

HAND DELIVERED

October 14, 2015

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

Attention: G. Cheryl Blundon  
Director of Corporate Services  
and Board Secretary

Ladies & Gentlemen:

**Re: Newfoundland and Labrador Hydro's 2016 Capital Budget Application – Brief of Argument**

Enclosed are the original and 12 copies of Newfoundland Power's Brief of Argument.

For convenience, the Brief of Argument is provided on three-hole punched paper.

A copy of this letter, together with enclosure, has been forwarded directly to the parties listed below.

If you have any questions regarding the enclosed, please contact the undersigned at your convenience.

Yours very truly,



Gerard M. Hayes  
Senior Counsel

Board of Commissioners  
of Public Utilities  
October 14, 2015  
Page 2 of 2

Enclosures

c. Geoffrey Young  
Newfoundland and Labrador Hydro

Paul Coxworthy  
Stewart McKelvey

Thomas Johnson  
O'Dea Earle Law Offices

Dean Porter  
Poole Althouse



**IN THE MATTER OF** the *Public Utilities Act*, (the “Act”); and

**IN THE MATTER OF** an Application by Newfoundland and Labrador Hydro for an Order approving: (1) its 2016 capital budget pursuant to s.41(1) of the Act; (2) its 2016 capital purchases, and construction projects in excess of \$50,000 pursuant to s.41 (3) (a) of the Act; (3) its leases in excess of \$5,000 pursuant to s.41 (3) (b) of the Act; and (4) its estimated contributions in aid of construction for 2016 pursuant to s.41 (5) of the Act..

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**BRIEF OF ARGUMENT  
OF  
NEWFOUNDLAND POWER INC.**

**October 14, 2015**

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**CONTENTS**

	<b>Page</b>
1.0 INTRODUCTION .....	1
2.0 LEGISLATIVE FRAMEWORK.....	1
3.0 2016 CAPITAL BUDGET .....	2
3.1 General.....	2
3.2 Supply and Install 100 MW (Nominal) of Combustion Turbine Generation .....	2
3.3 Upgrade Transmission Line Corridor, Bay d’Espoir to Western Avalon.....	5

1   **1.0   INTRODUCTION**

2   Newfoundland and Labrador Hydro’s (“Hydro”) 2016 Capital Budget Application (the  
3   “Application”) was filed with the Board of Commissioners of Public Utilities (the “Board”) on  
4   July 31<sup>st</sup> 2015. Newfoundland Power filed a Notice of Intention to Participate in the hearing of  
5   the Application on August 18<sup>th</sup>, 2015.

6

7   This is Newfoundland Power’s submission with respect to the Application.

8

9   **2.0   LEGISLATIVE FRAMEWORK**

10   Section 37(1) of the *Public Utilities Act* states that a public utility shall provide service and  
11   facilities that are reasonably safe and adequate and just and reasonable. Section 37(1) is a  
12   cornerstone of Hydro’s and Newfoundland Power’s obligation to serve their customers.

13

14   Section 3(b) of the *Electrical Power Control Act, 1994* states that all sources and facilities for the  
15   production, transmission, and distribution of power in the province should be managed and  
16   operated in a manner that would result in:

- 17           (i.)   the most efficient production, transmission, and distribution of power,  
18           (ii.)   consumers in the province having equitable access to an adequate supply of  
19                   power, and  
20           (iii.)  power being delivered to customers in the province at the lowest possible cost  
21                   consistent with reliable service.

22

23   Section 3(b) does not create a hierarchy between these three principles; rather, each is equally  
24   important in the management and operation of electrical facilities in the province.

1    **3.0    2016 CAPITAL BUDGET**

2    **3.1    General**

3    The principal question for the Board in its consideration of this proceeding is whether Hydro's  
4    proposed capital expenditures as described in the Application are reasonably required for Hydro  
5    to meet its statutory obligation to provide reasonably safe and adequate, least cost service to its  
6    customers, including Newfoundland Power.

