

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 (i) its 2008 Capital Budget pursuant to s. 41(1) of the Act; (ii) its 2008 Capital Purchases, and Construction Projects in excess of \$50,000.00 pursuant to s. 41(3)(a) of the Act; (iii) its Leases in excess of \$5,000.00 pursuant to s. 41(3)(b) of the Act; and (iv) its estimated contributions in aid of construction for 2008 pursuant to s. 41(s)(5) of the Act and for an Order pursuant to s. 78 of the Act fixing and determining its average rate base for 2006

1 **SUBMISSION OF THE INDUSTRIAL CUSTOMERS**

2 **INTRODUCTION**

3 These are the written submissions of the Industrial Customers of Newfoundland and Labrador
4 Hydro, the current customers being Abitibi Consolidated Company of Canada at its Grand Falls
5 Division, Corner Brook Pulp and Paper Limited, North Atlantic Refining Limited and Aur
6 Resources Inc., and a potential customer being Voisey's Bay Nickel Company Limited. As in all
7 matters before this Board, the Industrial Customers contend for fair regulation consistent with the
8 legislation applicable to Hydro and fostering economic efficiency in the provision of electric
9 power to users in the Province of Newfoundland and Labrador.

10 As with all matters of electrical power regulation in the province, the Board's considerations are
11 governed by the *Electrical Power Control Act, 1994* and specifically Section 3(b) thereof which
12 requires Hydro to manage and operate its facilities in a manner that results in power being
13 delivered to consumers in the province at the "lowest possible cost consistent with reliable

1 service". While the amounts spent on capital projects by Newfoundland and Labrador Hydro do
2 not immediately appear in rates being charged to consumers, the funds required for such projects
3 are sourced by Hydro as either debt or equity and the consumers ultimately pay the interest on
4 the debt and the return on equity, as well as depreciation on the acquired assets, which confirms
5 the application of Section 3(b) to this proceeding as it relates to the management of facilities
6 which will affect the costs that consumers pay for electricity.

7 Rarely, a capital project is proposed which actually reduces the cost of producing or distributing
8 electricity and, obviously, such projects should be encouraged. Indeed, Section 3(b) mandates
9 Hydro to propose such projects since if technological innovation or other circumstances permit
10 Hydro to reduce its cost of service, it cannot claim to be delivering electricity at the lowest
11 possible cost consistent with reliable service unless it takes advantage of such technology and
12 circumstances as soon as they can be efficiently exploited. In our submission, Hydro requires
13 greater focus on projects of this type given that, in the 2008 Capital Budget, consistent with
14 previous ones, projects of this type are extremely rare.

15 In this application, the onus is on Hydro to establish to the satisfaction of the Board the
16 expenditures proposed are necessary in the year which they are proposed and represent the
17 lowest cost alternative for the provision of electricity services in the province.

18 The Industrial Customers have significant concerns about Hydro's proposed 2008 Capital
19 Budget, which concerns are addressed in these written submissions to the Board.

20 The Industrial Customers are not requesting a hearing. The Industrial Customers, however,
21 would urge against any perception that the Industrial Customers' concerns and objections in

1 relation to this Application are of any lesser degree or weight because a full hearing has not been
2 sought.

3 A general concern continues to be the lack of sufficient information in Hydro's initial filing,
4 resulting in the need for numerous Requests for Information from the Board as well as from the
5 Industrial Customers.

6 Perhaps most surprisingly, Hydro has made no apparent effort to adjust its Capital Budget
7 Application to the goals of the Province's Energy Plan, released on September 11, 2007, and
8 evidently prepared with considerable input from Hydro.

