

December 10, 2014

VIA COURIER and ELECTRONIC MAIL

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

Attention: Ms. G. Cheryl Blundon
Board Secretary

Dear Ms. Blundon:


Re: Newfoundland and Labrador Hydro's Application for an Interim Order for the
Recovery of Hydro's 2014 Forecast Revenue Deficiency

Enclosed are the original and twelve (12) copies of the Written Submissions of Vale Newfoundland & Labrador Limited in respect of the above-noted Application.

We have provided a copy of this correspondence together with enclosures to all concerned parties.

We trust you will find the enclosed satisfactory.

Yours faithfully,



Thomas J. O'Reilly, Q.C.

TJOR/js
Encl.

c.c. Geoffrey P. Young, Senior Legal Counsel, Newfoundland & Labrador Hydro
Gerard Hayes, Senior Legal Counsel, Newfoundland Power
Thomas J. Johnson, O'Dea Earle
Paul Coxworthy, Stewart McKelvey
Edward M. Hearn, Q.C., Miller & Hearn
Nancy Kleer, Olthuis, Leer, Townshend LLP
Yvonne Jones, MP Labrador

Thomas J. O'Reilly, Q.C. | Partner

Direct 709 570 5320 Main 709 738 7800 Fax 709 726 3070 Email toreilly@coxandpalmer.com
Suite 1000 Scotia Centre 235 Water Street St. John's NL A1C 1B6

IN THE MATTER OF the *Public Utilities Act*,
R.S.N.L. 1990, Chapter P-47 (the Act)

AND IN THE MATTER OF a General Rate Application (the Amended Application) by Newfoundland and Labrador Hydro for approvals of, under Sections 70 and 75 of the Act, changes in the rates to be charged for the supply of power and energy to Newfoundland Power, Rural Customers and Industrial Customers; and under Section 71 of the Act, changes in the Rules and Regulations applicable to the supply of electricity to Rural Customers.

AND IN THE MATTER OF an Application for an Interim Order for the recovery of Hydro's 2014 forecast revenue deficiency (2014 Interim Cost Recovery Application).

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

1 WRITTEN SUBMISSIONS OF VALE NEWFOUNDLAND & LABRADOR LIMITED

2 The following are the submissions of Vale Newfoundland and Labrador Limited ("Vale")
3 in relation to Newfoundland and Labrador Hydro's ("Hydro") Second Application before
4 the Board seeking recovery of Hydro's 2014 revenue deficiency.

5 While Vale is prepared to accept that Hydro may have incurred a revenue deficiency in
6 2014 and that a portion of that deficiency may be subject to recovery from Hydro's
7 customers, Vale is concerned that the amount of the revenue deficiency has not been
8 tested and may include amounts that should not be recoverable from rate payers.

1 In its Application, Hydro is seeking an interim transfer of \$45.9 million from the RSP's
2 Hydraulic Variation Account balance to Hydro revenue. Vale questions whether the
3 requested interim transfer from the RSP (i) is good regulatory practice and (ii) being
4 only interim, whether the requested transfer from the RSP achieves the stated goal for
5 Hydro as the transfer provides no certainty that the Board will ultimately accept that
6 the amount requested accurately reflects Hydro's recoverable revenue shortfall. A
7 further concern with this request comes from the fact that the revenue shortfall is
8 comprised of a shortfall from all of Hydro's customer groups yet the requested transfer
9 is to be taken from a fund owed to only a subset of Hydro's customer groups.

10 Regardless of from whom the revenue deficiency is collected, Vale has concerns as to
11 whether the amount requested actually reflects Hydro's recoverable revenue shortfall
12 to date as Hydro's evidence has not been tested through the RFI process or a hearing.
13 For example, Hydro's "deficiency" includes a rate of return on equity of 8.8%
14 (Application, Appendix A, Schedule 1.1, pg. 2) almost double Hydro's existing approved
15 return on equity of 4.465% (GRA RFI IC-NLH-002). The 2014 return on equity included
16 in the 2014 revenue deficiency would be reduced from \$35,099,439 (Application,
17 Appendix A, Schedule 1.1, pg. 1) to \$17,758,523 if the rate of return on equity was
18 reduced to the existing approved rate of 4.465%. This alone results in a
19 corresponding drop in Hydro's 2014 revenue deficiency from \$45.9 million to \$28.1
20 million.

21 To support an entitlement to a rate of return on equity of 8.8%, Hydro has previously
22 relied on OC2009-063, which directed the Board "for all future General Rate

1 Applications” to calculate Hydro’s return on equity based on the same target most
2 recently set for Newfoundland Power. Vale submits that Hydro’s Application to recover
3 its stated 2014 revenue deficiency is brought coincident with its 2013 Amended
4 General Rate Application (the “GRA”) but is not itself a general rate application. As
5 the revenue deficiency Application is not a general rate application, Vale submits that
6 OC2009-063 does not apply and any interim or final revenue deficiency recovery relief
7 should be based on a return on equity of 4.465%.

