

1 Q. Further to the response to Request for Information SR-NP-NLH-030, please provide all
2 correspondence between Hydro and the CRA with respect to the proposed
3 disposition of the Newfoundland Power RSP Surplus.

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6 A. Prior to Hydro finalizing a formal request for a ruling with respect to the
7 appropriate HST treatment of the proposed refund of the RSP Surplus, Hydro had a
8 verbal conversation with the CRA to discuss two main alternatives to refund the RSP
9 Surplus:

- 10 1) RSP Surplus Funds being refunded to customers through credit notes related
11 to previous year bills over the period 2007 – 2013; or
12 2) RSP Surplus Funds being refunded to customers through a one-time credit
13 on a 2014 bill based on 2013 consumption.

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15 Both the CRA and Hydro agree that under alternative #1 above, HST would apply to
16 the refund of the RSP Surplus as there would clearly be a reduction in consideration
17 of the original supply under Section 232 (2) of the *Excise Tax Act*. As well, a credit
18 note would be issued in relation to the reduced consideration under Section 232 (3)
19 of the *Excise Tax Act*.

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21 However, the CRA would not confirm that HST would apply under alternative #2
22 above. Therefore, on January 30, 2014 Hydro faxed a request to the CRA (please
23 see SR-NP-NLH-055 Attachment 1) requesting a ruling on the appropriate HST
24 treatment of the proposed refund of the RSP Surplus under alternative # 2 above.
25 To date Hydro has not received a response to the request but can confirm the
26 following:

- 1 1) Hydro's ruling request with respect to the HST implications of the proposed
- 2 refund of the RSP Surplus has been received by the CRA;
- 3 2) The CRA will be assigning Hydro's request to a rulings officer the week of
- 4 February 10 to 14, 2014; and
- 5 3) Once it has been assigned to a rulings officer, the turnaround time for a
- 6 response is 30 to 45 days.



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28 January 2014

Ms. Renee Dove
Canada Revenue Agency
Technical Interpretation & Services
P.O. Box 638
1256 Barrington Street
Halifax, NS
B3J 2T5

RE: Newfoundland and Labrador Hydro
Refund of Rate Stabilization Plan ("RSP") Surplus

Dear Ms. Dove:

As per our telephone conversation on January 24th, 2014 please accept this letter as a formal request for a ruling related to the GST/HST implications of Newfoundland and Labrador Hydro's (Hydro's) proposed refund of its Rate Stabilization Plan "RSP" surplus to Newfoundland and Labrador Hydro (Hydro) customers in 2014.

Background

- Hydro is registered for GST/HST purposes and has been assigned Business Number 121394928.
- Hydro supplies electricity to customers in Newfoundland and Labrador.
- The Board of Commissioners of Public Utilities ("PUB") in the province of Newfoundland and Labrador approves the rates charged by Hydro to its customers.
- The RSP is a rate smoothing mechanism introduced in 1986 to limit volatility of customer rate impacts related to the cost of fuel used at the Holyrood Generating Station ("HGS"). Customer 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.

- Since 2007, there has been a material reduction in industrial customer load, primarily due to a reduction in the pulp and paper industry in the province of Newfoundland and Labrador. As a result of this and other RSP variances significant balances have accumulated in the RSP. As of August 31st, 2013, the total owing to residential customers is \$112.6 million.
- Order of Council, OC2013-089 dated April 4th, 2013, states that Hydro's General Rate Application process will include a RSP surplus refund plan to non-industrial ratepayers. The refund plan shall comprise direct payments or rebates to those ratepayers and shall not be in the form of an electricity rate adjustment.

Proposed Transactions

- RSP 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 customers and Hydro rural customers based on proportionate retail energy sales for their total energy consumption on bills issued during the period January 2013 and December 2013.
- Hydro's rural customers, whose rates are based on Newfoundland Power rates, will receive a refund as a one-time credit on their April 2014 electricity bills based on their total electricity consumption on bills used during the period January 2013 to December 2013.
- Any net refund to Hydro rural customers would be in the form of a credit to each customer's account.

For illustrative purposes, assume that Hydro has determined the dollar amount of the RSP surplus refund due to a particular customer based on their proportionate share of consumption from January to December 2013 is \$20.

Hydro proposes to apply the RSP surplus refund as follows:

Base Electricity charge (April 2014)	\$100.00
RSP Surplus Refund Credit	\$(20.00)
Revised Electricity Charge (April 2014)	\$80.00
HST	\$10.40
Amount Due	\$90.40

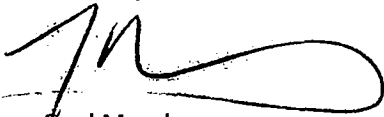
Request

Hydro is hereby seeking a ruling on the HST implications of the proposed transaction of refunding the RSP surplus under the Excise Tax Act ("ETA"). Specifically, Hydro requests an opinion on whether the above proposed transactions would qualify as a reduction in consideration under subsection 232(2) of the ETA and therefore HST would apply on the RSP surplus refund amount and Hydro would reduce its HST liability accordingly by the corresponding amount.

As the issue of the appropriate treatment of the RSP surplus refund for HST purposes is currently before the PUB we would appreciate a timely response to this request.

If you require additional information or clarification on this issue please feel free to contact the undersigned at 709-737-1391 or by fax at 709-737-1991.

Sincerely,



Fred Murphy
Tax Specialist

copy Jeannine Fitzgerald
Glenn Mitchell