9 **SIZE OF THE CAPITAL BUDGET**

10 Regulation under the *Public Utilities Act* is intended, to some extent, to replace the real world
11 market conditions from which public utilities are relieved by reason of their enjoying a
12 monopoly within their specific fields of operation. The real world market conditions affecting
13 capital expenditures are, essentially, directives from the highest level of management,
14 representatives of the owners of private enterprises, which determine, based upon any number of
15 different market driven considerations, what amounts will be available for capital expenditures.
16 The Board has within its institutional memory the evidence of Jay Backus given before it on
17 January 10, 2002 in Hydro's 2001 General Rate Hearing which also dealt with the capital budget
18 for 2002. At p. 14 of the transcript of proceedings on that date, Mr. Backus described how, at
19 that time, the Abitibi organization was considering only projects with a 100% return, i.e., a
20 savings in the first year of the project had to equal the cost of the project. The risk was put on
21 the individual divisions such that if the project did not produce the projected results, costs had to

1 be cut in other areas within that division to make up the difference. Projects based on a cost
2 benefit analysis showing payback 10 or 15 years in the future were not even considered.

3 This Board must provide in this proceeding the type of direction that upper management
4 provides in the real world relative to the size of the capital budget. Given the scope and nature
5 of the projects contained within the 2008 proposed budget, this application, in our submission,
6 can reasonably be classified as a “wish list” from operational managers developed without the
7 overriding control of a limit on capital expenditures driven by factors unrelated to the specific
8 operating requirements of any particular manager. One could create a system of regulation for
9 capital expenditures based upon a pre-determination by the Board of the appropriate level of
10 capital expenditures in a given year thereby requiring Hydro management to allocate that fixed
11 amount of funding to projects in order of their priority. Such a system might more accurately
12 model the real world market conditions under which private enterprise exists. While such a
13 system admittedly does not exist under current legislation, it is a useful construct not inconsistent
14 with the intent of the *Public Utilities Act* that there be a proxy for real world market conditions
15 inherent in this regulatory process.

16 Given such intent, the Board ought not to be impressed by the fact that projects have been
17 created, reduced to writing and supported, to some extent, by engineering opinion from within
18 Hydro itself. While the legislation mandates an *ex post facto* review by the Board of Hydro’s
19 presentation, rather than a pre-emptive direction relative to the size of the capital budget, the
20 Board’s function remains to control the capital budget so as to ensure that it meets the legislative
21 direction to provide electricity at the lowest possible cost consistent with reliable service.

1 One is initially tempted to look at Section E of Hydro's filing in an effort to compare the current
2 application to prior years' budgets. Unfortunately, information presented there requires a close
3 analysis.

4 The amount of the 2007 Capital Budget is shown on p. E-1 as \$42,967,000.00. However, the
5 budget approved by P.U. #35 (2006) was \$37,684,000.00. The \$42,967,000.00 figure includes
6 over \$5,000,000.00 worth of projects carried over from 2006. Bearing this in mind, the
7 approval now sought for \$45,061,000.00 represents almost a 20% increase over the amount
8 approved for 2007 and almost a 65% increase over the amount approved for 2004 in P.U. #29
9 (2003).

10 It should be pointed out that there is no major capital expansion project, such as a new generation
11 source or a major new transmission line, which is influencing the proposed level of the 2008
12 capital budget. All indications are that this should be a typical year for capital works for Hydro
13 and the proposed level of capital spending in that situation is a matter of major concern.

14 The Industrial Customers pointed out in their submissions on the 2007 Capital Budget that the
15 projections at that time for the period 2006 to 2010 were, on average, 21% higher than the actual
16 expenditures from 1999 to 2005. The Board, properly in our view, altered that statistical
17 tendency by reducing the 2007 Capital Budget from the proposed amount of \$41,798,000.00 to
18 the \$37,684,000.00 referred to above. Hydro, apparently, has not taken any message from the
19 Board in this regard as it continues to pursue increases in the range of 20%.

20 Nowhere in Hydro's filings does it even address the notion that there ought to be a limit to
21 capital spending. All of its material is specifically project related and there is no recognition of
22 the concept that capital expenditures should be limited either by the amount of the projected

1 depreciation expense or by any other standard. Given that Hydro apparently fails to address this
2 issue at all in its capital spending proposals, the necessity for the Board to impose this control is
3 even more greatly highlighted.

4 **THE PROVINCIAL ENERGY PLAN**

5 The Province's long-anticipated Energy Plan was publicly released on September 11, 2007. The
6 Plan has been put into evidence record in this Application, pursuant to IC59-NLH and Hydro's
7 response.

