE MATTER OF** an Application  
15 by Newfoundland and Labrador Hydro for the  
16 approval, pursuant to Sections 70 (1) and 76 of  
17 the Act, of the Rate Stabilization Plan rules and  
18 a refund to be provided to Newfoundland Power  
19 Inc. customers and to Newfoundland and Labrador  
20 Hydro Rural Customers.  
21

22 **WHEREAS** Order in Council OC2013-089 issued on April 4, 2013 (as amended by OC2013-  
23 090) directed the Board with respect to the disposition to Hydro's Island Industrial Customers  
24 and to its remaining ratepayers of certain balances in the rate Stabilization Plan, *inter alia*, as  
25 follows:  
26

27 Newfoundland and Labrador Hydro's General Rate Application process shall  
28 include a Rate Stabilization Plan surplus refund plan to ratepayers. The refund  
29 plan shall comprise direct payments or rebates to ratepayers and shall not be in the  
30 form of an electricity rate adjustment. This refund plan will exclude Island  
31 industrial customers who will receive Rate Stabilization Plan surplus funds  
32 through the three year phase-in of new rates. The Board of Commissioners of  
33 Public Utilities shall make the final determination on the details of the refund to  
34 remaining ratepayers.  
35

36 ...

37 Newfoundland Power's portion of the Rate Stabilization Plan Surplus shall be distributed  
38 as a direct payment or rebate to its ratepayers and shall not be in the form of an electricity  
39 rate adjustment;

40 **WHEREAS** on July 30, 2013 Hydro filed a General Rate Application and an application with  
41 respect to the Rates Stabilization Plan for its Industrial Customers in accordance to the  
42 aforementioned Orders in Council; and  
43

44 **WHEREAS** by Board Orders Nos. P.U. 26(2013) and P.U. 29(2013) the Board approved certain  
45 rates changes pertaining to the Rate Stabilization Plan affecting, primarily, Hydro's Industrial  
46 Customers; and

1 **WHEREAS** on October 31, 2013 Hydro filed an Application with respect to the manner in  
2 which direct payments or rebates will be made, as set out in the aforementioned Orders in  
3 Council, to Hydro's remaining ratepayers, namely to Newfoundland Power Inc. ("Newfoundland  
4 Power) and to Hydro's own Rural customers whose rates are affected by the Rates Stabilization  
5 Plan; and  
6

7 **WHEREAS** the Board has read and considered the Orders in Council, the Application and  
8 supporting materials;  
9

10 **IT IS THEREFORE ORDERED THAT:**  
11

- 12 1. The Newfoundland Power Rate Stabilization Plan Surplus refund be paid to  
13 Newfoundland Power, and to those Hydro Rural customers whose rates are based on the  
14 rates charged by Newfoundland Power, and be shared amongst Newfoundland Power and  
15 Hydro Rural customers based on proportionate retail energy sales for their total energy  
16 consumption on bills issued during the period January 2013 to December 2013.  
17
- 18 2. The RSP Surplus be refunded to Newfoundland Power customers on their April 2014  
19 electricity bills and be based on their total energy consumption on bills issued during the  
20 period January 2013 to December 2013.  
21
- 22 3. Hydro's Rural customers, whose rates are based on Newfoundland Power rates, receive a  
23 refund on their April 2014 electricity bills based on their total energy consumption on  
24 bills issued during the period January 2013 to December 2013.  
25
- 26 4. The refund to Rural customers be funded from a portion of the Newfoundland Power  
27 Rate Stabilization Plan surplus that is set aside for that purpose.  
28
- 29 5. Any net refund to Newfoundland Power's customers and Rural customers be in the form  
30 of a credit to each customer's account.  
31
- 32 6. Hydro shall pay the expenses of the Board incurred in connection with this matter.

33 **DATED** at St. John's, Newfoundland and Labrador, this      day of      , 2013.  
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44 \_\_\_\_\_

**EVIDENCE ON  
RATE STABILIZATION PLAN  
SURPLUS REFUND PLAN**

**Newfoundland and Labrador Hydro**

October 31, 2013





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**1.0 INTRODUCTION**

This Application deals with Newfoundland Power's portion of the Rate Stabilization Plan (RSP) surplus resulting from Order in Council (OC) OC2013-089 dated April 4, 2013, as amended by OC2013-207 dated July 16, 2013, issued by the Lieutenant Governor in Council. This Order in Council, as amended, directs the Board of Commissioners of Public Utilities (Board) on the January 1, 2007 to August 31, 2013 accumulated Load Variation (the Rate Stabilization Plan Surplus) component of the Rate Stabilization Plan, as follows:

- On August 31, 2013 the Island industrial customers' Rate Stabilization Plan will be credited with \$49 million, the estimated Rate Stabilization Plan amount required to phase-in industrial customer rates based on Newfoundland and Labrador Hydro's General Rate Application. The remaining balance in the Rate Stabilization Plan Surplus on August 31, 2013, will be transferred to the credit of Newfoundland Power's Rate Stabilization Plan. No future adjustments will be made to these amounts credited.

On April 4, 2013, the Lieutenant Governor in Council also issued OC2013-090 (as amended on July 16, 2013 by OC2013-208) and OC2013-091. These OCs are directives to Newfoundland and Labrador Hydro (Hydro) to make any necessary applications and provide any required information to the Board in order to bring into effect the direction given the Board through the OCs. Specifically, with regard to Newfoundland Power's portion of the Rate Stabilization Plan surplus, OC2013-089, as amended, states:

- Newfoundland and Labrador Hydro's General Rate Application process shall include a Rate Stabilization Plan surplus refund plan to ratepayers. The refund plan shall comprise direct payments or rebates to ratepayers and shall not be in the form of an electricity rate adjustment. This refund plan will exclude Island industrial customers who will receive Rate Stabilization Plan surplus funds through the three year phase-in of new rates. The Board of Commissioners of Public Utilities shall make the final determination on the details of the refund to remaining ratepayers; and

- 1       • Newfoundland Power's portion of the Rate Stabilization Plan Surplus shall be  
2       distributed as a direct payment or rebate to its ratepayers and shall not be in the  
3       form of an electricity rate adjustment.

4       Copies of the OCs are attached as Appendix A.

5       Hydro's RSP surplus refund plan evidence is intended to fulfill the direction Hydro received  
6       from Government to provide the required information in order for the Board to carry out  
7       the direction given in the OC.

8       Hydro's evidence outlines the following:

- 9       • Background
- 10       • Allocation of the RSP Surplus amount; and
- 11       • Proposed RSP Surplus refund plan.

12       Hydro's filing also includes supplemental evidence, included as Exhibit 1, prepared by  
13       Lummus Consultants on Hydro's RSP Surplus Refund Plan which outlines the following:

- 14       • Treatment accorded customer rebates in other jurisdictions;
- 15       • Past practices in Newfoundland and Labrador; and
- 16       • Consistency of proposed rebate methodology with accepted ratemaking practices.

17       Hydro has also conferred with Mr. Tom Johnson, Consumer Advocate, and his expert, Mr.  
18       Doug Bowman, in the preparation of this evidence both of whom agree with the proposals  
19       contained herein and as outlined in Section 5.0, Summary.

**2.0 BACKGROUND**

The amount of the January 1, 2007 to August 31, 2013 accumulated Load Variation (the Rate Stabilization Plan Surplus) component of the Rate Stabilization Plan is \$161.6<sup>1</sup> million. On July 30, 2013 Hydro filed an Application and supporting Evidence with the Board which, among other things, requested approval of the following:

- that the Government-directed RSP surplus amount of \$49 million allocated to Industrial Customers (IC) be used, firstly, to reduce the Industrial Customer August 31, 2013 RSP balance to zero and that the remaining amount be segregated and used, commencing September 1, 2013, to phase-in IC rates; and
- that the remaining RSP Surplus amount be segregated into a separate plan balance, and called the NP RSP Surplus.

In Order No. P.U. 26(2013) issued by the Board on August 30, 2013, it was ordered that Hydro shall on August 31, 2013:

- credit \$49 million to the Island Industrial customers' Rate Stabilization Plan; and
- transfer the remaining balance in the January 1, 2007 to August 31, 2013 accumulated Load Variation component of the Rate Stabilization Plan to the credit of the Newfoundland Power Inc. Rate Stabilization Plan.

The present Application and Evidence addresses the NP RSP Surplus of \$112.6 million which was transferred to the NP RSP effective August 31, 2013. As directed by Government, Hydro is filing a RSP Surplus refund plan with the Board during the present GRA process which recommends a refund to customers, and not an electricity rate adjustment.

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<sup>1</sup> Appendix B contains a schedule showing how this amount was calculated.

### 3.0 ALLOCATION OF THE RSP SURPLUS AMOUNT

Since 2007, there has been a material reduction in IC load, primarily due to a reduction in the pulp and paper industry in the Province. As a result of this and other RSP variances, significant balances have accumulated in the RSP. As at August 31, 2013, the total owing to customers is \$241.5 million. Of this, \$161.6 million relates to the load variation since 2007, referred to as the RSP Surplus. Government has directed the allocation of this amount between NP and the IC customer class. Table 1 shows the customer class balances after they are reduced for the effects of the load variation since January 2007.

**Table 1**

<b>Rate Stabilization Plan Balances</b> <b>January 1, 2007 to August 31, 2013</b> <b>(Negative Balances are Owing to Customers)</b> <b>(\$millions)</b>							
	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>Aug 31 2013</u>
Hydraulic Variation	(14.8)	(30.9)	(32.2)	(40.4)	(32.7)	(32.7)	(43.7)
Utility	(15.0)	(10.5)	(53.0)	(56.1)	(55.8)	(64.6)	(74.3)
Industrial Customers	(2.4)	5.6	8.7	13.9	20.4	31.0	38.1
2007-2013 RSP Surplus	(6.1)	(17.3)	(45.5)	(76.6)	(102.2)	(135.4)	(161.6)
Total	(38.3)	(53.1)	(122.0)	(159.2)	(170.3)	(201.7)	(241.5)

### 3.1 Industrial Customers

Of the \$161.6 million RSP Surplus, the Government has directed that \$49 million is to be allocated to the IC class on August 31, 2013. This results in a credit in the IC RSP of \$10.9 million as at August 31, 2013. Hydro has proposed that this amount be segregated into a separate plan balance, called the IC RSP Surplus, and used to phase-in the rate increases for the IC as a result of Hydro's current GRA filing. In its Order No. P.U. 29 (2013), the Board stated it will approve Hydro's proposal to separate the August 31, 2013 accumulated load variation for IC.

1 **3.2 Newfoundland Power**

2 Also in Hydro's Rate Stabilization Plan Evidence filed on July 30, 2013, Hydro proposed that,  
 3 effective August 31, 2013, the remaining RSP Surplus amount, presently \$112.6 million, be  
 4 segregated into a separate plan balance, and called the NP RSP Surplus. In its Order No.  
 5 P.U. 29 (2013), the Board stated it will approve Hydro's proposal to separate the August 31,  
 6 2013 accumulated load variation for NP. Table 2 shows the resulting RSP balances after the  
 7 RSP Surplus accounts are created.

