

March 16, 2016

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:

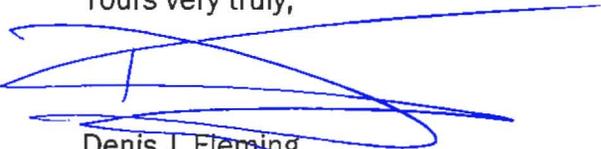
Re: Newfoundland and Labrador Hydro – Approval of a 2016 Standby Fuel Deferral Account for Fuel Consumed in Combustion Turbines and Diesel Generators

With respect to the above-noted application, please find enclosed the original and twelve (12) copies of the Submissions of Vale Newfoundland & Labrador Limited.

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

We trust you will find the enclosed satisfactory.

Yours very truly,



Denis J. Fleming

DJF/js
Encl.

c.c. Geoffrey P. Young, Newfoundland & Labrador Hydro
Gerard Hayes, Newfoundland Power
Thomas J. Johnson, O'Dea, Earle
Paul Coxworthy, Stewart McKelvey
Sheryl Nisenbaum, Praxair Canada Inc.

Denis J. Fleming | Partner

Direct 709 570 5321 Main 709 738 7800 Fax 709 726 4972 Email dfleming@coxandpalmer.com
Suite 1100 Scotia Centre 235 Water Street St. John's NL A1C 1B6

IN THE MATTER OF the Electrical Power Control Act, R.S.N.L. 1994, Chapter E-5.1 (the *EPCA*) and the *Public Utilities Act*, R.S.N.L. 1990, Chapter P-47 (the *Act*), and regulations thereunder; and

AND IN THE MATTER OF an application by Newfoundland and Labrador Hydro pursuant to section 70 of the *Act*, for approval of a deferral account for diesel fuel consumed in 2016 to provide capacity and energy to the Island Interconnected System.

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
4 2016 Fuel Deferral Account for Fuel Consumed in Combustion Turbines and Diesel
5 Generators.

6 In its Application, Hydro is seeking the creation of a deferral account, which it expects
7 will have a balance of more than \$33 million deferral, to allow Hydro to prevent a net
8 loss in 2016. As with the past deferral accounts Hydro has requested, Vale questions
9 whether the requested relief achieves the stated goal for Hydro as the creation of the
10 deferral account provides no certainty that the Board will ultimately accept that the
11 balance in the account is recoverable. This could result in a write down in a future
12 year that would simply result in the 2016 loss being pushed out to a future year.

1 Vale also questions whether the requested account is representative of
2 utility/regulatory practice. There was a significant amount of testimony at the recent
3 2013 Amended General Rate Application hearing regarding the appropriateness of
4 deferral mechanisms that protect the utility from variances between actual and test
5 year costs. While Hydro repeatedly denied that such mechanisms would alter the way
6 in which it would conduct its operations, at a minimum, such costs have the potential
7 to remove incentive for the utility to operate its business in the most efficient manner.
8 This analysis was particularly focused on the Energy Supply Costs Deferral Account
9 under consideration in Hydro's Amended 2013 General Rate Application.

10 As discussed in Hydro's RFI responses, while there are differences between the
11 deferral account requested herein and the Energy Supply Costs Deferral Account
12 under consideration in Hydro's Amended 2013 General Rate Application, there is also
13 a lot of overlap between the two accounts. Unlike the Energy Supply Costs Deferral
14 Account, Hydro proposes that the account at issue in this Application would not include
15 a \$500,000 deadband threshold. Hydro has defended this position by stating that the
16 costs recovered through the Fuel Deferral Account are beyond Hydro's control. For this
17 reason, Hydro argues that the deadband threshold is not needed and the concern
18 about a recovery mechanism removing the incentive for efficient operation is not
19 relevant. However, whether any of the costs at issue in this Application could have
20 been avoided by Hydro will not be adequately tested until Hydro seeks recovery of the
21 account's balance in 2017. Further, while Hydro argues that the account is necessary
22 because of low hydrology, its scope is not limited to costs incurred for that reason.