8 Section 4 of the Energy Plan sets out the Province's long-term strategy with respect to
9 Electricity. Newfoundland and Labrador Hydro has been closely involved in the Plan's
10 development, in relation to Electricity resources, as is evident from the following passages from
11 the Plan (at page 32):

12 *Together with our existing hydroelectric and some wind power, the*
13 *Lower Churchill project will meet our long-term electricity needs.*
14 *There are, however, potential industrial developments both in*
15 *Labrador and on the Island that could result in a sharp rise in*
16 *demand before Lower Churchill is developed. NLH is actively*
17 *working with existing and potential new industrial customers to*
18 *ensure their needs can be met.*

19
20 *To ensure that we can meet our future electricity needs, we must*
21 *also have an alternate plan in the event Lower Churchill does not*
22 *proceed as planned. In this case, we will provide future electricity*
23 *needs from the most economically and environmentally attractive*
24 *combination of thermal, wind, and smaller hydro developments.*
25 *These sources could provide an additional 100-200 MW of power.*
26 *The remainder would come from thermal generation. NLH is*
27 *studying these sources in parallel with planning for the Lower*
28 *Churchill to ensure the future energy supply for the province is*
29 *secured. NLH is also studying the potential for landing gas in the*
30 *province from our offshore resources to fuel a thermal electricity*
31 *generating plant.*

1 It is clear that with respect to electricity, the primary long-term Plan initiative is the development
2 of the Lower Churchill Hydroelectric Project. The Plan (at page 32) targets the year 2009 as the
3 sanction date for that Project.

4 As can be noted from the Plan passages quoted at length above, the Plan also contemplates the
5 possibility of the Lower Churchill Project not proceeding as planned. To address this possibility,
6 the Plan identifies that Hydro is studying alternative electric power sources in parallel with
7 planning for the Lower Churchill. The alternatives identified include smaller hydro
8 developments and the potential for landing natural gas to fuel a thermal electricity generating
9 plant.

10 Section 5 of the Plan, "Energy & Our Environment," indicates that the one of the goals of the
11 Plan is to achieve, by 2020, a Newfoundland and Labrador that is both a highly efficient
12 consumer of clean energy, and a net producer of clean energy (at page 50 of the Plan). In this
13 context, the existing Holyrood generating plant is identified as being ranked as the 42nd heaviest
14 polluter in Canada in terms of kilograms of emissions released (at page 51 of the Plan). Again,
15 it would appear that the primary initiative to achieve reduction of emissions (to below 1990
16 levels) by 2020 is the development of the Lower Churchill hydro project, with transmission of
17 power to the Island to supplant that currently generated by the Holyrood generating facility (at
18 page 53 of the Plan).

19 It is apparent, however, that whether or not the Lower Churchill Project proceeds as planned, it is
20 the Province's intention, as set out in the Energy Plan, to address the issue of emissions from the
21 Holyrood generation plant. This is made clear from the following passages of the Plan (at pages
22 38-39):

1 *Holyrood presents the biggest challenges for the Island system in*
2 *the near-term. The cost of operating Holyrood has increased*
3 *along with world oil prices, resulting in a large portion of the rate*
4 *increases for Island customers in recent years. Because it*
5 *produces significant amounts of polluting emissions and GHGs, it*
6 *also creates a negative impact on the environment. In a*
7 *preliminary effort to address this issue, the province, through*
8 *NLH, has assessed several options, leading to the decision by the*
9 *Provincial Government to mandate the use of lower-sulphur fuel at*
10 *Holyrood in the short-term. This action is expected to reduce*
11 *sulphur dioxide (SO₂) by 50 percent and particulate emissions by*
12 *40 percent. In addition, NLH's recent awards for 51MW of wind*
13 *generation will reduce the requirement for thermal generation and*
14 *related emissions by approximately 15 percent. Our renewed*
15 *efforts to improve energy efficiency will also lower the emissions*
16 *from Holyrood. Depending on the outcome of an assessment of*
17 *emissions from burning lower-sulphur fuel, the maximum sulphur*
18 *content of the fuel may be lowered further in the future, though this*
19 *measure will result in an increase in fuel costs.*

