

1 Q. Provide the rationale, citing precedents, justifying the approval of the proposal in  
2 the Interim Rates Application to make only some of the rate changes set out in the  
3 General Rate Application.

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6 A. The Board's power, under Section 75 of the Public Utilities Act (PUA), to approve  
7 rates by way of an interim order is discretionary. In carrying out that power, the  
8 Board must follow Section 73 of the PUA and Section 3 of the Electrical Power  
9 Control Act, 1994 (EPCA). Subparagraph 3(a)(i) of the EPCA states:

10           **3.** It is declared to be the policy of the province that

11           (a) the rates to be charged, either generally or under specific  
12           contracts, for the supply of power within the province

13           (i) should be reasonable and not unjustly discriminatory,

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16 Subsection 73(1) of the PUA states:

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18           **73.** (1) All tolls, rates and charges shall always, under  
19           substantially similar circumstances and conditions in respect of  
20           service of the same description, be charged equally to all persons  
21           and at the same rate, and the board may by regulation declare what  
22           shall constitute substantially similar circumstances and conditions.

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24 By its nature, an application for interim rates is a request to the Board to essentially  
25 make an immediate order before the full merits of the application can be  
26 considered because doing so is reasonable in the practical circumstances facing the  
27 applicant, the parties and the Board.

1 Subsection 75 (1) of the PUA reads:  
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3 **75.** (1) The board may make an interim order unilaterally and  
4 without public hearing or notice, approving with or without  
5 modification, a schedule of rates, tolls and charges submitted by a  
6 public utility, upon the terms and conditions that it may decide.

7 (2) The schedule of rates, tolls and charges approved under  
8 subsection (1) are the only lawful rates, tolls and charges of the  
9 public utility until a final order is made by the board under section  
10 70.

11 (3) The board may order that the excess revenue that was  
12 earned as a result of an interim order made under subsection (1)  
13 and not confirmed by the board be

14 (a) refunded to the customers of the public utility; or

15 (b) placed in a reserve fund for the purpose that may be  
16 approved by the board.

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18 From the foregoing, the Board is enabled and guided by its governing statutes to  
19 make interim orders where doing so is reasonable and not unjustly discriminatory.  
20 Further, it should charge the same rates to those in respect of the same service.  
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22 Hydro has applied for interim rates for all customers whose rates are based upon  
23 costs for the Island Interconnected System; this includes Hydro's Isolated Rural  
24 Customers and customers served from the L'Anse au Loup system. Hydro believes  
25 it is proper and reasonable for the Board to exercise its discretionary power under  
26 Section 75 of the PUA to approve rates, on an interim basis, for those customers  
27 based upon the information before the Board at present. Hydro has made this  
28 judgment based, in part, upon customer impacts. The vast majority of those  
29 customers will receive a rate decrease flowing from this interim rates application;

1           meanwhile approving the application will provide Hydro with the opportunity to  
2           achieve a rate of return in 2014 approaching that directed by Government.

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4           On the other hand, customers served from the Labrador Interconnected System, for  
5           reasons that are specific to the cost structures in that system, are facing relatively  
6           larger increases (in proportion to their present rates) and Hydro felt that the Board  
7           would be less inclined to exercise its discretion to granting interim rates for  
8           customers served from this system unless and until a more thorough hearing was  
9           held.

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11          In Hydro's view, excluding Labrador Interconnected Customers from this Interim  
12          Rates Application is in compliance with Sections 3 of the EPCA and with Section 73  
13          of the PUA. That is, this approach is neither unreasonable nor unjustly  
14          discriminatory, nor does it result in rates that apply to a class of customers that  
15          differ from other customers in that class.

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17          There have been occasions in the past where the Board has treated rate increases  
18          to be paid by a customer class or a group of customers served under a cost of  
19          service in a particular manner that differs from the treatment afforded other  
20          customer classes or groups due to, among other things, the impact of those rate  
21          changes. An example of this occurred where rate changes were phased-in for some  
22          customer groups under a cost of service instead of bringing that customer group to  
23          full cost recovery on an immediate basis. This occurred with customers served from  
24          the Labrador Interconnected System when the Board determined that all customers  
25          served from this system would have their rates set under a single cost of service

1 but, due to the rate impacts upon some of these customers, the rate changes  
2 needed to affect uniform rates for this group were phased-in over a period of time.<sup>1</sup>

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4 While this differential treatment of customers did not arise in the context of an  
5 application for an interim rates order, it is analogous to the present circumstance  
6 and, at root, it was also a temporary departure, or delay, from full cost recovery  
7 from one customer group due to a rate impact consideration.

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<sup>1</sup> P.U. 14(2004), see especially at pages 104-107, page 159 (item 44) and page 165 (item 6)