

**NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

AN ORDER OF THE BOARD

NO. P.U. 28(2013) AMENDED

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

AND IN THE MATTER OF a General Rate Application by Newfoundland and Labrador Hydro to establish customer electricity rates effective January 1, 2014.

BEFORE:

Andy Wells
Chair and Chief Executive Officer

Darlene Whalen, P.Eng.
Vice-Chair

Dwanda Newman, LL.B.
Commissioner

James Oxford
Commissioner

PROCEDURAL ORDER

1 **WHEREAS** Newfoundland and Labrador Hydro (“Hydro”) filed a General Rate Application
2 (the “Application”) with the Board of Commissioners of Public Utilities (the “Board”) on July
3 30, 2013 requesting approval of, among other things, proposed rates to be effective January 1,
4 2014; and
5

6 **WHEREAS** Notice of the Application and Pre-hearing Conference was published in newspapers
7 throughout Newfoundland and Labrador beginning on August 17, 2013; and
8

9 **WHEREAS** after publishing notice the Board received Intervenor Submissions from:
10

- 11 1. Vale Newfoundland and Labrador Limited;
- 12 2. Towns of Labrador City, Wabush, Happy Valley-Goose Bay and North West River;
- 13 3. Newfoundland Power Inc.;
- 14 4. Consumer Advocate;
- 15 5. Yvonne Jones, MP, Labrador;
- 16 6. Innu Nation; and
- 17 7. Corner Brook Pulp and Paper Limited, North Atlantic Refining Limited and Teck
18 Resources; and
19

20 **WHEREAS** on September 12, 2013 a Pre-hearing Conference was held in the Board’s Hearing
21 Room, 120 Torbay Road, St. John’s; and
22

23 **WHEREAS** the issues addressed at the Pre-hearing Conference include the registration of
24 Intervenor, the procedures to be followed in the Application, and the schedule of dates; and
25

26 **WHEREAS** no objection was raised in relation to the Intervenor Submissions, the proposed
27 Schedule of Dates and Rules of Procedure, the Board makes the following Order.
28
29

30 **THE BOARD ORDERS THAT:**
31

- 32 1. The Intervenor in the Application are as set out in Schedule “A” to this Order.
33
- 34 2. The Schedule of Dates for the Application is approved as set out in Schedule “B” to this
35 Order.
36
- 37 3. The Rules of Procedure for the Application are approved as set out in Schedule “C” to
38 this Order.

DATED at St. John's, Newfoundland and Labrador this 18th day of September, 2013.



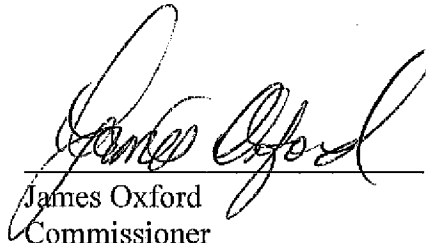
Andy Wells
Chair & Chief Executive Officer



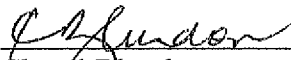
Darlene Whalen, P.Eng.
Vice-Chair



Dwanda Newman, LL.B.
Commissioner



James Oxford
Commissioner



Cheryl Blundon
Board Secretary

Intervenors

1
2
3 **1. Vale Newfoundland and Labrador Limited**

4 Mr. Thomas O'Reilly, QC
5 Cox & Palmer
6 Scotia Centre, Suite 1000
7 235 Water Street
8 St. John's, NL A1C 1B6
9 Telephone: 709-570-5320
10 Fax: 709-726-3070
11 E-mail: toreilly@coxandpalmer.com
12

13 **2. Towns of Labrador City, Wabush,**
14 **Happy Valley-Goose Bay and North West River**

15 Mr. Edward Hearn, QC
16 Miller & Hearn
17 450 Avalon Drive
18 P.O. Box 129
19 Labrador City, NL A2V 2K3
20 Telephone: 709-944-3666
21 Fax: 709-944-5494
22 E-mail: miller&hearn@crstv.net
23

24 **3. Newfoundland Power Inc.**

25 Mr. Gerard Hayes
26 Newfoundland Power Inc.
27 55 Kenmount Road
28 P.O. Box 8910
29 St. John's, NL A1B 3P6
30 Telephone: 709-737-5609
31 Fax: 709-737-2974
32 E-mail: ghayes@newfoundlandpower.com
33

34 **4. Consumer Advocate**

35 Mr. Thomas Johnson
36 O'Dea, Earle Law Offices
37 323 Duckworth Street
38 St. John's, NL A1C 5X4
39 Telephone: 709-726-3524
40 Fax: 709-726-9600
41 E-mail: tjohnson@odeaearle.ca