**Table 2**

<b>Rate Stabilization Plan Balances</b> <b>January 1, 2007 to August 31, 2013</b> <b>(Negative Balances are Owing to Customers)</b> <b>(\$millions)</b>							
	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>Aug 31 2013</u>
Hydraulic Variation	(14.8)	(30.9)	(32.2)	(40.4)	(32.7)	(32.7)	(43.7)
Utility Current Plan	(15.0)	(10.5)	(53.0)	(56.1)	(55.8)	(64.6)	(74.3)
Utility RSP Surplus							(112.6)
Industrial Customers Current Plan	(2.4)	5.6	8.7	13.9	20.4	31.0	0.0
Industrial Customers RSP Surplus							(10.9)
2007-2013 RSP Surplus	(6.1)	(17.3)	(45.5)	(76.6)	(102.2)	(135.4)	0.0
<b>Total</b>	<b>(38.3)</b>	<b>(53.1)</b>	<b>(122.0)</b>	<b>(159.2)</b>	<b>(170.3)</b>	<b>(201.7)</b>	<b>(241.5)</b>



1    **4.0    SUMMARY - PROPOSED RSP REBATE PLAN**

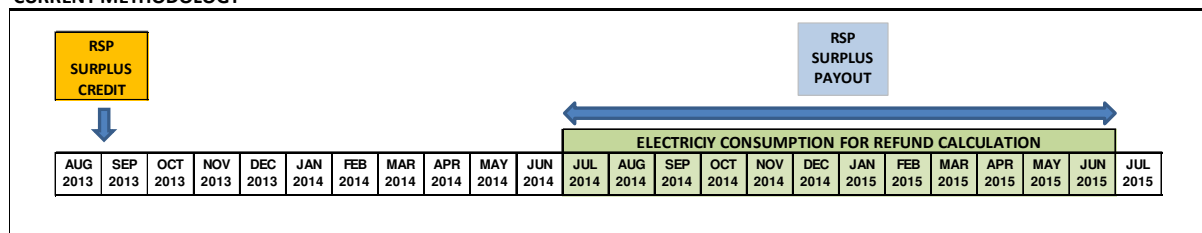
2    It is proposed that the Board approve a refund to Newfoundland Power customers on their  
3    April 2014 electricity bills, which is based on their total electricity consumption on bills  
4    issued during the period January 2013 to December 2013. It is proposed that customers of  
5    Hydro, whose rates are based on Newfoundland Power rates, would also receive a similar  
6    refund on their April 2014 electricity bills, funded from the RSP Surplus. It is proposed that  
7    any net refund to customers be in the form of a credit to each customer's account. If there  
8    is a net positive balance in the account, after the refund is applied, customers would have  
9    the option of either, leaving the balance in the account to apply to future billings, or  
10    requesting a cheque from the utility. The remainder of the evidence in this filing outlines  
11    Hydro's proposal regarding the RSP Surplus refund plan and the basis for its  
12    recommendations.

#### 4.1 Recommended RSP Refund Methodology

An Order in Council of Government has directed that \$112.6 million of the \$161.6 million January 1, 2007 to August 31, 2013 accumulated Load Variation (the Rate Stabilization Plan Surplus) be transferred to the credit of Newfoundland Power's Rate Stabilization Plan on August 31, 2013. Under the current rules of the RSP, this amount would normally form part of the RSP balance used to calculate the RSP adjustment rate which would be applied to energy consumption for the period from July 1, 2014 until June 30, 2015 as illustrated in Chart 1 below.

**Chart 1**

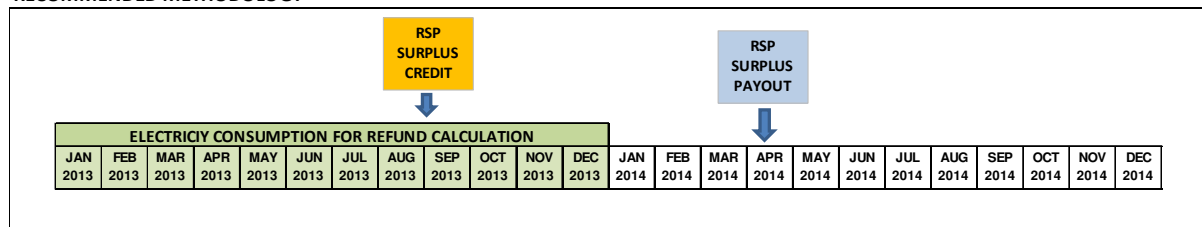
CURRENT METHODOLOGY



Government, however, has further directed that “[t]he refund plan shall comprise direct payments or rebates to ratepayers and shall not be in the form of an electricity rate adjustment.” On this basis, Hydro is proposing that the Board approve a refund to Newfoundland Power customers on their April 2014 electricity bills which, is based on their total electricity consumption on bills issued during the period January 2013 to December 2013. The refund of the RSP Surplus in this manner is illustrated in Chart 2 below.

**Chart 2**

RECOMMENDED METHODOLOGY



The approach to the refund plan implementation would:

- be in accordance with the direction received from Government;

- conclude the refund of the RSP Surplus to customers faster than what would have occurred had a rate adjustment been implemented using the normal rules of the RSP; and
- allow the utility to readily compile customer information since it will be based on customers who are on the system during a future, rather than a historical, period.

#### **4.2 RSP Methodology and Intergenerational Equity**

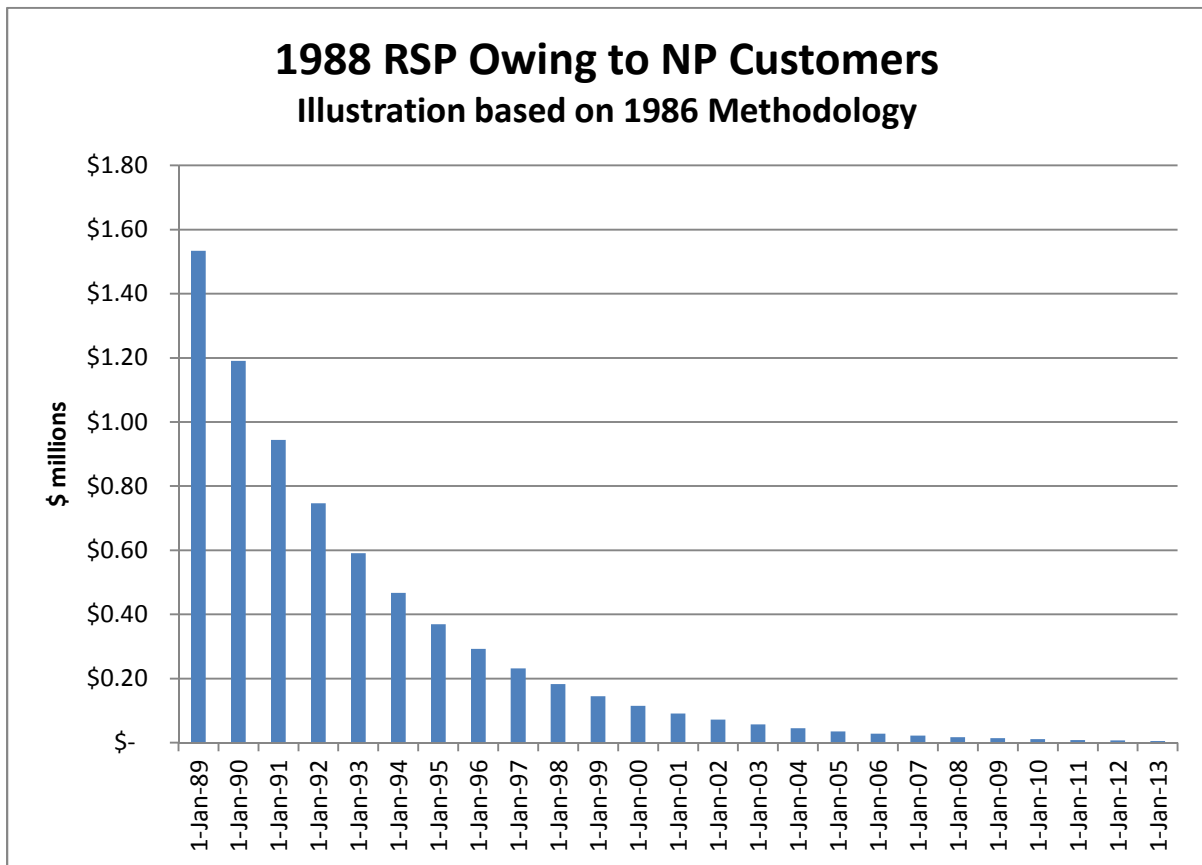
The RSP is a rate smoothing mechanism which was introduced in 1986 to limit volatility of customer rate impacts related to the cost of fuel used at Holyrood. NP and IC rates are adjusted for variations between actual results and test year Cost of Service estimates relating to fuel. Since its inception in 1986, the RSP rules have prescribed the use of future electricity consumption to refund to customers, or collect from customers, balances which accumulated in the RSP.

For the period from 1986 until 2002, the payment / recovery period for RSP balances was a rolling 3-year period. For example, at June 30, 1988 there was a balance owing to retail customers of \$4.6 million<sup>2</sup> as a result of fuel cost savings. For illustrative purposes, if there were no further changes to this RSP amount as a result of RSP activity, other than financing, the balance would have been paid back to customers over the period from 1988 to 2013 as shown in Chart 3.

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<sup>2</sup> Refer to Appendix C, Hydro's June 1988 RSP Report, page 16.

Chart 2



- 1 Throughout the period illustrated above, there were changes in the 1988 customer base
- 2 such that some customers would have received benefit in 1989 and future years, who were
- 3 not customers in 1988, and some customers would not receive benefit, though they were
- 4 customers in 1988. On this basis, it can be said that the original design of the RSP rules gave
- 5 primary focus to customer class to collect or refund RSP balances, rather than to individual
- 6 customers who were on the electrical grid in 1988 and were due refunds based on reduced
- 7 fuel costs at Holyrood. Commencing in 2002, RSP rules were modified such that there was a
- 8 two year amortization period for the RSP Balance, excluding hydrology, and in 2004, the
- 9 amortization period was set to one year.

### 4.3 August 2002 Historical RSP Balance Treatment

Commencing in 2000, Hydro experienced a significant increase in fuel cost. As shown in Table 3, the RSP balance owing from customers increased from \$34 million at December 31, 1999 to \$156 million at December 31, 2003.

**Table 3<sup>3</sup>**

RSP History – Activity and December 31 Balances												
(\$ 000)												
Annual Activity								Plan Balances				
Hydraulic	Fuel Cost	Load	RRA	Financing	Other	Total	Adjustment	NP	IC	Hydraulic	Total	
1999	(15,859)	9,128	5,050	(394)	3,223	-	1,148	(15,427)	21,436	12,892	-	34,328
2000	(16,614)	29,359	521	(880)	2,724	(862)	14,248	(13,734)	22,684	12,056	-	34,740
2001	5,243	56,879	(3,506)	125	4,438	-	63,179	(11,152)	60,300	24,768	-	85,068
2002	6,967	46,113	(5,313)	(326)	7,189	184	54,814	(13,921)	92,060	32,711	-	124,771
2003	4,130	36,534	(2,846)	(227)	10,333	-	47,924	(16,669)	114,790	40,914	-	155,703

As a result of Hydro's GRA in 2001/2002, in Order P.U. 7(2002-2003), the Board ordered that, because of the magnitude of anticipated rate increases, the August 31, 2002 balance in the RSP be "fixed", and that its recovery be spread over a five year period commencing in 2003. In Order P.U. 40(2003), the Board further ordered that the RSP balance at December 31, 2003 also be consolidated with the August 2002 Historical RSP Balance for rate setting purposes. In total, at December 31, 2003, the RSP balance was \$156 million to be recovered from customers over the period 2004 to 2008<sup>4</sup>.

Throughout the period of the Historical RSP recovery period from 2003 to 2008, there were changes in the customer base such that some customers who had received the benefit of the fuel consumed in the 2000 to 2003 period were no longer on the system and thus others paid for the historical fuel costs. On this basis, it can again be inferred that the RSP rules gave primary focus to customer class, rather than to individual customers who were on the electrical grid in 2002 and 2003, to recover the Historical RSP balance.