20 *In the long-term, the current level of emissions from the Holyrood*
21 *facility is unacceptable. The Provincial Government, through*
22 *NLH, has investigated the long-term options to address Holyrood*
23 *emissions and decided to replace Holyrood generation with*
24 *electricity from the Lower Churchill through a transmission link to*
25 *the Island. This replacement provides an excellent opportunity to*
26 *partner with the Federal Government to reduce GHG emissions.*

27 *In the event that the Lower Churchill Project does not proceed as*
28 *anticipated, scrubbers and precipitators will be installed at the*
29 *Holyrood facility. This will clean up many of the pollutants,*
30 *however, it will not reduce the GHG emissions. As previously*
31 *discussed in this Section, part of this alternate plan will be to*
32 *increase the amount of wind and small hydro on the Island system.*
33 *Natural gas conversion will also be assessed as a potential option*
34 *if and when it is available.*

35 *The earliest date for full commercial delivery of Lower Churchill*
36 *power is 2015 and the earliest date for the scrubber and*
37 *precipitator installation option would be 2013. Both options*
38 *require the commitment of certain expenditures through the 2009*
39 *timeframe and Government will keep both options proceeding until*
40 *the 2009 decision date for the Lower Churchill. In addition, NLH*
41 *will continue to assess small hydro potential and wind*
42 *opportunities on the Island system. [emphasis added]*

1 It is evident from the above passage that the Provincial Government is intent on proceeding
2 within a 2009 timeframe with decisions which will impact on the future of the current
3 configuration of the Holyrood generating facility.

4 As will be noted with greater particularity below in relation to specific 2008 Capital Budget
5 projects, Hydro has proposed a number of projects in relation to the Holyrood generating plant,
6 which are justified by Hydro not as matters of urgency or of short-term necessity, but rather for
7 the longer term maintenance of the Holyrood facility in its present configuration. This is a
8 "business as usual" approach by Hydro to the future of the Holyrood facility which ignores the
9 clear and decisively expressed intent of the Energy Plan that, from 2009 forward, decisions will
10 be made about the Holyrood facility which will either render obsolete, or at minimum
11 significantly modify, the facility's current configuration.

12 It is the Industrial Customers' position that, in light of the clearly expressed goals of the Energy
13 Plan and their unavoidable impact on the current configuration of the Holyrood facility, there
14 should be a pause, at least until the critical decision year of 2009, on expenditures justified as
15 being necessary for the long-term maintenance of that facility.

16 **INDIVIDUAL 2008 CAPITAL BUDGET PROJECTS**

17 ***Page B-9 Arc Flash Analysis : \$341,800***

18 Hydro categorizes this project as mandatory but fails to identify in IC I-NLH any change in
19 legislation that would bring the project into that category. The response references several
20 regulations that, it is alleged, will be revised in 2007 or 2008, but these are clearly proposals and
21 not binding as of the date of the application. Further, in our submission, the proposed
22 amendment to the *Occupational Health and Safety Regulations* really states no more than the

1 existing Regulations, particularly bearing in mind that Section 84(4) of these Regulations already
2 provides:

3 *Rubber gloves, shields and other necessary safety equipment shall be used by*
4 *workers engaged in working on energized electrical conductors or equipment*
5 *operation at a voltage greater than 250 volts to ground.*

6 Hydro attempts to justify the project purely on the basis of a change in Regulation. The
7 Regulations have apparently not yet changed and the reply to IC 1-NLH merely indicates
8 provisions that “provide assistance” in determining the extent of specific hazards. This project
9 may or may not be valuable and/or necessary, but it is not justified on the basis of the material
10 that Hydro has provided.

11 ***Page B-14 Replace 40 kW Diesel Generator : \$157,200 (2008), \$103,100 (2009)***

12 The description of this project together with the replies to IC 2 through IC 5-NLH leaves the
13 Board, in our submission, without justification for this proposed purchase. Combining all of the
14 information provided, it appears that the existing 75 kw genset in conjunction with the existing
15 25 kw genset is capable of providing all of the service necessary for operations at Burnt Dam.
16 Clearly if the 75 kw diesel can operate the spillway gate during the winter when heater loads are
17 required, it is quite capable of doing the same during the summer. The camp site or domestic
18 load is looked after by the 25 kw unit and the material provided does not provide justification for
19 a third set.

