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5 **P.U. 32(2006)**

6 **IN THE MATTER OF** the  
7 **PUBLIC UTILITIES ACT,**  
8 RSNL 1990, c. P-47, as amended  
9 (the “*Act*”)

10 AND

11 **IN THE MATTER OF** an  
12 Application by Newfoundland and  
13 Labrador Hydro (“Hydro”) for approval of  
14 the cost to be recovered through the  
15 Rate Stabilization Plan charged to  
16 Newfoundland Power Inc. and the  
17 Island Industrial Customers of  
18 consuming No. 6 Fuel not exceeding  
19 1% Sulphur by weight (the “Application”).  
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21

22 **WHEREAS** Hydro is a statutory body corporate existing pursuant to the *Hydro Corporation Act, c.*  
23 *H-16* of the Revised Statutes of Newfoundland and Labrador, as amended, and is a public utility  
24 within the meaning of the *Act*; and  
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26 **WHEREAS** by Order No. P.U. 40(2003) the Board set out the manner by which Hydro recovers  
27 through rates charged to Newfoundland Power Inc. and the Island Industrial Customers by operation  
28 of Rate Stabilization Plan (“RSP”) the costs associated with burning fuel at the Holyrood Thermal  
29 Generating Station to generate electricity; and  
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31 **WHEREAS** the fuel costs associated with the Holyrood Thermal Generating Station collected  
32 through the operation of the RSP are the costs of No. 6 fuel with a sulphur content of 2%; and

1 **WHEREAS** on September 14, 2006 the Minister of the Department of Environment and  
2 Conservation (the “Minister”) issued an amendment to the Certificate of Approval #AA06-025458  
3 governing the operation of the Holyrood Thermal Generating Station which prohibits Hydro from  
4 burning any fuel with sulphur content greater than 1% by weight; and

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6 **WHEREAS** paragraph 114(1)(e) of the *Environmental Protection Act* makes it an offence to  
7 contravene a term or condition of an approval issued under that Act; and

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9 **WHEREAS** on September 18, 2006 Hydro applied to the Board requesting that it be permitted to  
10 recover through the RSP the costs it incurs to burn No. 6 fuel oil at the Holyrood Thermal  
11 Generating Station with a fuel sulphur content not exceeding 1% by weight in compliance with the  
12 Certificate of Approval; and

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14 **WHEREAS** on October 5, 2006, both the Consumer Advocate and the Island Industrial Customers  
15 filed written submissions acknowledging that Hydro has demonstrated that it is obliged to burn fuel  
16 with a sulphur content of no more than 1% by weight at Holyrood Thermal Generating Station; and

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18 **WHEREAS** both the Consumer Advocate and the Island Industrial Customers expressed the view  
19 that the costs of the reduced sulphur content fuel should not be recovered until after an order of the  
20 Board approving the expense; and

1 **WHEREAS** Hydro filed a further submission on October 9, 2006 clarifying that fuel costs are  
2 recognized as being expensed at the time fuel is burned and not at the time that it is purchased and  
3 further, by virtue of the provisions of the RSP, the fuel expense would be the average cost of fuel oil  
4 inventory in Hydro's storage at the time the fuel is burned regardless of when the inventory was  
5 actually purchased; and

6  
7 **WHEREAS** the Consumer Advocate filed a further submission on October 11, 2006 asking that the  
8 Board's Order be conditional on a submission by Hydro of a complete accounting of RSP  
9 calculations for 2006 to the date of the Board's Order; and

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11 **WHEREAS** the Board has considered the materials and information filed with it in connection with  
12 this Application and the written submissions filed thereafter and is satisfied that approval of the  
13 recovery of the costs associated with burning the reduced sulphur content fuel is appropriate in the  
14 circumstances.

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16 **IT IS THEREFORE ORDERED THAT:**

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- 18 1. The Board hereby approves as an operating expense to be recovered through the RSP,  
19 Hydro's costs of burning 1% sulphur content No. 6 fuel at its Holyrood Thermal Generating  
20 Station after October 20, 2006.
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22 2. The costs of the fuel shall be calculated in accordance with the usual operation of the RSP  
23 from October 20, 2006 or a date thereafter determined by Hydro.
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25 3. Hydro shall pay all costs and expenses of the Board incurred in connection with this  
26 Application.

DATED at St. John's, Newfoundland and Labrador, this 20<sup>th</sup> day of October 2006.

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Robert Noseworthy,  
Chair & Chief Executive Officer

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Darlene Whalen, P. Eng.,  
Vice-Chairperson.

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G. Cheryl Blundon,  
Board Secretary.