<sup>3</sup> Refer to Hydro's 2006 RSP Report, Appendix A filed with the Board on June, 30, 2006. The 2006 RSP Report was filed as Appendix B in the July 30, 2013 RSP filing.

<sup>4</sup> The Historical RSP recovery period for NP was July 1, 2003 to June 30, 2008.

**4.4 Advantages of Proposed RSP Rebate**

There are advantages associated with using a prospective basis to allocate historical balances. Hydro has proposed that the RSP Surplus be refunded to Newfoundland Power customers on their April 2014 electricity bills and be based on their total electricity consumption on bills issued during the period January 2013 to December 2013. With this knowledge, both NP and Hydro can proactively accumulate the 2013 billing data to accurately issue refunds on a timely basis to customers during April 2014.

Alternatively, using historical electricity consumption over the 2007 to 2013 period as the basis for allocating a refund would result in a number of administrative challenges. Customer turnover on the Island has been significant and it is difficult, if not impossible, to identify and locate all customers and former customers entitled to a refund. The administrative effort required to carry out appropriate due diligence to refund in this manner would likely be time consuming and costly<sup>5</sup>. In the event of using such a historical period, an argument can be made that administrative costs should be applied against the NP RSP Surplus amount which would reduce the amount available for refund to customers.

In somewhat similar circumstances, in a matter before the Michigan Public Service Commission (“the Commission”) in 2009<sup>6</sup>, Consumers Energy Company (“Consumers”) filed a customer refund proposal following direction from the Commission. Both Consumers and the Commission staff recommended using forecasted consumption to calculate and refund amounts as “this approach is also much less costly than attempting to calculate and refund amounts based on historical, customer-specific consumption levels...”.

Two other parties to the proceeding, a business association and the Attorney General, advocated that an historical rather than prospective basis be used to calculate and allocate the refund. Commission Staff pointed out that “the administrative costs of an historical refund may significantly diminish the value of the refund”, and further:

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<sup>5</sup> Hydro has had approximately 6,000 customers over the 2007 to 2013 time period who are no longer customers of Hydro. Based on preliminary estimates from NP, there are approximately 70,000 customers over the 2007 to 2013 time period who are no longer customers of NP.

<sup>6</sup> The Commission Order (Case No. U-16441) is included as Appendix D.

1 “[T]here is no such thing as a completely precise refund methodology that can  
2 match usage on a customer-specific basis. For instance, if the Company identified  
3 the name of every customer who paid the self-implemented rates and calculated  
4 the refund owing to that customer, the Company would still be faced with the job  
5 of giving that refund to the customer. If the customer was still a customer of the  
6 utility, the customer could receive a bill credit. If, however, the customer has  
7 moved from Consumers’ territory, the customer can only receive a check if the  
8 customer has given Consumers a forwarding address. And even if the customer  
9 has left a forwarding address, the check may still come back as undeliverable.”

10 The Commission approved the proposal put forward by the Commission staff for a refund.  
11 The Order states: “The Commission has long rejected the notion that historical perfection  
12 must be achieved with refunds or surcharges. The Commission has authority to exercise  
13 discretion in fashioning a refund procedure, and the most precise procedure may have  
14 disadvantages, such as attendant costs or administrative burdens, that outweigh the  
15 apparent advantages.”

#### 16 17 **4.5 IC RSP Surplus Treatment**

18 As outlined earlier, of the \$161.6 million RSP Surplus, the Government directed that \$49  
19 million be allocated to the current IC class. This resulted in a credit in the IC RSP of \$10.9  
20 million as at August 31, 2013, which was directed to be used to phase in IC rates over a  
21 three year period. The use of the RSP Surplus load variation, which accumulated over the  
22 January 1, 2007 to August 31, 2013 period, to phase in IC rates over three future years is  
23 again an example of the use of RSP funds on a customer class basis rather than an  
24 individual customer basis. This is further demonstrated, in that, current IC customers Vale  
25 and Praxair, only recently interconnected to the grid, yet will benefit from the IC RSP  
26 Surplus, which accumulated over an extended number of years. Hydro is recommending  
27 the NP RSP Surplus portion of the accumulated load variation be treated in a somewhat  
28 similar manner in that it is recommended that the NP RSP Surplus be refunded to current  
29 customers (customers on the system as of April 2014) rather than customers who were on

the system over a prolonged historical period. This puts the refund in the hands of the customers sooner than historical approaches or the approach used in the RSP.

#### 4.6 RSP Refund for Rural Customers

##### 4.6.1 Policy for Setting Rural Customers Rates

Hydro serves approximately 37,600 Rural residential and general service customers in the province as follows:

	<u>Number of Customers</u>
Island Interconnected System	22,700
Island Isolated Systems	800
L'Anse au Loup System	1,000
Labrador Isolated Systems	2,600
Labrador Interconnected System	10,500

Customers on the Labrador Interconnected System and Government customers on the Isolated systems pay rates which are based on the cost of service<sup>7</sup> and thus are not impacted by changes in NP rates. All other Rural customers' electricity rates are based on rates charged by Newfoundland Power to its customers. Policies regarding Rural rates have been directed by Government and are reflected in Hydro's Rules and Regulations, Section 16, as follows:

#### POLICIES FOR AUTOMATIC RATE CHANGES

##### **(a) Island Interconnected System:**

(i) As Newfoundland Power changes its rates, Hydro will automatically adjust all rates such that these customers pay the same rates as Newfoundland Power customers.

<sup>7</sup> Rural Labrador Interconnected customers' rates are based on the cost of service plus a portion of the Rural deficit.



1           **(b) L'Anse au Loup System:**

2           (i) As Newfoundland Power changes its rates, Hydro will automatically adjust all  
3           rates such that these customers pay the same rates as Newfoundland Power  
4           customers.

5           **(c) Isolated Systems:**

6           (i) Isolated Rural Domestic customers, excluding Government departments, pay the  
7           same rates as Newfoundland Power for the basic customer charge and First Block  
8           consumption (outlined in Rate 1.2D). Rates charged for consumption above this  
9           block will be automatically adjusted by the average rate of change granted  
10          Newfoundland Power from time to time.

11          (ii) Rates for Isolated Rural General Service customers, excluding Government  
12          departments, will increase or decrease by the average rate of change granted  
13          Newfoundland Power from time to time.

14          (iii) As Newfoundland Power changes its rates, Hydro will automatically adjust Rural  
15          Isolated street and area lighting rates, excluding those for Government  
16          departments, such that these rates are the same as charged Newfoundland Power  
17          customers.

18  
19          **4.6.2 RSP Refund Applicable to Rural Customers**

20          The amount of \$112.6 million allocated to the NP RSP Surplus represents a portion of the  
21          fuel cost savings, including financing, which has accumulated over the period January 1,  
22          2007 to August 31, 2013. The overall fuel savings result from a material reduction in IC  
23          load, primarily due to a reduction in the pulp and paper industry in the Province  
24          commencing in 2007. If these fuel costs savings had been passed on to Newfoundland  
25          Power customers over the past number of years through the RSP, as would normally be the  
26          case, Newfoundland Power customers' rates would be lower as a result of the July 1 RSP  
27          adjustment rate each year. As outlined in the "Policies for Automatic Rate Changes" section

1 above, reduced rates for Newfoundland Power customers, also result in lower rates for  
2 certain Rural customers.

3 In 2001 and 2003, Newfoundland Power issued rebates to their customers resulting from a  
4 combination of resolution of tax issues, operating efficiencies and interim electrical rates.

5 In both cases, Rural customers, whose electricity rates are based on rates charged by  
6 Newfoundland Power to its customers, were given equivalent rebates.

7 On the bases outlined above, Island Interconnected Rural customers as well as Rural  
8 customers on Isolated Systems, should also share in the benefit of the of RSP Surplus  
9 refund<sup>8</sup>.

#### 11 **4.6.3 Methodology for RSP Refund to Rural Customers**

12 Changes in Newfoundland Power rates between Hydro GRAs result in the application of  
13 Section 1.3 of Hydro's RSP rules<sup>9</sup>. This provision of the RSP operates such that increases in  
14 Newfoundland Power rates, which result in higher Rural rates would mean that the  
15 resulting increase in Rural revenues would be accumulated in the RSP, to be paid back to  
16 Newfoundland Power customers commencing with the following annual July 1 RSP  
17 adjustment. Conversely, decreases in Newfoundland Power rates resulting in lower Rural  
18 rates, would mean that the decrease in Rural revenues would be accounted for in the RSP,  
19 to be collected from Newfoundland Power customers commencing with the following  
20 annual July 1 RSP adjustment.

21 Hydro has considered two methods for treating the proposed refund to Rural customers:

##### 22 (i) Current Approach

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<sup>8</sup> In keeping with the direction of Government's Order in Council, Hydro did not apply for an electricity rate adjustment but rather has proposed a refund to customers. It is Hydro's position that the "Policy for Automatic Rate changes" still applies in this case since the effective rate ([Cost less Refund]/kWh) for customers' electricity will be reduced as a result of the RSP refund.

<sup>9</sup> Section 1.3 of the RSP rules defines the Rural Rate Alteration component of the RSP which deals with changes in Newfoundland Power rates between Hydro GRAs.

1 This option is the current treatment that would apply to rate decreases for  
2 Newfoundland Power customers as detailed above. That is, upon refund of  
3 the RSP Surplus to Newfoundland Power customers, a similar percentage  
4 refund would be given to Rural customers. The amount would then be  
5 collected from Newfoundland Power customers through the RSP rules  
6 Section 1.3 mechanism outlined above. It is presently estimated that the  
7 amount of the refund to Rural customers, which would result in a  
8 subsequent RSP collection from NP customers, is approximately \$9 million.  
9 Given the magnitude of this amount, Hydro is recommending that the Board  
10 consider alternative treatment which would result in refunding the RSP  
11 Surplus to Rural customers but avoid the subsequent rate increase which  
12 would result if the refund to Rural customers has to be collected from NP  
13 customers.

14  
15 (ii) Proactive Approach

16 Under this proposed approach to the RSP Surplus refund, it is recommended  
17 that the estimated amount required to cover the Rural RSP refund, be set  
18 aside from the NP RSP Surplus. The reduced RSP Surplus amount would be  
19 refunded to NP customers and the estimated amount that is set aside would  
20 cover the Rural RSP refund. The advantage of this approach is that it will  
21 avoid the subsequent rate increase which will result when funds paid to  
22 Rural customers are later collected through the NP RSP.

23 It is recommended that the Proactive Approach, outlined above, be used in the treatment  
24 of the Rural refund to avoid the subsequent increase in rates which would occur in 2015.

25  
26 **4.7 Methodology for Refund to Customer**

27 It is proposed that the refund of the RSP Surplus be in the form of a credit on customers'  
28 April 2014 bills for both NP and Rural customers. It is further proposed that if there is a net

1 positive balance in the account, after the refund is applied, customers would have the  
2 option of either, leaving the balance in the account to apply to future billings, or requesting  
3 a cheque from the utility. It is currently estimated that Newfoundland Power and eligible  
4 Rural customers would receive the equivalent of a refund of approximately two cents per  
5 kilowatthour<sup>10</sup> for the billed energy over the January 1, 2013 to December 31, 2013 period.

6 Based on the Board's ruling on this matter, it is anticipated that any new required RSP rules  
7 and other changes required for implementation, as well as the final calculation of the NP  
8 RSP Surplus refund amount, including financing, will form part of future applications to the  
9 Board by NP and Hydro in order to implement the Board's Order on the NP RSP Surplus  
10 refund.