20 ***Page B-23 Salmon Spillway Stop Log Handling System: \$140,600***

21 Again, Hydro classifies this project as mandatory but is unable, in IC 9-NLH, to identify any
22 change in Regulations which would justify that classification. The inherent risks of the present

1 method of operation have apparently been in place since the commissioning of Bay d'Espoir in
2 the 1960's. Hydro now currently views its decision in 1993 to replace the mobile crane with
3 boom trucks to have been ill-advised but the fact remains that the boom trucks have served the
4 purpose well for some 14 years and there is no indication of any actual injury resulting from the
5 present system. Given that an existing system has been in place for almost 50 years and in
6 exactly the current configuration for 17, we see no justification for this project at this time.

7 ***Page B-30 Upgrade Access Trail : \$63,700***

8 The project description here and the associated answers to IC 11 and IC 12 do not demonstrate
9 any requirement that this project proceed. The use of an ATV over a bedrock trail over a period
10 of 50 years is unlikely to have such an impact on the bedrock as to require rehabilitation.

11 ***Page B-36 Tank Farm Upgrade (Holyrood) : \$500,000***

12 Hydro has failed to demonstrate the necessity for this project at this time. It purports to be
13 commencing work to extend the life of the facility by at least 20 years but, in response to IC 13–
14 N.I.H, it indicates that the work is required in order to allow the facility to continue in operation
15 for 8 years. If the current operational requirement is only to ensure an 8 year life, the project
16 needs to be revisited with that criterion in mind. In any event, it appears from the response to IC
17 18-N.I.H, that Hydro is not yet fixed upon what work actually needs to be done under this project
18 and it is inappropriate to approve funding until a specific plan is in place.

19 In the Project Description, and in the Project Justification, Hydro refers to this Project as being
20 the work necessary to upgrade the facilities for a further life extension of 20 years. It is of note
21 that, per the Project Description, Hydro has already decided to defer the bulk of the work by one
22 year to start in 2009. No reason is given by Hydro for the decision to defer the bulk of the work.

1 One is left to speculate whether the deferral decision may have been due to Hydro recognition
2 that 2009 decisions under the Energy Plan might impact on the need for or configuration of the
3 Project.

4 Hydro did not deign to respond to the question posed by IC15-NLH "*Could a 20-year extension*
5 *of the useful life of the tank farm still be obtained if there was a further one-year deferral of the*
6 *commencement of the bulk of this Project, from 2009 start to 2010 start (so as to allow for a*
7 *further year for release of the Provincial Energy Plan [this RFI having predated the Plan's*
8 **release] and assessment of its impact for the future of the Holyrood plant)?** However, there is
9 nothing in Hydro's response to IC15-NLH, or in the SGE Acres report, which suggests that
10 anything critical turns upon whether this work is commenced in 2010 as opposed to 2009
11 (assuming this Project is still deemed be necessary or advisable at those later dates).

12 In response to IC13-NLH, Hydro asserts that the scope of work proposed is required to ensure
13 that the fuel storage facility can remain in operation until at least 2015. This assertion was not
14 made by the Project Description nor the Project Justification, which both indicated that the work
15 was intended to extend the facility's life by at least 20 years, ie presumably to 2027 and beyond.
16 Again, there is no indication in the SGE Acres report of urgency in completing the work to
17 ensure continued operation to 2015. Hydro's non-response to the question posed by IC16-NLH -
18 whether the actual minimum berm elevation achieves the containment volume required by GAP
19 of 44.8 million litres - does not bespeak of urgency in proceeding with the Project for the
20 purposes of assuring leak containment.

21 The Industrial Customer's are aware that, for the 2008 Capital Budget, Hydro is seeking
22 approval for only the Tank 2 upgrade work, on the basis that other work (valve repair) is
23 scheduled for Tank 2 in 2008, and that proceeding concurrently with the Tank 2 upgrade work in

1 2008 would avoid the duplication of an estimated \$200,000 tank draining cost (reference:
2 response to IC15-NLH). But this justification for the Tank 2 upgrade work (ie that \$500,000
3 should be spent in 2008 to save \$200,000 in 2009) presumes that Hydro has made out its case
4 that this the Tank Farm Upgrade project as a whole will proceed, as presently proposed, in 2009,
5 or should proceed at all. It is apparent from Hydro's responses to, for instance, IC14-NLH, that
6 Hydro has not yet fully considered the implications of the Energy Plan for projects such as the
7 Tank Farm Upgrade project.

