

November 21, 2013

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

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

Dear Ms. Blundon:

**Re: Newfoundland and Labrador Hydro - Application for Approval of the Rate  
Stabilization Plan Rules and Refunds to Newfoundland Power and Hydro Rural  
Customers – Revised Letter**

This is in response to correspondence from the Board dated November 14 [ ] and to correspondence from Newfoundland Power, per Mr. Gerard Hayes, dated November 6 and November 19, 2013.

Hydro disagrees with the proposition of Newfoundland Power that the directive to the Board requires that the matter be heard during the GRA proceedings. The Board was directed in Order in Council OC2013-089 that Hydro's GRA will include a Rate Stabilization Plan surplus refund plan to ratepayers. The Board sought information from each of the parties as to whether they were interested in participating. Whether this matter is heard by the Board in advance of hearing other issues in the GRA or together with other GRA issues is a procedural, not a substantive, matter. As such, it is completely within the discretion of the Board to determine. It is trite law that tribunals are the masters of their own procedures subject only to legislated requirements and principles of natural justice. The directive referred to above does not prescribe the Board's schedule for such matters. If the Board chooses to consider Hydro's application with regard to the RSP surplus refund in advance of other issues, it is free to do so provided the parties to the matter have an opportunity to be heard.

The importance of the context of 2014 rates in this matter which has been raised by Newfoundland Power is one factor for the Board to consider amongst other factors. These factors include the amount of time the RSP issue has been before the Board—the RSP matter was first brought before the Board in June 2009 and the Board heard jurisdictional arguments on the matter in June of 2010. Delaying a consideration of the matter further is unwarranted. This matter can be dealt with and disposed of in advance of the main GRA hearing.

Another factor is that much of the substance of the issue has been dealt with in the directive. While it is true that the Board has been given the task of making a "final determination on the details of the refund", the amount to be refunded and the nature of the refund have been prescribed by the directive. It is a discrete issue upon which the Board has received direction and while the directive provides that the Board is to receive the RSP refund application in the GRA process, there is no substantive or procedural need for it to be encumbered amongst the many complex issues that arise in a GRA unless the Board so chooses.

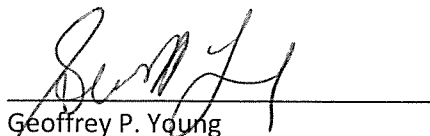
A third factor the Board ought to consider is regulatory cost and efficiency. With the exception of Newfoundland Power and the Consumer Advocate, no other GRA party has indicated that it will be engaging in this issue before the Board and the Board indicated in its correspondence dated November 14, 2013 that those non-participating parties would not be provided with further information on the matter. Quite clearly, having this matter heard as a GRA issue with all parties present will be inefficient and has the potential of exposing those uninterested parties to costs and delays associated with dealing with this issue during the full GRA hearing process.

Finally, it is Hydro's observation that the matters related to the Government directives of April 4, 2013, as amended, are being dealt with by the parties and the Board as the GRA process advances, in parallel. On July 30, 2013 Hydro filed its GRA. On that date, Hydro also filed its RSP Evidence in compliance with the directives. Subsequently, the Board has issued Order No. P.U. 26(2013) on August 30, 2013; Order No. P.U. 29(2013) on September 30, 2013; and Order No. P.U. 32(2013) on November 1, 2013, all of which relate to the RSP issues and the matter of the RSP Surplus. Hydro views the hearing of the matter of the Rate Stabilization Plan surplus refund plan to ratepayers at this time, as an orderly progression of dealing with the Government directives on the RSP along the same timelines and in conjunction with the GRA.

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