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<sup>10</sup> Based on the estimated March 31, 2014 balance of the NP RSP Surplus, including financing, of \$117.5 million divided by 6,227 gigawatthours, the total 2013 estimated sales for NP and Rural Island Interconnected and Isolated Island and Labrador customers.

1   **5.0   SUMMARY**

2   Hydro is proposing to implement the direction received from the Government regarding the  
3   refund of the NP RSP Surplus. The specific proposals are:

- 4       • The RSP Surplus be refunded to Newfoundland Power customers on their April 2014  
5       electricity bills and be based on their total electricity consumption on bills issued  
6       during the period January 2013 to December 2013.
- 7       • Hydro's Rural customers, whose rates are based on Newfoundland Power rates, will  
8       also receive a similar refund on their April 2014 electricity bills and which is based on  
9       their total electricity consumption on bills issued during the period January 2013 to  
10      December 2013.
- 11      • The refund to Rural customers will be funded from a portion of the NP RSP surplus  
12      that is set aside for that purpose.
- 13      • Any net refund to NP's customers and Rural customers will be in the form of a credit  
14      to each customer's account.
- 15      • If there is a net positive balance in the customer's account, after the refund is  
16      applied, customers have the option of either leaving the balance in the account to  
17      apply to future billings, or requesting a cheque from the utility.

18   There will be future applications to the Board by NP and Hydro in order to implement the  
19   Board's Order on the RSP Surplus refund.

## **Appendix A**

**Order Number:**

1 OC2013-089

2 **Order Date:**

3 2013-04-04

4 **Department:**

5 Natural Resources

6 **Authority:**

7 Electrical Power Control Act, 1994

8 **Order Text:**

9 Under the authority of section 5.1 of the Electrical Power Control Act, 1994, the Lieutenant Governor in Council is pleased  
10 to direct the Board of Commissioners of Public Utilities that:

11 1) Effective July 1, 2013, Island industrial customer rates will no longer be frozen. Effective on this date rate increases for  
12 island industrial customers will be phased in over a three year period, with funding for this phase-in to be drawn from the  
13 January 1, 2007 to June 30, 2013 accumulated Load Variation (the Rate Stabilization Plan Surplus) component of the Rate  
14 Stabilization Plan and credited to the Island industrial customer Rate Stabilization Plan effective June 30, 2013;

15 2) On June 30, 2013 the Island industrial customers' Rate Stabilization Plan will be credited with \$56.5 million, the  
16 estimated Rate Stabilization Plan amount required to phase-in industrial customer rates, based on Newfoundland and  
17 Labrador Hydro's General Rate Application. The remaining balance in the Rate Stabilization Plan Surplus on June 30, 2013,  
18 will be transferred to the credit of Newfoundland Power's Rate Stabilization Plan. No future adjustments will be made to  
19 these amounts credited. Effective July 1, 2013 all Island industrial customers, with the exception of Teck Resources, will be  
20 subject to the same standard industrial rate, equivalent to the existing base rate but excluding the Rate Stabilization Plan  
21 adjustment currently in place;

22 3) Teck Resources rate increase will be phased in, to a reasonable degree, in three equal annual percentage increases, and at  
23 the end of the phase-in period Teck Resources will be subject to the standard industrial rate;

24 4) Over the three year Island industrial rate phase in period, the shortfall in Newfoundland and Labrador Hydro's revenues  
25 when compared to revenue at the Board of Commissioners of Public Utilities-approved Island industrial customer rates,  
26 shall be funded from the Island industrial customer Rate Stabilization Plan;

27 5) Notwithstanding Items 1) through 4) above, effective January 1, 2014, the Island industrial customers will be subject to  
28 Rate Stabilization Plan rate changes in accordance with the Board of Commissioners of Public Utilities-approved  
29 methodology;

30 6) Newfoundland and Labrador Hydro's General Rate Application process shall include a Rate Stabilization Plan surplus  
31 refund plan to ratepayers. The refund plan shall comprise direct payments or rebates to ratepayers and shall not be in the  
32 form of an electricity rate adjustment. This refund plan will exclude Island industrial customers who will receive Rate  
33 Stabilization Plan surplus funds through the three year phase-in of new rates. The Board of Commissioners of Public  
34 Utilities shall make the final determination on the details of the refund to remaining ratepayers;

35 7) Newfoundland Power's portion of the Rate Stabilization Plan Surplus shall be distributed as a direct payment or rebate to  
36 its ratepayers and shall not be in the form of an electricity rate adjustment; and

1 8) Newfoundland and Labrador Hydro's General Rate Application shall be based on a 2013 test year in the determination of  
2 new electricity rates for customers.

3 **Order Number:**

4 OC2013-090

5 **Order Date:**

6 2013-04-04

7 **Department:**

8 Natural Resources

9 **Authority:**

10 Hydro Corporation Act, 2007

11 **Order Text:**

12 Under the authority of section 39(3) of the Hydro Corporation Act, 2007, the Lieutenant Governor in Council is pleased to  
13 direct the Board of Directors of Newfoundland and Labrador Hydro-Electric Corporation to bring about such applications  
14 and information to the Board of Commissioners of Public Utilities to facilitate Orders from that Board with the following  
15 effects:

16 1) Effective July 1, 2013, Island industrial customer rates will no longer be frozen. Effective on this date rate increases for  
17 island industrial customers will be phased in over a three year period, with funding for this phase-in to be drawn from the  
18 January 1, 2007 to June 30, 2013 accumulated Load Variation (the Rate Stabilization Plan Surplus) component of the Rate  
19 Stabilization Plan and credited to the Island industrial customer Rate Stabilization Plan effective June 30, 2013;

20 2) On June 30, 2013 the Island industrial customers' Rate Stabilization Plan will be credited with \$56.5 million, the  
21 estimated Rate Stabilization Plan amount required to phase-in industrial customer rates, based on Newfoundland and  
22 Labrador Hydro's General Rate Application. The remaining balance in the Rate Stabilization Plan Surplus on June 30, 2013,  
23 will be transferred to the credit of Newfoundland Power's Rate Stabilization Plan. No future adjustments will be made to  
24 these amounts credited. Effective July 1, 2013 all Island industrial customers, with the exception of Teck Resources, will be  
25 subject to the same standard industrial rate, equivalent to the existing base rate but excluding the Rate Stabilization Plan  
26 adjustment currently in place;

27 3) Teck Resources rate increase will be phased in, to a reasonable degree, in three equal annual percentage increases and at  
28 the end of the phase-in period Teck Resources will be subject to the standard industrial rate;

29 4) Over the three year Island industrial rate phase in period, the shortfall in Newfoundland and Labrador Hydro's revenues  
30 when compared to revenue at the Board of Commissioners of Public Utilities-approved Island industrial customer rates,  
31 shall be funded from the Island industrial customer Rate Stabilization Plan; and

32 5) Notwithstanding Items 1) through 4) above, effective January 1, 2014, the Island industrial customers will be subject to  
33 Rate Stabilization Plan rate changes in accordance with the Board of Commissioners of Public Utilities-approved  
34 methodology.



1   **Order Number:**

2   OC2013-091

3   **Order Date:**

4   2013-04-04

5   **Department:**

6   Natural Resources

7   **Authority:**

8   Hydro Corporation Act, 2007

9   **Order Text:**

10   Under the authority of section 39(3) of the Hydro Corporation Act, 2007, the Lieutenant-Governor in Council is pleased to  
11   direct the Board of Directors of Newfoundland and Labrador Hydro-Electric Corporation that:

12   1) during its General Rate Application process, it shall file a plan for the phase in of island industrial customer rates,  
13   including the application of the Rate Stabilization Plan funding, as described in OC2013-090;

14   2) during its General Rate Application process, it shall file a Rate Stabilization Plan surplus refund plan to ratepayers. The  
15   refund shall be a direct payment or rebate to ratepayers and shall not be in the form of an electricity rate adjustment. This  
16   refund plan will exclude Island industrial customers who will receive Rate Stabilization Plan surplus funds through the three  
17   year phase-in of new rates; and

18   3) it file its General Rate Application based on a 2013 test year in the determination of new electricity rates for customers.

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- 1 Summary of Orders No. OC2013-207 and OC2013-208
- 2 OC2013-089 and OC2013-090 are amended by:
- 3 deleting the date “June 30, 2013” wherever it appears and substituting therefor the date “August 31, 2013”;
- 4 deleting the date “July 1, 2013” wherever it appears and substituting therefor the date “September 1, 2013”; and
- 5 deleting the words “\$56.5 million” wherever they appear and substituting therefor the words “\$49 million”.

## **Appendix B**

**Newfoundland and Labrador Hydro**  
**Rate Stabilization Plan**  
**Load Variation**  
**January 2007 - August 31, 2013**

	A	B	C	D	E	F	G
	Load Variation Utility	Financing Charges	Total to Date Utility A+B	Load Variation Industrial Customers	Financing Charges	Total to Date Industrial D+E	Cumulative Net Balance C+F
2007	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)
January	14,973		14,973	(671,353)		(671,353)	(656,380)
February	(22,785)	91	(7,721)	(319,478)	(4,073)	(994,904)	(1,002,625)
March	(149)	(47)	(7,917)	(50,330)	(6,037)	(1,051,271)	(1,059,188)
April	(411)	(48)	(8,376)	(364,389)	(6,379)	(1,422,039)	(1,430,415)
May	(418)	(51)	(8,845)	288,748	(8,628)	(1,141,919)	(1,150,764)
June	(18,904)	(54)	(27,803)	(59,984)	(6,929)	(1,208,832)	(1,236,635)
July	13,625	(169)	(14,347)	(314,138)	(7,335)	(1,530,305)	(1,544,652)
August	35,540	(87)	21,106	(244,325)	(9,285)	(1,783,915)	(1,762,809)
September	16,651	128	37,885	(804,874)	(10,824)	(2,599,613)	(2,561,728)
October	(15,322)	230	22,793	(1,262,396)	(15,773)	(3,877,782)	(3,854,989)
November	24,208	138	47,139	(1,384,091)	(23,528)	(5,285,401)	(5,238,262)
December	206,832	286	254,257	(1,075,467)	(32,069)	(6,392,937)	(6,138,680)
	253,840	417	254,257	(6,262,077)	(130,860)	(6,392,937)	(6,138,680)

	Annual	Monthly
<b>Financing Rate</b>	<b>7.529%</b>	<b>7.281%</b>

**Newfoundland and Labrador Hydro**  
**Rate Stabilization Plan**  
**Load Variation**  
**January 2007 - August 31, 2013**

	A	B	C	D	E	F	G
	Load Variation Utility	Financing Charges	Total to Date Utility A+B	Load Variation Industrial Customers	Financing Charges	Total to Date Industrial D+E	Cumulative Net Balance C+F
2008	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)
Opening Balance			254,257			(6,392,937)	(6,138,680)
January	(33,026)	1,543	222,774	(1,339,888)	(38,789)	(7,771,614)	(7,548,840)
February	(18,915)	1,352	205,211	(927,720)	(47,154)	(8,746,488)	(8,541,277)
March	(661)	1,245	205,795	(1,095,157)	(53,069)	(9,894,714)	(9,688,919)
April	(120)	1,249	206,924	(832,010)	(60,036)	(10,786,760)	(10,579,836)
May	(220)	1,256	207,960	(629,138)	(65,449)	(11,481,347)	(11,273,387)
June	(623)	1,262	208,599	(885,012)	(69,663)	(12,436,022)	(12,227,423)
July	25,119	1,266	234,984	(986,462)	(75,456)	(13,497,940)	(13,262,956)
August	8,649	1,426	245,059	(1,077,773)	(81,899)	(14,657,612)	(14,412,553)
September	16,959	1,487	263,505	(918,884)	(88,935)	(15,665,431)	(15,401,926)
October	(18,644)	1,599	246,460	(629,410)	(95,050)	(16,389,891)	(16,143,431)
November	36,014	1,495	283,969	(259,428)	(99,446)	(16,748,765)	(16,464,796)
December	(40,785)	1,723	244,907	(734,300)	(101,623)	(17,584,688)	(17,339,781)
	(26,253)	16,903	244,907	(10,315,182)	(876,569)	(17,584,688)	(17,339,781)
Financing Rate	Annual 7.529%	Monthly 7.281%					