8 The Industrial Customers submit that the Tank 2 upgrade work proposed for 2008 ought not to
9 be approved, as Hydro has not made out the case for the necessity of this work in 2008. It is also
10 submitted that further consideration of the whole of the contemplated Tank Farm Upgrade
11 project should be deferred to at least 2009.

12 ***B-38 Replace Unit 2 High Pressure Heater – Holyrood : \$19,600 (2008), \$919,400 (2008)***

13 Hydro's Project Justification appears to be primarily an efficiency argument, but also raises the
14 spectre of total loss of the feedwater heater if replacement does not proceed in 2008.

15 With respect to efficiency, Hydro's response to IC23-NLH points to an average increase in
16 annual cost due to increased fuel consumption of \$81,000. This increased cost, however, must be
17 weighed against the capital cost of approving an expenditure of almost \$1.0 million for complete
18 replacement in 2008-2009. This is a capital investment which will not be recouped unless
19 Holyrood's operations continue, in the present configuration, well beyond 2015.

20 With respect to the spectre of total loss of the feedwater heater, it is not at all clear what
21 substantive basis is being advanced by Hydro to support that such risk exists in the timeframe to
22 2015 (Hydro's own operational horizon for Holyrood, apparently, per the response to IC13-

1 NLH), let alone any evidence of the degree of risk of total loss of the feedwater heater within
2 that timeframe, so that the degree of risk can be weighed against the cost of total replacement at
3 this time.

4 Hydro in response to IC23-NLH asserts that "*There is a real danger that this heater will fail in*
5 *service, due to its age and poor condition, as identified by the recent inspection.*" The request by
6 PUB NLH 16.0 for the Engineering Report that details the inspection of the high pressure heater
7 was met by Hydro's referral back to the responses to IC21-NLH and IC23-NLH. However, the
8 only report found at those responses is the three paragraph, November 14, 2006 correspondence
9 from the supplier Thermal Engineering International (TEI). That correspondence does not
10 indicate that there is a risk of total loss of the feedwater heater. Rather, the condition of the
11 heater is described as "*about average for its age.*" TEI reports that at that time the unit was
12 about 5% plugged, and indicates that it is as the heater approaches the "general rule of thumb"
13 point of 10% plugged that consideration should be given to refurbishment or replacement. At
14 worst, the situation as described by TEI is one that can become a "constant maintenance
15 headache", a far cry however from the total loss scenario asserted by Hydro.

16 It appears from the response to IC21-NLH (as revised by Hydro on October 10, 2007) that Hydro
17 has forced the pace of tube plugging by plugging not only those tubes which have failed but also
18 those which have been deemed by Hydro to be at risk of failure. This appears to be consistent
19 with TEI's advice to "fail weak tubes" to reduce maintenance problems and uncertainty. It is
20 reasonable to believe, absent evidence to the contrary, that the rate of failure of the remaining
21 tubes will be reduced due to this culling of "weak tubes" for some significant future period.

1 Hydro has proposed total replacement, but the TEI correspondence indicates that there is a
2 refurbishment option as well. There is no evidence that Hydro has considered, and costed, the
3 refurbishment option.

4 The Industrial Customers submit that neither the annual loss of efficiency cost of \$81,000, nor
5 the scant evidence for a total loss scenario, justify a near \$1.0 million dollar expenditure for total
6 replacement in 2008-2009. This Project should be deferred to at least 2009, to review whether
7 total replacement is prudent given the future operational life for the current Holyrood plant
8 configuration, as will be better able to be identified in 2009, and to consider whether lesser-cost
9 refurbishment is an available and more appropriate option in 2009.

