

July 29, 2015

**VIA COURIER and ELECTRONIC MAIL**

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

Dear Ms. Blundon:

**RE: 2015 Cost Deferral Application of Newfoundland and Labrador Hydro**

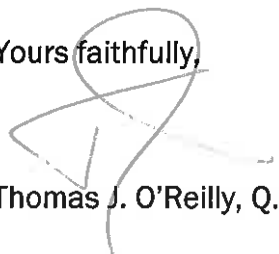
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Enclosed are the original and twelve (12) copies of Vale's Written Submissions with respect to the above-noted Application.

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, Newfoundland & Labrador Hydro  
Gerard Hayes, Newfoundland Power  
Thomas J. Johnson, O'Dea, Earle  
Paul Coxworthy, Stewart McKelvey  
Dennis Browne, Q.C., Browne Fitzgerald Morgan & Avis  
Nancy Kleer, Olthuis, Leer, Townshend LLP  
Yvonne Jones, MP Labrador  
Genevieve M. Dawson, Benson Buffett

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

**AND IN THE MATTER OF** a general rate  
application by Newfoundland and Labrador  
Hydro to establish customer electricity rates  
for 2015; and

**AND IN THE MATTER OF** an application  
Newfoundland and Labrador Hydro for  
approval of a proposed cost deferral account  
to reduce Hydro's net income deficiency for  
2015 until the Board tests 2015 Test Year  
costs (the "2015 Cost Deferral 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") Application seeking a \$20  
4        million deferral account to offset Hydro's stated 2015 revenue deficiency.

5

6        In its Application, Hydro is seeking the creation of a \$20 million deferral account to  
7        allow Hydro to reduce its 2015 revenue deficiency. Vale questions whether the  
8        requested relief achieves the stated goal for Hydro as the creation of the deferral  
9        account provides no certainty that the Board will ultimately accept that the amount  
10       requested accurately reflects Hydro's recoverable revenue shortfall. In addition, while  
11       Vale is prepared to accept that Hydro may incur a revenue deficiency in 2015 and that  
12       a portion of that deficiency may be subject to recovery from Hydro's customers, Vale is  
13       concerned that the amount of the revenue deficiency has not been tested and may

1 include amounts that should not be recoverable from rate payers. In particular, Vale  
2 questions whether Hydro's stated 2015 revenue deficiency accurately reflects its  
3 actual recoverable year to date revenue shortfall as:

4 (i) Hydro's evidence has not been tested at a hearing;

5 (ii) Hydro's 'deficiency' includes a rate of return on equity of 8.8%<sup>1</sup>, which is  
6 almost double Hydro's existing approved rate of return on equity of  
7 4.465%.<sup>2</sup> The 2015 return on equity Hydro is entitled to is reduced by  
8 \$16,683,604 from \$33,867,524<sup>3</sup> to \$17,183,920<sup>4</sup> if the rate of return  
9 on equity is reduced from 8.8% to the current approved rate of 4.465%.  
10 Hydro's position is that OC2009-063, which directed the Board "for all  
11 future General Rate Applications" to calculate Hydro's return on equity  
12 based on the same target most recently set for Newfoundland Power,  
13 entitles Hydro to a rate of return on equity of 8.8%. Vale submits that  
14 Hydro's Application to recover its stated 2015 revenue deficiency is  
15 brought coincident with its 2013 Amended General Rate Application but  
16 is not itself a general rate application. As the revenue deficiency  
17 Application is not a general rate application, Vale submits that OC2009-  
18 063 does not apply and any interim or final revenue deficiency recovery  
19 relief should be based on a return on equity of 4.465%; and  
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<sup>1</sup> Source: 2015 Revenue Deficiency Application, statement 13, page 4 illustrates that Hydro is basing this deficiency on the 2015 test year. The Amended GRA, exhibit 13, 2015 Test Year COS, sch. 1.1, page 2 of 2, line 16, col. 2 shows that the ROE is 8.8%.

<sup>2</sup> GRA RFI IC-NLH-002.

<sup>3</sup> Source: Amended GRA, exhibit 13, 2015 Test Year COS, sch. 1.1, page 2 of 2, line 22, col. 2

<sup>4</sup> Calculation:  $33,867,524 * 4.465 / 8.8 = 17,183,920$ .

1 (iii) Hydro's stated revenue deficiency includes costs that Liberty Consulting  
2 has found were imprudently incurred by Hydro.<sup>5</sup>

3  
4 Vale submits that these factors will need to be accounted for when the Board  
5 determines whether Hydro has sustained a recoverable 2015 revenue deficiency and,  
6 if so, the proper recoverable amount of that deficiency. The importance of carefully  
7 scrutinizing Hydro's recoverable deficiency is magnified by the fact that the recovery of  
8 past revenue shortfalls through deferral accounts to be repaid by future customers  
9 creates the potential for intergenerational inequity.

10

11 While Vale is concerned that Hydro has overstated its recoverable 2015 revenue  
12 deficiency and that the \$20 million requested could exceed the amount that Hydro is  
13 actually entitled to recover, Vale's concerns are alleviated by the fact that the creation  
14 of a deferral account does not create an entitlement to recovery. Therefore, on the  
15 condition that its agreement to the remedy sought is not an endorsement of the  
16 accuracy of Hydro's calculation of its recoverable revenue deficiency and the Order  
17 requested does not give rise to a presumption of entitlement by Hydro to a 2015  
18 revenue deficiency deferral account at the end of the GRA, Vale does not object to the  
19 Order requested.

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

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<sup>5</sup> The Liberty Consulting Group: Prudence Review of Newfoundland and Labrador Hydro Decisions and Actions Final Report dated July 6, 2015.

1 Industrial Customer Group. An award of costs in favor of Vale is justified based on the  
2 fact that:

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

7 2. Vale's interests in the within Application are discreet from the interests  
8 of the Industrial Customer Group. In particular, Vale and the Industrial  
9 Customer group may not be aligned on manner of recovering past deficiencies  
10 through future rate riders.

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

DATED at St. John's, in the Province of Newfoundland and Labrador, this 29<sup>th</sup> day  
of July, 2015.

COX & PALMER

Per: 

Thomas J. O'Reilly, Q.C.

TO: The Board of Commissioners of Public Utilities  
Suite E210, Prince Charles Building  
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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  
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St. John's, NL A1B 3P6  
Attention: Gerard Hayes  
Senior Legal Counsel

TO: Thomas J. Johnson, Consumer Advocate  
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TO: Corner Brook Pulp and Paper Limited,  
North Atlantic Refining Limited  
and Teck Resources Limited  
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Attention: Paul Coxworthy

TO: Miller & Hearn  
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Labrador City, NL A2V 2K3  
Attention: Edward M. Hearn, Q.C.

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Attention: Nancy Kleer

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