8 In addition to Vale’s concerns with the return on equity used to calculate the revenue
9 deficiency, it is not clear from the Application whether Hydro is including the costs
10 associated with the January 2014 outages in its 2014 revenue requirement. The costs
11 associated with the outages include, but are not limited to, power purchases, overtime
12 costs associated with the outages and overtime costs associated with expedited
13 preventive maintenance completed as a result of the outages. These costs have to be
14 tested for prudence by the Board prior to Hydro being permitted to recover them from
15 its customers.

16 For the reasons discussed above, Vale does not believe that Hydro should receive the
17 Order requested in its Application. Hydro should be required to prove all components
18 of its 2014 revenue shortfall coincident with its GRA. Once the actual revenue
19 shortfall is determined, the parties should then have an opportunity to make
20 submissions with respect to the rate of return that should be applied, the percentage
21 of the shortfall that should be recoverable, the percentage of the shortfall that should

1 be recovered from each customer group and how the shortfall should be recovered
2 (i.e. by a transfer from the RSP Hydraulic Variation Account or through other means).

3 The Board has asked that the parties comment on the following:

4 What are the implications or issues which should be considered in
5 relation to an Order of the Board which approves only the creation
6 of the deferral account and the transfer of the amount of \$45.9
7 million from Hydro's income statement to the deferral account and
8 denies all of Hydro's other requests. For clarity, there would be no
9 approval at this time of Hydro's request i) to use the 2014 Test Year
10 Cost of Service Study as a basis for allocating the revenue
11 deficiency, ii) to use the credit balance in the RSP Hydraulic
12 Variation Account balance at December 31, 2014 to provide
13 recovery, and iii) to revise Section A of the RSP Rules to segregate
14 the 2014 year-end balance in the RSP Variation Account.

15 As the scenario provided by the Board does not appear to endorse the stated amount
16 of \$45.9 million as an accurate calculation of Hydro's recoverable revenue deficiency
17 and leaves the balance in the RSP Hydraulic Variation Account intact, Vale is not
18 concerned that such an Order would create an expectation that its mere creation
19 would give rise to a presumption of entitlement by Hydro.

20 Issue 3: Costs

21 Vale requests that the Board award Vale its costs on the within Application on the
22 same basis as any award of costs made in favor of the Consumer Advocate and/or the
23 Industrial Customer Group. An award of costs in favor of Vale is justified based on the
24 fact that:

1 1. Vale's energy consumption is steadily increasing with time and, when
2 Vale's Long Harbour processing facility completes production ramp-up, Vale will
3 be the single largest industrial customer of Hydro. As such, Vale had a
4 significant interest in participating in the within Application; and

5 2. Vale's interests in the within Application are discreet from the interests
6 of the Industrial Customer Group. In particular, Vale and the Industrial
7 Customer group may not be aligned on the manner of, *inter alia*, the drawdown
8 of the Industrial Customer RSP Surplus.

9 The within Application was made necessary by the complexity of and delays in the
10 general rate application process as a result of the fact that Hydro elected to allow
11 seven years between GRAs. For this reason, Vale submits that all or a significant
12 percentage of the costs of the within Application should be borne by Hydro and should
13 not form part of Hydro's rate base.

DATED at St. John's, in the Province of Newfoundland and Labrador, this 16th day
of December, 2014.

COX & PALMER

Per: _____
Thomas J. O'Reilly, Q.C.

- TO: The Board of Commissioners of Public Utilities
Suite E210, Prince Charles Building
120 Torbay Road
P. O. Box 21040
St. John's, NL A1A 5B2
Attention: Board Secretary
- TO: Newfoundland & Labrador Hydro
P. O. Box 12400
500 Columbus Drive
St. John's, NL A1B 4K7
Attention: Geoffrey P. Young
Senior Legal Counsel
- TO: Newfoundland Power
P. O. Box 8910
55 Kenmount Road
St. John's, NL A1B 3P6
Attention: Gerard Hayes
Senior Legal Counsel
- TO: Thomas J. Johnson, Consumer Advocate
O'Dea, Earle
323 Duckworth Street
P. O. Box 5955, Stn. C
St. John's, NL A1C 5X4
- TO: Corner Brook Pulp and Paper Limited,
North Atlantic Refining Limited
and Teck Resources Limited
Stewart McKelvey
PO Box 5038
11th Floor, Cabot Place
100 New Gower Street
St. John's, NL A1C 5V3
Attention: Paul Coxworthy
- TO: Miller & Hearn
450 Avalon Drive
P.O. Box 129
Labrador City, NL A2V 2K3
Attention: Edward M. Hearn, Q.C.

TO: Olthuis, Leer, Townshend LLP
229 College Street
Suite 312
Toronto, ON M5T 1R4
Attention: Nancy Kleer

TO: House of Commons
Confederation Building
Room 682
Ottawa, ON K1A 0A6
Attention: Yvonne Jones, MP Labrador