- 1 **5. Yvonne Jones, MP Labrador**
2 Confederation Building, Room 682
3 Ottawa, ON K1A 0A6
4 Telephone: 613-996-4630
5 Fax: 613-996-7132
6 E-mail: Yvonne.Jones.C1@parl.gc.ca
7
8 **6. Innu Nation**
9 Ms. Nancy Kleer
10 Olthuis, Kleer, Townshend LLP
11 229 College Street, 3rd Floor
12 Toronto, ON M5T 1R4
13 Telephone: 416-981-9330
14 Fax: 416-981-9350
15 E-mail: nkleer@oktlaw.com
16
17 **7. Corner Brook Pulp and Paper Limited,**
18 **North Atlantic Refining Limited and**
19 **Teck Resources**
20 Mr. Paul Coxworthy
21 Stewart McKelvey
22 Suite 1100, Cabot Place
23 100 New Gower Street
24 St. John's, NL A1C 6K3
25 Telephone: 709-722-4270
26 Fax: 709-722-4565
27 E-mail: pcoxworthy@stewartmckelvey.com

Schedule of Dates

1		
2		
3	September 2013	
4	September 23 (Monday)	Requests for Information (RFIs) filed
5		
6	October 2013	
7	October 25 (Friday)	Responses to RFIs filed
8		
9	November 2013	
10	November 6 (Wednesday)	2 nd Round of RFIs filed
11	November 13 (Wednesday)	Motions Day (if required)
12	November 22 (Friday)	Response to 2 nd round of RFIs filed
13	November 27 (Wednesday)	Experts' Reports and Pre-Filed Evidence
14	<u>November 27 (Wednesday)</u>	<u>Board's Financial Consultant Report filed</u>
15		
16	December 2013	
17	December 9 (Monday)	RFIs on Experts Reports filed
18	December 20 (Friday)	Responses to RFIs on Experts' Reports filed
19		
20	January 2014	
21	January 8 (Wednesday)	Reply evidence from Hydro
22	January 10 (Friday)	Filing of issues for settlement discussions
23	January 15 (Wednesday)	Negotiation Period commences
24	January 31 (Friday)	Filing of settlement agreement, issues lists and witness lists, and proposed order of witnesses
25		Motions Day (if required)
26		
27		
28	February 2014	
29	February 3 (Monday)	Final deadline for filing any outstanding information
30		
31	February 11 (Tuesday)	Public Hearing begins

1
2
3 **Rules of Procedure**

4 **Public Record**

- 5 1. Unless otherwise directed by the Board, all documents filed with respect to this
6 proceeding shall be placed on the public record.
7
8 2. A party may apply to the Board requesting that a document or information filed with the
9 Board be considered confidential and should not be released or released subject to
10 conditions set by the Board.
11
12 3. The Board is bound by the provisions of the *Access to Information and Protection of*
13 *Privacy Act, RSNL 2002 Chapter A-1.1.* Documents which are determined by the Board
14 to be confidential will be dealt with in accordance with the provisions of this legislation.
15

16 **Filing of Documents**

- 17
18 4. (1) All documents shall be filed with the Board Secretary.
19
20 (2) Documents may be filed by:
21
22 (a) hand delivery;
23 (b) courier service;
24 (c) registered mail;
25 (d) electronic mail; or
26 (e) facsimile.
27
28 (3) Filing is accomplished on the date when the Board first receives the submission,
29 whether electronically or in paper format.
30
31 (4) When documents are filed electronically, paper copies must be filed within 24
32 hours or the next business day. For those parties located outside of the St. John's
33 area, the Board will allow 3 business days for the filing of paper copies.
34
35 (5) All documents filed according to the scheduled dates shall be filed no later than
36 3:00 p.m. on the date stipulated. Documents filed after this time or on a Board
37 holiday shall be considered as filed on the next Board business day.
38
39 (6) All documents will have the date and time recorded when received by the Board.
40

41 **Form of Documents**

- 42
43 5. (1) Paper and electronic filings are considered official public record in this
44 proceeding.

- 1 (2) All paper documents filed shall be prepared as follows:
2
3 (a) typed, written or printed on 8½" X 11" letter size paper, 3-hole punched;
4 (b) single or double sided;
5 (c) each page shall be numbered; and
6 (d) where reasonable, each line shall be numbered.
7
8 (3) All documents filed electronically must be searchable and allow for key-word
9 searching. This will require documents to be scanned with optical character
10 recognition (OCR) or converted to OCR before they are filed with the Board.
11
12 (4) The electronic copy must be an exact copy of the original signed document,
13 including covering letters.
14
15 (5) Upon request the Board may consider filing exceptions regarding the form of
16 documents.
17

18 **Revisions to Documents**

- 19
20 6. (1) A party may revise any document to correct errors or to provide new information
21 before the completion of the hearing.
22
23 (2) Where all or any part of a document is revised, each revision shall indicate the
24 page(s) revised, the line(s) revised, the number of the revision (i.e. 1st revision),
25 and the date of the revision.
26
27 (3) Where all or any part of a document is revised, the document must be re-filed
28 electronically in its entirety; however, only the revised pages are required to be
29 filed in paper copy.
30
31 (4) Where a revision is made to a document the Board may, upon its own motion or
32 upon the request of another party, after receiving submissions of the parties, make
33 any order in respect of the revisions.
34

35 **Number of Paper Copies to be Filed**

- 36
37 7. Unless otherwise ordered by the Board, a party filing a document with the Board shall:
38
39 (a) file with the Board Secretary one (1) original signed copy of each
40 document;
41 (b) provide twelve (12) copies of the original document to the Board; and
42 (c) serve one (1) copy of each document on the other parties.