**Newfoundland and Labrador Hydro**  
**Rate Stabilization Plan**  
**Load Variation**  
**January 2007 - August 31, 2013**

	A	B	C	D	E	F	G
	Load Variation Utility	Financing Charges	Total to Date Utility A+B	Load Variation Industrial Customers	Financing Charges	Total to Date Industrial D+E	Cumulative Net Balance C+F
2009	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)
Opening Balance			244,907			(17,584,688)	(17,339,781)
January	(126,762)	1,486	119,631	(1,361,201)	(106,695)	(19,052,584)	(18,932,953)
February	(25,647)	726	94,710	(1,401,471)	(115,602)	(20,569,657)	(20,474,947)
March	(519)	575	94,766	(1,809,433)	(124,806)	(22,503,896)	(22,409,130)
April	(51)	575	95,290	(2,936,566)	(136,542)	(25,577,004)	(25,481,714)
May	(19,600)	578	76,268	(2,543,731)	(155,188)	(28,275,923)	(28,199,655)
June	(41,935)	463	34,796	(2,176,693)	(171,564)	(30,624,180)	(30,589,384)
July	(1,524)	211	33,483	(2,304,911)	(185,812)	(33,114,903)	(33,081,420)
August	11,032	203	44,718	(2,214,630)	(200,925)	(35,530,458)	(35,485,740)
September	1,008	271	45,997	(2,098,848)	(215,581)	(37,844,887)	(37,798,890)
October	(79,214)	279	(32,938)	(2,207,016)	(229,624)	(40,281,527)	(40,314,465)
November	(15,845)	(200)	(48,983)	(2,353,614)	(244,408)	(42,879,549)	(42,928,532)
December	146,068	(297)	96,788	(2,466,287)	(260,172)	(45,606,008)	(45,509,220)
	(152,989)	4,870	96,788	(25,874,401)	(2,146,919)	(45,606,008)	(45,509,220)
Financing Rate	Annual 7.529%	Monthly 7.281%					

**Newfoundland and Labrador Hydro**  
**Rate Stabilization Plan**  
**Load Variation**  
**January 2007 - August 31, 2013**

	A	B	C	D	E	F	G
	Load Variation Utility	Financing Charges	Total to Date Utility A+B	Load Variation Industrial Customers	Financing Charges	Total to Date Industrial D+E	Cumulative Net Balance C+F
2010	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)
Opening Balance			96,788			(45,606,008)	(45,509,220)
January	(59,386)	587	37,989	(2,735,667)	(276,714)	(48,618,389)	(48,580,400)
February	(16,225)	230	21,994	(2,609,876)	(294,992)	(51,523,257)	(51,501,263)
March	(186)	133	21,941	(2,357,700)	(312,617)	(54,193,574)	(54,171,633)
April	35	133	22,109	(1,852,218)	(328,820)	(56,374,612)	(56,352,503)
May	(789)	134	21,454	(1,615,048)	(342,053)	(58,331,713)	(58,310,259)
June	(13,712)	130	7,872	(2,105,010)	(353,928)	(60,790,651)	(60,782,779)
July	13,851	48	21,771	(2,480,246)	(368,847)	(63,639,744)	(63,617,973)
August	(1,853)	132	20,050	(2,320,260)	(386,134)	(66,346,138)	(66,326,088)
September	3,503	122	23,675	(2,148,365)	(402,555)	(68,897,058)	(68,873,383)
October	(8,898)	144	14,921	(2,045,681)	(418,033)	(71,360,772)	(71,345,851)
November	(11,229)	91	3,783	(2,149,918)	(432,981)	(73,943,671)	(73,939,888)
December	(178,457)	23	(174,651)	(2,074,545)	(448,653)	(76,466,869)	(76,641,520)
	(273,346)	1,907	(174,651)	(26,494,534)	(4,366,327)	(76,466,869)	(76,641,520)
Financing Rate	Annual 7.529%	Monthly 7.281%					

**Newfoundland and Labrador Hydro**  
**Rate Stabilization Plan**  
**Load Variation**  
**January 2007 - August 31, 2013**

	A	B	C	D	E	F	G
	Load Variation Utility	Financing Charges	Total to Date Utility A+B	Load Variation Industrial Customers	Financing Charges	Total to Date Industrial D+E	Cumulative Net Balance C+F
2011	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)
Opening Balance			(174,651)			(76,466,869)	(76,641,520)
Adj. Opening Bal. <sup>(1)</sup>				10,000,000		(66,466,869)	(66,641,520)
January	(1,226)	(1,060)	(176,937)	(2,223,796)	(463,963)	(69,154,628)	(69,331,565)
February	(73,663)	(1,074)	(251,674)	(2,305,324)	(419,596)	(71,879,548)	(72,131,222)
March	(1,002)	(1,527)	(254,203)	(2,232,420)	(436,129)	(74,548,097)	(74,802,300)
April	(746)	(1,542)	(256,491)	(2,229,608)	(452,321)	(77,230,026)	(77,486,517)
May	(598)	(1,556)	(258,645)	(2,374,929)	(468,593)	(80,073,548)	(80,332,193)
June	(59,940)	(1,569)	(320,154)	(3,158,402)	(485,846)	(83,717,796)	(84,037,950)
July	3,923	(1,943)	(318,174)	(3,379,500)	(507,958)	(87,605,254)	(87,923,428)
August	(24,464)	(1,931)	(344,569)	(2,761,381)	(531,545)	(90,898,180)	(91,242,749)
September	(16,299)	(2,091)	(362,959)	(2,208,116)	(551,525)	(93,657,821)	(94,020,780)
October	(51,085)	(2,202)	(416,246)	(2,199,626)	(568,269)	(96,425,716)	(96,841,962)
November	(68,408)	(2,526)	(487,180)	(2,150,505)	(585,063)	(99,161,284)	(99,648,464)
December	307,945	(2,956)	(182,191)	(2,287,721)	(601,661)	(102,050,666)	(102,232,857)
	14,437	(21,977)	(182,191)	(29,511,328)	(6,072,469)	(102,050,666)	(102,232,857)

	Annual	Monthly
<b>Financing Rate</b>	<b>7.529%</b>	<b>7.281%</b>

(1) Payment to the Provincial Government.



**Newfoundland and Labrador Hydro**  
**Rate Stabilization Plan**  
**Load Variation**  
**January 2007 - August 31, 2013**

	A	B	C	D	E	F	G
	Load Variation Utility	Financing Charges	Total to Date Utility A+B	Load Variation Industrial Customers	Financing Charges	Total to Date Industrial D+E	Cumulative Net Balance C+F
2012	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)
Opening Balance			(182,191)			(102,050,666)	(102,232,857)
January	(145,587)	(1,105)	(328,883)	(2,231,865)	(619,192)	(104,901,723)	(105,230,606)
February	(102,601)	(1,995)	(433,479)	(1,915,631)	(636,491)	(107,453,845)	(107,887,324)
March	(1,597)	(2,630)	(437,706)	(1,960,973)	(651,976)	(110,066,794)	(110,504,500)
April	(225)	(2,656)	(440,587)	(1,679,464)	(667,830)	(112,414,088)	(112,854,675)
May	(268)	(2,673)	(443,528)	(1,686,265)	(682,072)	(114,782,425)	(115,225,953)
June	(111,984)	(2,691)	(558,203)	(1,995,954)	(696,442)	(117,474,821)	(118,033,024)
July	(20,953)	(3,387)	(582,543)	(2,272,037)	(712,778)	(120,459,636)	(121,042,179)
August	(35,192)	(3,535)	(621,270)	(1,982,204)	(730,889)	(123,172,729)	(123,793,999)
September	9,874	(3,770)	(615,166)	(2,177,242)	(747,351)	(126,097,322)	(126,712,488)
October	(30,888)	(3,733)	(649,787)	(2,161,352)	(765,096)	(129,023,770)	(129,673,557)
November	(25,911)	(3,943)	(679,641)	(2,232,153)	(782,852)	(132,038,775)	(132,718,416)
December	367,768	(4,124)	(315,997)	(2,252,950)	(801,145)	(135,092,870)	(135,408,867)
	(97,564)	(36,242)	(315,997)	(24,548,090)	(8,494,114)	(135,092,870)	(135,408,867)
Financing Rate	Annual 7.529%	Monthly 7.281%					

**Newfoundland and Labrador Hydro**  
**Rate Stabilization Plan**  
**Load Variation**  
**January 2007 - August 31, 2013**

	A	B	C	D	E	F	G
	Load Variation Utility	Financing Charges	Total to Date Utility A+B	Load Variation Industrial Customers	Financing Charges	Total to Date Industrial D+E	Cumulative Net Balance C+F
2013	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)	(\$)
Opening Balance			(315,997)			(135,092,870)	(135,408,867)
January	(273,521)	(1,917)	(591,435)	(2,298,140)	(819,676)	(138,210,686)	(138,802,121)
February	(107,515)	(3,589)	(702,539)	(2,256,852)	(838,593)	(141,306,131)	(142,008,670)
March	(4,021)	(4,263)	(710,823)	(2,340,268)	(857,375)	(144,503,774)	(145,214,597)
April	(5,865)	(4,313)	(721,001)	(2,225,295)	(876,777)	(147,605,846)	(148,326,847)
May	(3,130)	(4,375)	(728,506)	(1,936,961)	(895,598)	(150,438,405)	(151,166,911)
June	(61,262)	(4,420)	(794,188)	(2,300,249)	(912,785)	(153,651,439)	(154,445,627)
July	(7,862)	(4,819)	(806,869)	(2,793,307)	(932,280)	(157,377,026)	(158,183,895)
August	(12,005)	(4,896)	(823,770)	(2,417,644)	(954,885)	(160,749,555)	(161,573,325)
September							
October							
November							
December							
	(475,181)	(32,592)	-	(18,568,716)	(7,087,969)	(160,749,555)	(161,573,325)
Financing Rate	Annual 7.529%	Monthly 7.281%					

## **Appendix C**

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## NEWFOUNDLAND AND LABRADOR HYDRO

June 1988

## RATE STABILIZATION PLAN

(in thousands of dollars)

MONTH	RETAIL CUSTOMER PLAN								INDUSTRIAL CUSTOMER PLAN								TOTAL HYDRO		
	CURRENT PERIOD				PRIOR PERIOD				CURRENT PERIOD				PRIOR PERIOD				TOTAL CURRENT PERIOD	TOTAL PRIOR PERIOD	TOTAL TO DATE
	ACTIVITY	INT.	TOTAL TO DATE	ADJ.	INT.	TOTAL TO DATE	RETAIL TOTAL TO DATE	ACTIVITY	INT.	TOTAL TO DATE	ADJ.	INT.	TOTAL TO DATE	INDUSTRIAL TOTAL TO DATE					
Balance Forward:							435	435						2,578	2,578	0	3,013	3,013	
July	3,072	0	3,072	- 8	4	431	3,503	1,714	0	1,714	0	24	2,602	4,316		4,786	3,033	7,819	
August	3,548	29	6,649	- 9	4	426	7,075	1,801	16	3,531	0	25	2,627	6,158		10,180	3,053	13,233	
September	3,577	63	10,289	-10	4	420	10,709	2,463	33	6,027	0	25	2,652	8,679		16,316	3,072	19,388	
October	1,538	98	11,925	-11	5	414	12,339	707	57	6,791	0	25	2,677	9,468		18,716	3,091	21,807	
November	(2,134)	113	9,904	-14	4	404	10,308	(595)	65	6,261	0	25	2,702	8,963		16,165	3,106	19,271	
December	(2,327)	94	7,671	-16	4	392	8,063	(826)	59	5,494	0	26	2,728	8,222		13,165	3,120	16,285	
January	(3,481)	67	4,257	-18	3	377	4,634	(768)	48	4,774	-76	23	2,675	7,449		9,031	3,052	12,083	
February	(3,093)	37	1,201	-17	3	363	1,564	(1,626)	42	3,190	-70	24	2,629	5,819		4,391	2,992	7,383	
March	(4,185)	11	(2,973)	-15	3	351	(2,622)	(1,138)	28	2,080	-79	23	2,573	4,653		(893)	2,924	2,031	
April	(2,266)	(27)	(5,266)	-13	3	341	(4,925)	(816)	18	1,282	-78	23	2,518	3,800		(3,984)	2,859	(1,125)	
May	432	(45)	(4,879)	-10	3	334	(4,545)	231	11	1,524	-87	22	2,453	3,977		(3,355)	2,787	(568)	
June	10	(43)	(4,912)	-10	3	327	(4,585)	95	13	1,632	-76	22	2,399	4,031		(3,280)	2,726	(554)	

Interest calculated using Hydro's annual cost of debt at 12% for 1987 and 11% for 1988. Values in brackets indicate amounts due to customer, whereas unbracketed values indicate amount due from customers.