7

8    Newfoundland Power's submission on Hydro's 2016 Capital Budget Application focuses on the  
9    reporting and execution of 2 previously approved capital projects, the *Supply and Install 100*  
10   *MW (Nominal) of Combustion Turbine Generation* project and the *Upgrade Transmission Line*  
11   *Corridor, Bay d'Espoir to Western Avalon* project.

12

13   **3.2    Supply and Install 100 MW (Nominal) of Combustion Turbine Generation**

14    ***Background***

15    Hydro's application for approval of a capital expenditure of \$119.0 million for the purchase and  
16    installation of a 100 MW (nominal) combustion turbine at Holyrood (the "Holyrood CT  
17    Project") was submitted to the Board on April 10, 2014.

18    Reference:    *Application for Approval of a Capital Project to Supply and Install 100 MW*  
19                    *(Nominal) of Combustion Turbine Generation, April 10, 2014.*  
20

21    The Board approved the Holyrood CT Project on May 7, 2014 with the issues of costs and cost  
22    recovery to be determined by the Board in a future Order.

23    Reference:    Order No. P.U. 16 (2014)

1 The project report accompanying the application for approval of the Holyrood CT Project  
2 indicated cost estimates for the project of approximately \$118.9 million in 2014 and \$54.0  
3 thousand in 2015.

4 Reference: *Supply and Install 100 MW (Nominal) of Combustion Turbine Generation* report,  
5 page 35.  
6

7 The *2015 Capital Expenditures Overview* submitted with the Application outlines total forecast  
8 expenditures on the Holyrood CT Project of approximately \$129.5 million to the end of 2015.

9 This is a forecast expenditure variance of approximately \$10.5 million over the original budget  
10 estimate.

11 Reference: Application, Volume I, Section I, page I-16.  
12

13 Hydro has explained the \$10.5 million expenditure variance as being attributed mainly to a  
14 higher than budgeted cost for the turbine building enclosure. The higher cost is attributed to: (1)  
15 safety considerations associated with constructing the building in parallel with and around other  
16 work; (2) a phased approach to building construction extending the construction phase of the  
17 building and; (3) increased building complexity associated, in particular, with the HVAC and fire  
18 protection systems.

19 Reference: Response to Request for Information NP-NLH-017.  
20

21 The *2016 - 2020 Capital Plan* indicates that “full project completion” for the Holyrood CT  
22 Project will be achieved in 2015.

23 Reference: Application, Volume I, *2016 - 2020 Capital Plan*, page 6.

1 In response to a Request for Information, Hydro provided a list of milestones, but did not provide  
2 a specific date for full project completion for the Holyrood CT Project.

3 Reference: Response to Request for Information NP-NLH-001.

4

5 ***Submission***

6 The Capital Budget Application Guidelines require detailed explanations for expenditure  
7 variances from the approved expenditures of more than \$100,000 and 10%.

8 Reference: Capital Budget Application Guidelines, Section C.1, page 11 of 11.

9

10 Although it is not in excess of the 10% reporting threshold, the current estimated variance of  
11 \$10.5 million above the approved expenditure for the Holyrood CT Project is significant.

12

13 Due to the limited information provided by Hydro with respect to the \$10.5 million capital  
14 expenditure variance, and uncertainty on the record as to when the Holyrood CT Project will be  
15 fully completed, Newfoundland Power submits it is not clear whether the projected capital  
16 expenditure of \$129.5 million on the Holyrood CT Project is reasonable.

17

18 Newfoundland Power submits that Hydro has not demonstrated that its projected expenditure on  
19 the Holyrood CT Project is consistent with the least cost provision of service to Hydro's  
20 customers.

21

22 The Holyrood CT Project is a subject of the upcoming prudency review associated with Hydro's  
23 2013 General Rate Application. It is respectfully submitted that, unless better information and  
24 justification is provided by Hydro during the prudency review, Hydro should be required, prior



1 to approval of inclusion of the Holyrood CT Project assets in Hydro’s rate base, to provide the  
2 Board with a detailed report of all costs of the Holyrood CT Project and detailed justification for  
3 all variances from the approved expenditures.