1 **Charge for Copies**
2

- 3 8. (1) The Board will provide a copy of any document authored by the Board or its
4 consultants at no charge.
5
6 (2) Copies of documents originating or authored by a party should be requested
7 directly from the party.
8
9 (3) One (1) copy of the transcript for each day of the hearing will be provided to each
10 party at no cost.
11
12 (4) Copies of the Legislation can be obtained from the Queen's Printer, viewed at the
13 Board's Office, or viewed on the Board's Website at www.pub.nl.ca.
14
15 (5) The Board may charge copy fees for the cost associated with the reproduction of
16 any other document requested in accordance with the applicable legislation.
17

18 **Information Requests**
19

- 20 9. (1) The parties shall observe the dates set for the issuance and filing of requests for
21 information ("RFIs") and dates for responses to RFIs.
22
23 (2) RFIs shall be:
24
25 (a) labeled with the initials of the party issuing the RFI;
26 (b) designated so as to provide notice of to whom the RFI is directed
27 (i.e. PUB-NP-001; PUB-CA-001); and
28 (c) numbered consecutively with whole numbers and should not contain sub-
29 numbering such as a, b, c, or i, ii, iii.
30
31 (3) Responses to RFIs shall be:
32
33 (a) filed as individual pages; and
34 (b) numbered on the top right-hand corner of each page with the RFI number
35 and the page number. If the response has an attachment, the RFI number
36 and the attachment number as well as the number of pages should be
37 included on the top right-hand corner of each page.
38
39 (4) RFIs, and responses to RFIs, shall constitute part of the record in the proceeding
40 and will be considered to be evidence in the proceeding.
41
42 (5) Where directed by the Board, a party providing a response to an RFI shall make a
43 witness or witnesses available for cross-examination to speak to the information
44 provided in the response.

1 **Service of Documents**

2
3 10. The Board may direct to whom service shall be provided.

4
5 **Public Viewing**

6
7 11. Interested persons may view any or all documents filed in this proceeding, except
8 confidential or private information, on the Board's website (www.pub.nl.ca), or at the
9 Board's office by contacting the Board Secretary.

10
11 **Time**

12
13 12. The parties shall observe the schedule for the proceeding established by the Board as
14 amended from time to time.

15
16 13. All references to time shall be clear days, that is the first and the last day shall be
17 excluded.

18
19 **Motions**

20
21 14. (1) Motions must be filed in writing with the Board and served upon the other parties
22 two (2) days before the Motions Day.

23
24 (2) The responding parties must file with the Board and serve upon the other parties
25 response briefs one day before the Motions Day.

26
27 **Procedures for Presentation of Evidence and Cross-examination of Witnesses**

28
29 15. (1) Pre-filed testimony should be adopted as evidence by the witness in sworn
30 testimony.

31
32 (2) Direct examination should be limited to matters set out in the witness pre-filed
33 testimony. The Board may allow a witness to provide supplementary evidence or
34 may restrict direct testimony where it is irrelevant, redundant or not helpful to the
35 Board in making its decision.

36
37 (3) Direct evidence may be presented by way of a panel of witnesses where prior
38 notice has been given to the Board Secretary and the parties. When examining a
39 panel of witnesses Counsel shall put each question to a particular witness on the
40 panel. Co-counsel may examine the same witness, or panel of witnesses, provided
41 notice is given to the Board Secretary and the parties prior to the start of the cross-
42 examination of the witness.

43
44 (4) Co-counsel should not examine the same witness on the same subject matter.

1 (5) The party calling the witness shall be afforded an opportunity for re-direct
2 examination and all parties shall have an opportunity to pose questions in relation
3 to new matters arising from questions of the Board.
4

5 (6) A party wishing to examine or cross-examine a witness on a document that is not:
6

- 7 (a) already part of the record of the proceeding;
8 (b) a portion of a transcript of the witness' own prior testimony; or
9 (c) an Order of the Board;

10 shall file one (1) original and twelve (12) copies of the document with the Board
11 and serve one (1) copy on each party by 3:00 p.m. on the last business day before
12 the examination or cross-examination is to take place.
13

14
15 (7) Where the witness adopts the document it will be marked as an exhibit to his
16 testimony.

17
18 (8) Where a document was not adopted as part of the witness' testimony the
19 document may be:

- 20
21 a. if the parties consent, entered as a consent exhibit; or
22 b. entered as an information item.
23

24 **Other**

25
26 16. Unless otherwise ordered by the Board, the rules of procedure set out in *Regulation 39/96*
27 apply in this proceeding to the extent that they are consistent with these Rules.
28

29 **Exceptions**

30
31 17. The Board may dispense with, vary or supplement any provisions of these Rules on
32 those terms the Board considers necessary.