## **Appendix D**

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the matter of the application of	)	
<b>CONSUMERS ENERGY COMPANY</b> for authority	)	
to issue refunds pursuant to MCL 460.6a(1) and	)	Case No. U-16441
for other relief.	)	
_____	)	

At the December 21, 2010 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman  
Hon. Monica Martinez, Commissioner  
Hon. Greg R. White, Commissioner

**ORDER**

On May 22, 2009, Consumers Energy Company (Consumers) filed an application in Case No. U-15986 requesting a \$114.4 million rate increase for distribution of natural gas, and other relief. On October 13, 2009, the Commission issued an order, pursuant to Section 6a(1) of 2008 PA 286 (Act 286) directing Consumers to file proposed interim tariffs by October 16, 2009 and allowing the parties to respond to the filed tariffs by October 23, 2009. The Commission also set a hearing for October 27, 2009. On October 16, 2009, Consumers filed tariffs reflecting a rate increase of \$89 million, which it self-implemented on November 19, 2009.

On May 17, 2010, the Commission issued its final rate order (May 17 order), approving an annual rate increase of \$65,893,000, thus requiring Consumers to reduce its annual rates by approximately \$23 million from the self-implemented level. The Commission further directed Consumers to file a refund proposal by August 19, 2010. The Commission ordered Consumers to

include the most up-to-date sales data available and the most recent adjustments made in the reconciliation period.

MCL 460.6a(1) provides, in relevant part:

If a utility implements increased rates or charges under this subsection before the commission issues a final order, that utility shall refund to customers, with interest, any portion of the total revenues collected through application of the equal percentage increase that exceed the total that would have been produced by the rates or charges subsequently ordered by the commission in its final order. The commission shall allocate any refund required by this section among primary customers based upon their pro rata share of the total revenues collected through the applicable increase, and among secondary and residential customers in a manner to be determined by the commission. The rate of interest for refunds shall equal 5% plus the London interbank offered rate (LIBOR) for the appropriate time period.

Thus, any “portion of the total revenues” collected through application of an interim surcharge that exceeds the “total” that would have been collected through application of the rates authorized in the final order must be refunded by the utility.

On August 13, 2010, Consumers filed an application in this docket for authority to issue refunds. The application includes a request to issue a refund related to revenue overcollected during self-implementation, and a request to offset this amount by approximately \$258,000 to reflect an undercollection of unrecovered pension and other post employment benefits (OPEB) surcharge amounts.<sup>1</sup>

A prehearing conference was held on October 5, 2010, before Administrative Law Judge Mark D. Eyster (ALJ). At the prehearing conference, the ALJ granted petitions to intervene filed by Attorney General Michael A. Cox (Attorney General), the Association of Businesses Advocating

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<sup>1</sup>In its December 16, 2009 order in Case No. U-15041-R, the Commission authorized Consumers to collect \$3,439,616 of unrecovered pension and OPEB costs. A one-month surcharge was applied in February 2010, which, according to Consumers, resulted in an undercollection of the authorized amount of approximately \$258,000.

Tariff Equity (ABATE), and Midland Cogeneration Venture Limited Partnership. The Commission Staff (Staff) also participated in the proceedings.

Evidentiary hearings took place on November 15 and 17, 2010. On November 30, 2010, Consumers, the Staff, the Attorney General, and ABATE filed initial briefs. On December 7, 2010, Consumers, the Staff, and ABATE filed reply briefs. The record consists of 106 pages of transcript and 4 exhibits. In order to expedite the issuance of refunds, the Commission dispensed with the Proposal for Decision and read the record.

### Positions of the Parties

Rachel L. Brege, a Senior Rate Analyst for Consumers, testified that to determine the appropriate amount of the refund owed customers, she compared the total revenues collected from customers during the self-implementation period (November 19, 2009 through May 19, 2010) with the total revenues that would have been collected under the final rates approved by the May 17 order. According to Ms. Brege, the difference in total revenues is \$10,229,000. 2 Tr 21; Exhibit A-1. Ms. Brege noted that MCL 460.6a(1) also requires that interest be added to any refund, using an interest rate equal to 5% plus the LIBOR for the appropriate time period. Assuming that the refund is accomplished during the January 2011 billing month, Ms. Brege computed the required amount of interest to be \$490,000, thus producing a total refund of \$10,719,000. 2 Tr 21-22; Exhibit A-2.

Ms. Brege testified that in its December 16, 2009 order in Case No. U-15041-R, the Commission authorized Consumers to collect \$3,439,616 of unrecovered pension and OPEB costs. According to Ms. Brege, a one-month surcharge was applied in February 2010, which resulted in an undercollection of the authorized amount of approximately \$258,000. Ms. Brege testified that Consumers proposes to reconcile the residual balance remaining by netting it against the refund



required in this case. 2 Tr 23; Exhibit A-3. The effect of making this adjustment reduces the total amount to be distributed to customers from \$10,719,000 to \$10,461,000, assuming the distribution occurs in January 2011.

Jay S. Gerken, an auditor in the Act 304 Reconciliations Section of the Commission's Regulated Energy Division, explained the auditing process the Staff used to review Consumers' calculations and indicated that the Staff analysis confirmed that the correct principal amount of the refund owed customers is \$10,229,000. 2 Tr 58-59; Exhibit S-1. Mr. Gerken further testified concerning the interest calculation and, assuming the refund occurs during the January 2011 billing month, he computed an interest amount of \$487,000. Mr. Gerken testified that the Staff considered Consumers' proposal, to net against the self-implementation refund the company's undercollection from the pension and OPEB equalization surcharge, to be beyond the scope of this proceeding. Thus, according to Mr. Gerken, the Staff omitted the \$258,000 offset from its calculation of the refund. 2 Tr 60-61.

In its brief, Consumers indicated that the minor difference in interest calculations between the company's and Staff's presentations appears to be due to slight changes in the LIBOR between the time Consumers prepared its filing and the time the Staff prepared its testimony. Consumers agreed that the Staff performed the calculation correctly, and recommends that the interest amount calculation be based on the method set forth in Exhibits A-2 and S-2, using the LIBOR for the appropriate time period in effect at the time the order issues in this matter.

Consumers also noted that the pension and OPEB offset is an administratively simple operation and that it could provide the Staff with any necessary information to complete an audit of the undercollection.

In allocating the refund, Ms. Brege proposed to combine Residential Rate Class A and Residential Rate Class A-1, and provide the net amount of the refund to all customers within these classes through a uniform negative surcharge. 2 Tr 22; Exhibits A-3, A-4. Alternatively, Mr. Gerken proposed to allocate the refund only to those rate classes that paid more in revenues during the provisional rate period than they would have paid if the final rates had been in effect during that period. Under this approach, Residential Rate Class A-1 would not be allocated any share of the refund, and the total refund would be allocated among the remaining rate classes based on each rate class's share of the total revenue difference.

In its initial brief, Consumers pointed out that because MCL 460.6a(1) refers to refunds to primary and secondary customers, terms that generally apply to electric customers, it is unclear whether this part of the statute applies to gas refunds. Nevertheless, Consumers indicated that it believes that the Commission has the discretion to choose either the company's method of allocating the total refund among customer classes, or the Staff's method of doing so.

Both Consumers and the Staff used forecasted consumption for January 2011 to calculate billing determinants used to determine the refund amounts. *See*, 2 Tr 27-28; Exhibit A-3 and 2 Tr 73; Exhibit S-5. Ms. Brege explained that this method has been consistently used for refunds to both gas and electric customers. 2 Tr 29.

James T. Selecky, a consultant in the field of public utility regulation and a managing principal of Brubaker & Associates, Inc., testified on behalf of ABATE. Mr. Selecky argued that in accordance with the requirements of MCL 460.6a(1), refunds should be computed and paid on an individual customer basis; i.e., that each customer should receive a refund that is equal to the difference between the amount that each customer actually paid during the provisional rate period, and the amount that they would have paid if final rates had been in effect. 3 Tr 94-95. In their

initial briefs, ABATE and the Attorney General reiterate that the plain language of MCL 460.6a(1) requires that the refund of the self-implementation charges be calculated on an historical rather than prospective basis and that the precise amount that each customer overpaid during the self-implementation period should be returned to each customer with interest.

In rebuttal, Ms. Brege testified that the Commission has emphasized the importance of returning the funds at issue in this case to customers in an efficient and economical manner, noting that Consumers shares that goal. Ms. Brege pointed out that the data needed to calculate a refund by rate schedule using forecasted consumption data is readily available and accomplishing the refund in this manner will allow the refund to be paid in a timely and efficient way. Ms. Brege added that this approach is also much less costly than attempting to calculate and refund amounts based on historical, customer-specific consumption levels as recommended by ABATE and the Attorney General. According to Ms. Brege, Consumers' existing billing system:

cannot accommodate making refunds of customer specific amounts based on historical consumption. Doing so for the refund at issue in this case would require manual overrides of various steps in the automated billing process. It is estimated that accomplishing these manual overrides on a one-time basis for this case would delay the Company's ability to make the refunds by at least several months. Completely reprogramming the Company's billing system to allow refunds based on customer-specific historical consumption to proceed on a more automated basis would be a large undertaking that would take significantly longer.

2 Tr 31.

Ms. Brege further testified that the refund method proposed by the company here has been used for all calculations of surcharges and refunds for at least the past decade. 2 Tr 28-29.

Similarly, the Staff points out that ABATE and the Attorney General fail to consider the administrative costs of an historical refund that may significantly diminish the value of the refund. The Staff adds:

[T]here is no such thing as a completely precise refund methodology that can match usage on a customer-specific basis. For instance, if the Company identified the name of every customer who paid the self-implemented rates and calculated the refund owing to that customer, the Company would still be faced with the job of giving that refund to the customer. If the customer was still a customer of the utility, the customer could receive a bill credit. If, however, the customer has moved from Consumers' territory, the customer can only receive a check if the customer has given Consumers a forwarding address. And even if the customer has left a forwarding address, the check may still come back as undeliverable.