4

### 5 **3.3 Upgrade Transmission Line Corridor, Bay d’Espoir to Western Avalon**

#### 6 ***Background***

7 Hydro’s application for approval of a capital expenditure of \$291.7 million for the construction  
8 of a new 230 kV transmission line, approximately 188 km in length, between Bay d'Espoir and  
9 Western Avalon Terminal Stations (the “TL267 Project”) was submitted to the Board on April  
10 30, 2014.

11 Reference: *Application for Approval of the Upgrade of the Transmission Line Corridor from*  
12 *Bay d’Espoir to Western Avalon, April 30, 2014.*  
13

14 The Board approved Hydro’s application on December 12, 2014, with the requirement that  
15 Hydro file, with each capital budget application filed until the completion of the TL267 Project,  
16 a report on the construction of the 230 kV transmission line addressing the work progress, the  
17 expenditure and budget status, and an explanation for any deviations from the project scope and  
18 budget.

19 Reference: Order No. P.U. 53 (2014).  
20

21 Hydro’s first report on the construction of the TL267 Project was filed with the Application as  
22 part of the *2016 - 2020 Capital Plan*.

23 Reference: Application, Volume I, *2016 - 2020 Capital Plan*, Appendix B.

1 The 2016 - 2020 Capital Plan states that “[g]iven the synergies between the execution of the TL  
2 267 Project and the Lower Churchill Project, the Lower Churchill Management Corporation will  
3 provide all project management, engineering and construction management services for this  
4 Project.”

5 Reference: Application, Volume I, 2016 - 2020 Capital Plan, Appendix B, page B5.

6

7 Hydro estimates the cost of having the Lower Churchill Management Corporation, a Nalcor  
8 affiliate, provide all project management, engineering and construction management services for  
9 the TL267 Project at \$23.0 million.

10 Reference: Response to Request for Information NP-NLH-002.

11

12 Hydro is undertaking a similar, but smaller, transmission line project over a similar time period  
13 using its internal project management and engineering resources, supplemented by support from  
14 external consultants.

15 Reference: *Soldiers Pond to Hardwoods Corridor Upgrade*, Application, Volume II, Tab 9,  
16 page 36; Response to Request for Information NP-NLH-016.

17

18 Hydro did not issue a public tender to obtain competitive bids for the project management,  
19 engineering and construction management services for the TL267 Project.

20 Reference: Response to Request for Information NP-NLH-004.

21

22 It does not appear that Hydro has completed an analysis confirming that provision of all project  
23 management, engineering and construction management services for the TL267 Project by the  
24 Lower Churchill Management Corporation will result in the project being completed at the

1 lowest possible cost consistent with safe, reliable electric service.

2 Reference: Response to Request for Information NP-NLH-003.

3

4 ***Submission***

5 Due to the limited information provided by Hydro with respect to its decision to assign the  
6 project management, engineering and construction management services for the TL267 Project  
7 to a Nalcor affiliate, Newfoundland Power submits it is not clear that the decision to do so is  
8 consistent with providing safe, reliable electric service at the lowest possible cost.

9

10 In Newfoundland Power's submission, Hydro has not shown that it has considered all reasonable  
11 alternatives for project management, engineering and construction management services for the  
12 TL267 Project.

13

14 Newfoundland Power respectfully submits that Hydro should be required, prior to approval of  
15 inclusion of the TL267 Project assets in Hydro's rate base, to provide the Board with a detailed  
16 analysis demonstrating that having the project management, engineering and construction  
17 management services for the TL267 Project completed by a Nalcor affiliate is consistent with the  
18 least cost provision of service to Hydro's customers.

**RESPECTFULLY SUBMITTED** at St. John's, Newfoundland and Labrador, this 14<sup>th</sup> day of  
October, 2015.

A handwritten signature in black ink, appearing to be 'D. J. ...', is written over the company name.

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