1 A further factor militating against the creation of the requested deferral account is that
2 the Board has no ability to reflect the inclusion of such accounts in Hydro's target
3 return on equity. As noted by J.W. Wilson and Associates Inc. in its June 1, 2015
4 report,¹ the fact that Hydro's target return on equity is now automatically set at
5 Newfoundland Power's allowed equity return, a fact that will increase the test year
6 revenue requirement by \$23 million,² could result in a triple "burden to customers" if
7 this is combined with the creation of both an Energy Supply Costs Deferral Account
8 and a Standby Fuel Deferral Account.

9 Even if the deferral account is granted and the Board determines that some amount of
10 recovery is warranted, recovery of the entire balance will be questionable. Hydro has
11 confirmed that it would not have required the standby generation if the Holyrood
12 Thermal Generating Station was operating at full capacity (PUB-NLH-3). While the low
13 hydrology being experienced on the system would have led to increase operating costs
14 at a fully operational Holyrood that would have been recovered through the Rate
15 Stabilization Plan, the increased costs at Holyrood would have been significantly less
16 (approximately \$19 million; see PUB-NLH-4) than the expected costs for operation of
17 the standby generators.

18 In its Application and evidence, Hydro has stated that Holyrood is not operating at full
19 capacity because of maintenance issues associated with reheat boiler tubes. While
20 Hydro has provided evidence regarding its boiler tube preventative maintenance

¹ At pp. 38 and 39.

² PUB-NLH-56 Rev 1, line 22.

1 program and its adherence to same (see PUB-NLH-1), Vale is concerned that the
2 prudence of the costs associated with the failure of the boiler tubes has not been
3 rigorously tested. Vale recognizes that the lack of testing is not the fault of Hydro or
4 the process on the Application. Rather, testing the prudence of these expenses and the
5 cost implications should be dealt with when Hydro applies to recover any outstanding
6 balance in the deferral account. At that time, Hydro will have completed its scheduled
7 boiler tube maintenance and more information will be available to a determination as
8 to whether the additional costs were prudently incurred.

9 Vale submits that, if the Board approves the within Application, each of the factors
10 noted above have to be accounted for when the Board determines whether Hydro has
11 sustained a recoverable loss due to low hydrology and deratings at Holyrood. The
12 importance of carefully scrutinizing Hydro's recoverable deficiency is magnified by the
13 fact that the recovery of past revenue shortfalls through deferral accounts to be repaid
14 by future customers creates the potential for intergenerational inequity.

15 While Vale is concerned that Hydro has overstated its recoverable costs and that the
16 current of the deferral account could lead to intergenerational inequity, Vale's
17 concerns are alleviated by the fact that the creation of a deferral account does not
18 create an entitlement to recovery. Therefore, on the condition that its agreement to
19 the remedy sought is not an endorsement of the accuracy of Hydro's calculation of its
20 recoverable costs and the Order requested does not give rise to a presumption of
21 entitlement by Hydro to any balance in the deferral account, Vale does not object to
22 the Order requested.

1 **Issue 3: Costs**

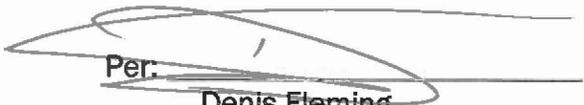
2 Vale requests that the Board award Vale its costs on the within Application on the
3 same basis as any award of costs made in favor of the Consumer Advocate and/or the
4 Industrial Customer Group. An award of costs in favor of Vale is justified based on the
5 fact that:

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

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

DATED at St. John's, in the Province of Newfoundland and Labrador, this  day
of March, 2016.

COX & PALMER


Per:

Denis Fleming

- 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: Praxair Canada Inc.
1 City Center Drive, Suite 1200
Mississauga, ON L5B 1M2
Attention: Ms. Sheryl Nisenbaum