Staff's initial brief, pp. 5-6.

Bonnie Janssen, a Public Utilities Engineer Specialist in the Rates and Tariffs Section of the Commission's Regulated Energy Division, testified that if there are differences between forecasted sales and actual sales during the refund period, it is possible that there will be residual amounts owed to ratepayers after the initial refund month. Ms. Janssen testified that it was the Staff's position that Consumers should implement subsequent refunds until each rate schedule's residual refund owed is at or below the rate schedule specific residual refund limit shown on Exhibit S-5. Ms. Janssen explained that the residual refund limit is based on the smallest rate that Consumers can charge a customer and that she multiplied the projected sales volumes for January by the minimum rate of \$0.0001 per thousand cubic feet to arrive at the residual refund limit. According to Ms. Janssen, Consumers should continue refunding monies to customers until it reaches its residual refund limits for each rate schedule. Before each refund, Consumers should submit a tariff sheet reflecting the refund credit it plans to implement for each rate schedule. Once the residual is reduced to the limit for a given rate schedule, Consumers may cease its refund of the residual to that rate schedule. Ms. Janssen testified that the Staff was proposing this refund method to assure the eventual resolution of residual refund amounts that are the result of deriving refunds from projected sales. Ms. Janssen added that the costs associated with carrying over small refund amounts outweigh the benefits associated with providing refunds that involve minimal

amounts. Finally, Ms. Janssen testified that after the refund is completed, the Commission should require Consumers to file a letter in this docket showing the residual for each refund iteration, how it was calculated, and the calculation of the refund factors used. 2 Tr 75-77.

In response to the Staff's recommendation, Consumers asserts that while the proposal is acceptable, it should allow for surcharges as well as additional refunds if the company overpays in the initial refund. The Staff disagreed noting that Consumers had not made such a suggestion in its application nor did the company provide any details regarding how its proposal would operate.

### Discussion

The Commission finds the Staff's case well-reasoned and supported and adopts its recommendations *in toto*, updated to reflect the timing of the issuance of this order, as shown in Exhibit A attached to this order. Specifically, the Commission agrees with the Staff that self-implementation refund cases should be relatively simple and conducted as expeditiously as possible. Thus, these cases should not be augmented or complicated with extraneous issues such as the pension and OPEB underrecovery offset raised by Consumers here. The Commission also finds that the Staff's proposal in this case to implement initial refunds, with subsequent iterations until each rate schedule's residual refund owed is at or below the residual refund limit, strikes an appropriate balance between eliminating the administrative cost of yet another reconciliation proceeding and the possibility of a *de minimis* over- or underrecovery.

The Commission is not persuaded by ABATE or the Attorney General that the refund must be precisely tailored to each and every customer who paid a self-implemented rate, if it were even possible to do so. The Commission has long rejected the notion that historical perfection must be achieved with refunds or surcharges. The Commission has authority to exercise discretion in fashioning a refund procedure, and the most precise procedure may have disadvantages, such as

Final Report

# Supplemental Evidence on Hydro's Rate Stabilization Plan Surplus Refund Plan

Prepared for

**Newfoundland and Labrador Hydro**



**October 31, 2013**

**LUMMUS CONSULTANTS**  
I N T E R N A T I O N A L

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# LUMMUS CONSULTANTS

I N T E R N A T I O N A L

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At the hearing into Newfoundland and Labrador Hydro's General Rate Application, this Supplemental Evidence on Hydro's Rate Stabilization Plan Surplus Refund Plan Report will be adopted by Robert D. Greneman, P.E., with Lummus Consultants International, Inc. (Lummus Consultants) (formerly Shaw Consultants). Mr. Greneman will also offer evidence with regard to consistency Hydro's refunding proposal with of refunding in other jurisdictions as well as in Newfoundland and Labrador. A witness profile for Mr. Greneman has been included in Appendix 4 of Exhibit 9, titled "Cost of Service Study / Utility and Industrial Rate Design Report", previously filed in this proceeding.



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# 1 INTRODUCTION

Newfoundland and Labrador Hydro (Hydro) filed its evidence on Rate Stabilization Plan Surplus Refund Plan, dated October 31, 2013, that discusses the circumstances that gave rise to the RSP surplus as well as recommendations, including detailed supporting rationale for refunding the Newfoundland Power (NP) surplus consistent with the Order in Council (OC), dated April 4, 2013, as amended. One of the salient directives in the OC is that for other than industrial customers, the refund plan shall comprise direct payments or rebates to ratepayers and shall not be in the form of an electricity rate adjustment.

This report was prepared by Lummus Consultants, as supplemental to Hydro's evidence with regard to approaches and rationales used by other jurisdictions to handle rebates, in the context of (1) the basis for the rebate, and (2) the period over which customers overpaid.

The topics covered are:

- Treatment accorded customer rebates in other jurisdictions;
- Past practices in Newfoundland and Labrador; and,
- Consistency of Hydro's proposed rebate methodology with industry practice.

## 2 TREATMENT ACCORDED CUSTOMER REBATES IN OTHER JURISDICTIONS

Lummus Consultants' research into the manner in which rebates were treated in other jurisdictions can be grouped into two categories:

- Utility rates that went into effect subject to refund; and
- Customer rebates related to specific and generally uncommon circumstances.

The first category, utility rates that went into effect subject to refund, relates to practices in a number of states in the U.S. in which a utility is permitted to put its rates into effect by a certain date if the Commission does not issue an order prior to the effective date. For utilities in the several states that were reviewed, in which the utility was required to provide a refund to customers, the general procedure was to recalculate the rate before and after the commission order and to refund the difference on a customer by customer basis.

It should be noted, however, that such instances involve the following distinguishing characteristics:

1. The difference between the time the rates went into effect subject to refund and the reduced rates per the Commission order is usually in the order of a year or less and the utility understands that it would need to do a recalculation when the Commission order is issued; and,
2. Commission ordered decreases are typically related to costs such as reduced return on equity and disallowance of certain operating expenses or rate base items, which directly translate to changes in base rate structure or reductions in the overall level of the rates. This is in contrast to increases or decreases to customers due to varying fuel costs, which are, in virtually every instance, manifest in fuel adjustment mechanisms, in which collection from or refunding to customers is based on consumption in a future period.

With respect to the second category, customer rebates related to specific and generally uncommon circumstances, the examples that follow in this section are not the result of an exhaustive research effort, but rather, a reporting of pertinent cases as they were found. These cases are intended to provide insight into and reasoning behind a diversity of circumstances and outcomes. If a case was found that was contrary to Hydro's proposed refunding, it would be reported; however, no such cases were found.

The primary criterion that were used to select a case for inclusion in this evidence is that there be a relatively long period from the time the overcharges occurred to the time in which the refund payments were made.

Following is an overview of the pertinent cases that were found. The details of each case that were relied on are provided as web links in Section 5.

### 2.1 Nicor Gas

On June 3, 2013 the Illinois Commerce Commission (ICC) issued an order directing Nicor Gas to refund nearly \$72 million to customers, following a lengthy review of gas purchases and other transactions occurring between the time its performance based regulation program was considered in 1999 and the

end of the program on December 31, 2002. The ICC order directed Nicor Gas to refund the money to current customers beginning with Nicor's next purchased gas adjustment charge.

This case is supportive of Hydro's proposal in that the Commission acknowledged that it faced a situation in which the evidence established the practical impossibility of ensuring that each customer entitled to a refund, as a result of having been overcharged under Nicor Rider 6 from 1999 through 2002, in fact received the refund. It also acknowledged that the exact number of customers who were transportation customers<sup>1</sup> as of December 31, 2011, were sales customers during some or all of calendar years 1999 through 2002 and visa-versa.

## 2.2 FirstEnergy

This case involves a \$43.3 million refund to customers due to overpayments by FirstEnergy for Renewable Energy Credits (RECs) in years 2009, 2010, and 2011. The Ohio Commission's final order, issued on August 7, 2013, principally addresses the extent to which the costs of the RECs were prudently incurred and quantification of the disallowance.

This case is supportive of Hydro's refund proposal, insofar as refunding is concerned, in that FirstEnergy's REC costs, including overpayments, were collected from FirstEnergy's ratepayers through its Alternative Energy Rider (AER) with the overpayment refunded to customers on a prospective basis.. Rider AER delineates charges by customer class.

## 2.3 Consumers Energy

This case before the Michigan Public Service Commission, issued on January 20, 2011, involves the refunding of approximately \$1.4M to customers resulting from amounts collected from customers over a 60-month period beginning in 2004, in excess of the actual enhanced security costs for electric generating facilities. The commission adopted Staff's position that refunds be given back to customers on a prospective basis in accordance with the methodology in Case U-16441, and concluded:

*The Commission has long rejected the notion that historical perfection must be achieved with refunds or surcharges. The Commission has authority to exercise discretion in fashioning a refund procedure, and the most precise procedure may have disadvantages, such as attendant costs or administrative burdens, that outweigh the apparent advantages.*

The Commission's findings in this Michigan case are consistent with the Michigan case discussed in Hydro's RSP surplus refund evidence.

## 2.4 Peoples Gas Light and Coke Company

In its order of March 26, 2006, in ICC Docket No. 03-0705, the Illinois Commerce Commission ordered that \$96M of imprudently purchased gas costs during the period 2001-2004 be refunded to Peoples Gas customers.

Recognizing the administrative difficulties of refunding to nearly one-million customers, the Commission made an effort to target refunds to the company's largest gas customers who were customers during

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<sup>1</sup> Gas utility Sales customers purchase their gas directly from the utility, which delivers the gas through its mains to the customer's meter. Transportation customers purchase their natural gas supply independently from a third-party supplier and are only a customer of the utility for the transport and delivery of their gas from the point of receipt at the utility's gate station to the customer's meter.

the reconciliation period; to current small residential customers, regardless of whether they were sales or transport customers during the reconciliation period, on a fixed dollar amount basis; and to the current remaining customers on a per capita basis.

The commission's refunding procedure in this case is supportive of Hydro's refunding proposal in that, other than the company's largest customers, it takes a practical approach to refunding to all current customers regardless of whether they were customers during the time of the over-payment.

## 2.5 New York Public Service Commission

This 2013 case concerns the manner in which electric utilities in the State of New York were to provide refunds to their customers resulting from the disgorgement of \$110M in unjust profits by the U.S. Federal Energy Regulatory Commission due to market manipulation by Constellation Energy Commodities Group, Inc. during the years 2007 and 2008.

As set forth in the NYPSC Order of September 19, 2013, in Case No. 13-E-0232, of New York's \$78M share, \$48M was to be distributed to utilities in the state, which, in turn, were ordered to distribute refunds to their customers in accordance with this order.

Proposals were submitted by each of the state's eight electric utilities as to the manner in which each would effectuate electric customer refunds. Virtually every utility was to issue a credit to its current customers, either through their energy adjustment mechanism or as a bill credit. The New York Power Authority (NYPA) indicated that it would issue a refund through either its energy cost adjustment mechanism or through a separate bill credit based on energy sales as a percentage of the NYISO energy sales for the 2011 calendar year. Customers who were NYPA customers in 2011 but were no longer NYPA customers would receive a refund check. The Commission approved the refunding proposals of the utilities.

This case is seen as being further supportive of Hydro's proposed refunding methodology in that the basis for the refund is predominately energy-related and virtually no attempt is made to identify refunds to past customers.

## 2.6 Alberta Energy and Utilities Board

This case, decided by the Alberta Board on March 5, 1996, concerns the over-collection by Alberta Power of \$237,000 in connection with an adjustment of forecast 1993 Electric Energy Marketing Agency (EEMA) transfers to actuals. The Board ordered that the amount to be refunded be included in Alberta Power's Rider M, along with the amounts to be recovered.

