

March 23, 2015

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

Attention: Cheryl Blundon
Board Secretary

Ladies & Gentlemen:

Re: Newfoundland and Labrador Hydro ("Hydro") 2013 Amended General Rate Application - Requests for Information of Newfoundland Power

A. Introductory

This is further to Hydro's letter to the Board dated March 13, 2015 regarding certain requests for information ("RFIs") issued by Newfoundland Power in the captioned application (the "Application").

The RFIs in question, which are enumerated in Hydro's letter, seek the production by Hydro of certain forecast information for 2016 and 2017. Hydro's letter requests a ruling from the Board that Hydro is not required to provide the requested information in the hearing of the Application. Hydro's letter states that "while it is hypothetically possible to provide 2016 and 2017 forecast data, **it is not required, useful or otherwise relevant to an understanding of the issues before the Board**" in the Application. (emphasis added)

Newfoundland Power does not agree. It is Newfoundland Power's view that the requested information is necessary for the Board to assess the reasonableness of using the costs in Hydro's proposed 2015 test year for ratemaking purposes.

B. Legislation and Regulatory Practice

The power policy of the province as declared in the *Electrical Power Control Act, 1994* (the "EPCA") requires, among other things, that:

- (a) the rates to be charged, either generally or under specific contracts, for the supply of power within the province
 - (i) should be reasonable and not unjustly discriminatory, and
 - (ii) should be established, wherever practicable, based on forecast costs for the supply of power for 1 or more years.



In effect, the EPCA requires that rates charged for the supply of power within the province be **based on forecast costs**, and that rates shall be **reasonable at all times**. In accordance with the statutory requirement, general rate applications before the Board are typically based on forward-looking test periods.

C. Newfoundland Power's Submission

Relevance of 2016 and 2017 Forecast

The current schedule for the hearing of the Application contemplates commencement of the public hearing on September 9th, 2015. It is therefore unlikely that a general rate order in the Application will be issued prior to the end of 2015; and final rates arising out of the Application are not likely to become effective until sometime in 2016. From the perspective of the hearing schedule, Hydro's proposed 2015 test year might be considered, in effect, a historic test year.

In accordance with the statutory requirements noted above, the Board must consider whether Hydro's proposed test year provides a reasonable basis upon which to establish rates **for the period in which rates will be in effect**. This is in accordance with generally accepted regulatory practice, regardless of whether the test year is forward-looking or historic.¹

The amended rate application seeks recovery of substantial increases in Hydro's costs. For example, 2014 operations and maintenance costs are indicated to be 35% higher than in 2007.² In assessing whether the proposed 2015 test year provides a reasonable basis for rates, the Board must, among other things, consider whether these substantially higher test year costs will recur in years in which the rates will be in effect. In Newfoundland Power's submission, the relevance of 2016 and 2017 forecast costs in this regard is beyond question.

Comparability of the 2008 Income Tax Deferral Application

In its letter, Hydro supports its position by reference to submissions of Newfoundland Power in the 2008 Income Tax Deferral Application. Hydro's letter characterized Newfoundland Power's position in that proceeding as suggesting that the use of future information that is outside a test year is "not consistent with the test year concept in the ratemaking process." Not only is this an oversimplification of Newfoundland Power's submission; the submission of Newfoundland Power in that proceeding was made in an entirely different context.

The matter at issue in the 2008 proceeding was whether changes in income tax expense subsequent to a fully forecast test year should result in a rate change. That situation is in no way analogous with, or comparable to, use of forecast costs in a general rate proceeding to assess the

¹ See, for example, the *Rate Case and Audit Manual*, National Association of Regulatory Utility Commissioners (NARUC) Staff Subcommittee on Accounting and Finance, Summer 2003, page 10 where it is indicated that "Whether using a future or historic test year, the auditor should judge the appropriateness of the test year that has been proposed. **Is it representative, after adjustments, of the period in which rates take effect?**" (emphasis added).

² See Table 3, 2013 Amended GRA Filing: Reconciliation to Original GRA Filing.



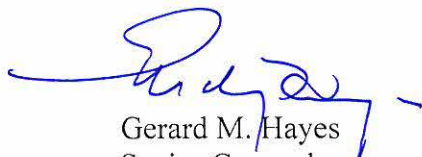
reasonableness of a proposed test year which, due to timing of the hearing, is effectively a historic test year.

Availability of Requested Information

Hydro's letter indicates that much of the information requested in the RFIs in question is not currently available as Hydro has not yet commenced its 2016 budget cycle. Newfoundland Power does not wish to unduly burden Hydro by insisting on immediate preparation of the forecast information. However, the Board should direct Hydro to provide the requested information within a reasonable time so that participants in the Application have a reasonable opportunity to consider it well in advance of the public hearing.

We trust this is in order.

Yours very truly,



Gerard M. Hayes
Senior Counsel

c. Geoffrey Young
Newfoundland and Labrador Hydro

Paul Coxworthy
Stewart McKelvey

Ed Hearn, QC
Miller & Hearn

Nancy Kleer
Olthuis, Kleer, Townshend LLP

Thomas Johnson, QC
O'Dea Earle Law Offices

Thomas O'Reilly, QC
Vale Newfoundland and Labrador Limited

Yvonne Jones, MP
Labrador