Refunding of energy costs in this case is not unlike truing-up of fuel costs in any utility that has a fuel adjustment mechanism, i.e., costs are reconciled among all present customers on an energy basis without regard to which customers may have paid more or less

### 3 PAST PRACTICES IN NEWFOUNDLAND AND LABRADOR

In P.U.37(2000-2001), issued March 15, 2001, the Board ordered the balance in Newfoundland Power's (NP) Excess Revenue Account (as of December 31, 2000) of \$6,733,000 be rebated to customers, together with HST of \$1,010,000, through a one-time credit to each of its customers on their April 2001 electric service bills of 1.90% of the customer's total billing amounts on electric service bills issued during the period January 2000 to December 2000.

In P.U.23(2003), issued July 21, 2003, the Board ordered NP to provide a rebate of approximately \$2.7 million that resulted from NP exceeding its upper limit on its allowed rate of return on rate base. The rebate was to be distributed to customer classes on the basis of actual revenues for the 12 months ending July 2003.

In both instances described above, notwithstanding that the rebates were related to over-earnings on rate base and were relatively close in time to the period in which the overearnings occurred, rebates were made to customers on a prospective basis.

In P.U.40(2005), issued December 23, 2005, following the settlement of a long-standing tax issue between Canada Revenue Agency and Newfoundland Power, the Board approved NP's proposal to adopt the Accrual Method of revenue recognition commencing in 2006.

In this case, there was a relatively long period of time before the tax issue was settled. However, the impact of the attendant accounting changes approved by the Board impacted the revenue requirements of all of NP's customers on a prospective basis.

Beginning in 2000, Hydro experienced a significant increase in fuel cost, which by December 31, 2003 amounted to \$156M, owing from customers to Hydro. In Order P.U. 7(2002-2003), the Board ordered that, because of the magnitude of anticipated rate increases, the August 31, 2002 balance in the RSP be "fixed", and that its recovery be spread over a five year period commencing in 2003. In Order P.U. 40(2003), the Board further ordered that the RSP balance at December 31, 2003 also be consolidated with the August 2002 Historical RSP Balance for rate setting purposes. The RSP balance of \$156M was to be recovered from customers over the period 2004 to 2008.

This case, which involved the recovery of fuel costs from customers is supportive of Hydro's proposed refund method in that whether fuel costs were owing to or from customers, there has been a consistency and symmetry with respect to true-up of fuel costs by customer class on a prospective basis.

Another case involves Hydro's acquisition of Wabush customers in 1987 following the transfer of the electrical distribution system in Wabush from Wabush Mines to PDD (Power Distribution District). In an interim report to Government dated November 18, 1985 the Board recommended approval of rates for Wabush customers as proposed by Hydro as of January 1, 1989 and also stated that "If, in future years, PDD achieves a surplus in Wabush, the surplus shall be refunded to the customers."

A surplus of \$2.9M did accrue from 1989 to 2001. At the 2001 GRA, Hydro said that it would be impossible to track those customers that had left the system and that it would also be a significant administrative exercise because of the lack of electronic records. The Board agreed, and ordered that the refund be given back to Wabush customers in 2002, based on each customer's proportionate share of the 2001 revenues.

This case is supportive of Hydro's proposed refund method in that it recognizes the administrative difficulties that would be encountered in going back from 1989 to 2001 in order to achieve perfect equity among customers.

## 4 CONSISTENCY OF PROPOSED REBATE METHODOLOGY WITH ACCEPTED RATEMAKING PRACTICES

The preceding examples were intended to provide insight with regard to methods of refunding to ratepayers in light of the circumstances in each case, including:

- The basis for the refund;
- The length of time in which over-collections occurred;
- Inability to correctly identify past versus present customers; and,
- Administrative simplicity.

Hydro's surplus amount to be refunded arose due to overpayment of fuel costs by customers. Even if Hydro did not have an RSP, the cost effect of the reallocation of thermal and hydraulic resources due to significantly reduced IC consumption would have occurred either through a fuel adjustment mechanism or recognition of fuel oil cost savings at the time of Hydro's next General Rate Application (GRA). In either case, the credit to customers would have occurred based on future, rather than past, usage, consistent with general industry practice.

Moreover, for virtually any utility that has fuel at the margin, if industrial load drops due to e.g., a recession or going out of business, then, all else being equal, all current customers will see a reduction in their future fuel charge. This is tantamount to the reduction in Hydro's IC load that gave rise to the RSP surplus.

The fact that the surplus arose principally due to fuel savings, and in consideration of the relative inability to target specific customer rebates in an environment with a high turnover of households, and recognizing administrative simplicity, Hydro's recommended methodology is seen as being reasonable, prudent, and consistent with what has been done in Newfoundland and Labrador, as well as other jurisdictions under similar circumstances.



## 5 CASE REFERENCES

### *Nicor Gas*

The 37-page Nicor Gas Order and the accompanying appendix that breaks down the \$72 million refund between commodity and non-commodity can be found at:

<http://www.icc.illinois.gov/docket/files.aspx?no=02-0725&docId=199186>

### *First Energy*

The Ohio Commission's 36 page Order can be found at:

<http://dis.puc.state.oh.us/TiffToPDF/A1001001A13H07B41149F98309.pdf>.

FirstEnergy's Alternative Energy Resource Rider can be found at:

<https://www.firstenergycorp.com/content/dam/customer/Customer%20Choice/Files/Ohio/tariffs/OE-2013-ElectricService.pdf>

### *Consumers Energy*

The Commission Order can be found at:

[http://www.dleg.state.mi.us/mpsc/orders/electric/2011/u-14126-r\\_01-20-2011.pdf](http://www.dleg.state.mi.us/mpsc/orders/electric/2011/u-14126-r_01-20-2011.pdf).

The approved refund methodology in Case U-16441 can be found at:

[http://www.dleg.state.mi.us/mpsc/orders/gas/2010/u-16441\\_12-21-2010.pdf](http://www.dleg.state.mi.us/mpsc/orders/gas/2010/u-16441_12-21-2010.pdf).

### *Peoples Gas Light and Coke Company*

The Commission's order can be found at:

<http://www.icc.illinois.gov/docket/files.aspx?no=03-0705&docId=93593>.

The follow-up refund report can be found at:

<http://www.icc.illinois.gov/docket/files.aspx?no=03-0705&docId=103181>

### *New York Public Service Commission*

The NYPSC order is at:

<http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={FBA432E9-E529-4B73-80D9-CED92DC2436E}>.

Case documents are at:

<http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=13-E-0232>.

FERC Order and consent agreement is at:

<http://www.ferc.gov/enforcement/civil-penalties/actions/138FERC61168.pdf>

### *Alberta Energy and Utilities Board*

This case can be found at:

<http://www.auc.ab.ca/applications/decisions/Decisions/1996/U96024.pdf>

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attendant costs or administrative burdens, that outweigh the apparent advantages. *See, Attorney General v Public Service Comm*, 235 Mich App 308; 597 NW2d 264 (1999); *Attorney General v Public Service Comm*, 215 Mich App 356; 546 NW2d 266 (1996); and the May 17, 2005 order in Case No. U-13990, pp. 21-22.

The Commission therefore approves the proposal put forward by the Staff for a refund, for the January 2011 billing month, to the rate schedules shown on Exhibit S-3, with the residual carried forward by the method also recommended by the Staff. After the refund is completed, Consumers shall file a letter in this docket disclosing the residual for each refund iteration, how it was calculated, and the calculation of the refund factors used.

THEREFORE, IT IS ORDERED that:

A. Consumers Energy Company shall refund self-implemented revenue of \$10,716,000 as shown on Exhibit A attached to this order.

B. After the refund of self-implemented revenue is completed, Consumers Energy Company shall file a letter in this docket disclosing the residual for each refund iteration, how it was calculated, and the calculation of the refund factors used.

C. Within ten days of the date of this order, Consumers Energy Company shall file tariffs substantially the same as those attached to this order as Exhibit B.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, under MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

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Orjiakor N. Isiogu, Chairman

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Monica Martinez, Commissioner

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Greg R. White, Commissioner

By its action of December 21, 2010.

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Mary Jo Kunkle, Executive Secretary

# EXHIBIT A

**MICHIGAN PUBLIC SERVICE COMMISSION**  
**CONSUMERS ENERGY COMPANY**  
**Reconciliation of Self-Implemented Rate Increase from Case U-15986**  
**Credit per Rate Schedule (\$/Mcf)**

**Case No.: U-16441**  
**Exhibit: S-5**  
**Page: 1 of 1**  
**Witness: B. Janssen**

Rate Schedule	(a) January 2011	(b) February 2011	(c) Total Refund with Interest	(d) January-11 Credit	(e) February-11 Credit	(f) Residual Refund Limit
	Mcf	Mcf	\$	\$/Mcf	\$/Mcf	\$
	Ex S-4	Ex S-4	Ex S-3	Col (c) / Col (a)	Col (c) / Col (b)	Col (a) * (\$0.0001)
	<b>Revised 12/9/2010</b>					
Rate A	26,713,000	21,813,000	\$ (7,018,589.57)	\$ (0.2627)	\$ (0.3218)	\$ (2,671)
Rate A-1	1,194,960	1,019,018	\$ -	\$ -	\$ -	
Rate GS-1	3,026,000	2,355,324	\$ (991,790.29)	\$ (0.3278)	\$ (0.4211)	\$ (303)
Rate GS-2	6,652,000	5,888,453	\$ (1,259,512.82)	\$ (0.1893)	\$ (0.2139)	\$ (665)
Rate GS-3	1,723,000	1,759,605	\$ (357,977.48)	\$ (0.2078)	\$ (0.2034)	\$ (172)
Rate ST	2,055,000	1,875,662	\$ (505,022.05)	\$ (0.2458)	\$ (0.2693)	\$ (206)
Rate LT	2,438,000	2,127,227	\$ (316,399.36)	\$ (0.1298)	\$ (0.1487)	\$ (244)
Rate XLT	2,428,000	2,405,482	\$ (266,708.43)	\$ (0.1098)	\$ (0.1109)	\$ (243)
Total	46,229,960	39,243,771	(10,716,000)	(\$10,716,000)	(\$10,716,000)	\$ (4,504)
	45,035,000					

2011 Projected Billed Sales / Transport Volumes (Mcf)

Source: Attachment to Audit Request BJ-1

Case U-16418, Exhibit A-11, Schedule E-3

## EXHIBIT B

Proposed Tariff Sheet

Case No.: U-16641  
Exhibit: S-6  
Witness: B. Janssen

M.P.S.C. No. 2 - Gas  
Consumers Energy Company

Sheet No. D-1.20

*Interim Rate  
Increase Refund  
(Case No. U-16441)  
Effective for  
January 2011 Bill Month*

Rate Schedule

Rate A	\$(0.2627)/Mcf
Rate A-1	NA
Rate GS-1	\$(0.3278)/Mcf
Rate GS-2	\$(0.1893)/Mcf
Rate GS-3	\$(0.2078)/Mcf
Rate GL	NA
Rate ST	\$(0.2458)/Mcf
Rate LT	\$(0.1298)/Mcf
Rate XLT	\$(0.1098)/Mcf
Rate CC	As shown on customer's applicable sales Rate Schedule

Issued XXXXXXXX, 2010 by  
J. G. Russell,  
President and Chief Executive Officer,  
Jackson, Michigan

Effective for bills rendered on and after  
the Company's January 2011 Billing Month

Issued under authority of the  
Michigan Public Service Commission  
dated XXXXXXXX, 2010  
in Case No. U-16441