10 ***B-39 Upgrade Continuous Emissions Monitoring System (CEMS): \$688,900***

11 With reference to Hydro's responses to IC25-NLH and IC26-NLH, Hydro has submitted a plan
12 of proposed actions with respect to CEMS to the Department of Environment and Conservation
13 (Newfoundland and Labrador). The submitted plan is the one contemplated by the Certificate of
14 Approval for the Holyrood plant (Section H, Tab 3 of the Application, page 16 of 20, section
15 72). That submission was apparently made on August 2, 2006, per the response to IC26-NLH.
16 As determined by IC25-NLH, the submitted plan is still under review over a year after its
17 submission, and the Director (of the Pollution Prevention Division of the Department) has not
18 yet established a deadline for the CEMS project.

19 With reference to page 5 of 6 of the CEMS Compliance Plan, provided by Hydro in response to
20 IC26-NLH, it is evident that some of the proposed (and not yet approved by the Director) CEMS
21 milestone dates have already passed (the upgrades/replacements scheduled for the 1st quarter of
22 2007), while other milestones as proposed (and not yet approved by the Director) are beyond

1 2008 (equipment modifications following system-monitoring period in 3rd quarter of 2009 and
2 full compliance with EPS/1/PG7 in January 2010).

3 While it is not clear whether the CEMS project work proposed for the 2008 Capital Budget
4 encompasses all of the work referred to as CEMS Milestones at page 5 of 6 of the CEMS
5 Compliance Plan, it is evident that Hydro's justification for the 2008 work is Hydro's
6 presumptions that the CEMS Compliance Plan, or components of it, are necessary to bring, and
7 will bring, the Holyrood emissions monitoring regime within applicable Federal and Provincial
8 requirements, and that the CEMS Compliance Plan must be implemented by January 2010.
9 These are all presumptions, however, that are still under review by the Director and are subject to
10 change. The Industrial Customers therefore submit that Hydro's submission of this nearly \$0.7
11 million expenditure for 2008 Capital Budget approval is, at the very least, premature.

12 ***Page B-89 Replace Line Camp 98 : \$500,000***

13 Hydro is proposing here to spend half a million dollars to replace a camp that has not been used
14 for over 20 years. Temporary accommodations would be a viable alternative especially bearing
15 in mind the type of insulated and heated tent facilities such as are used by persons involved in
16 mining exploration in Labrador where the environmental conditions would be much more harsh
17 than those to be found at this location. Unless Hydro had ruled out any and all possible
18 alternatives, expenditure of \$500,000.00 on this type of project simply defies logic.

19 ***B-93 Construct Transmission Line Equipment Off-Loading Areas : \$301,800***

20 Hydro previously submitted, and withdrew, components of this Project in its application for
21 additional capital expenditures for 2007.

1 By the response to IC58-NLH in the 2008 Capital Budget Application, Hydro has confirmed that
2 the responses provided to PUB 1 NLH to PUB 26 NLH in the 2007 additional capital
3 expenditures application are complete and appropriate for the present capital project. Therefore,
4 the Industrial Customers take the liberty of submitting, for incorporation and consideration with
5 these Submissions on the 2008 Capital Budget, copies of their submissions in the 2007 additional
6 capital expenditures application in relation to this Project.

7 The only additional submission made by the Industrial Customers on this Project is in relation to
8 IC33-NLH, which requested Hydro's record of its consultation to date with the Department of
9 Transportation and Works, regarding this Project. The record produced by Hydro in response is
10 exceptionally meagre for a project of such scope and relatively significant cost, and at most
11 merely indicates that the Department is prepared to consider the proposed ramp sites on a case by
12 case basis. This consultation records confirms the Industrial Customers in their position that
13 there has not been sufficient consideration and planning given to this Project, so as to warrant
14 submission to the Board for approval at this time.

15 ***Page B-136 Construct Bushing Storage Building : \$334,900***

16 Hydro here proposes to spend \$335,000.00 on a building intended to be unheated to house
17 bushings that have apparently been stored outdoors since Hydro began operations in the
18 province. Other than convenience of access, this building appears to provide no benefit beyond
19 that which could be achieved by covering these bushings with tarpaulins. Unless a cost benefit
20 analysis was performed to show that the ease of access would in fact save staff time, there is no
21 justification for this project.

1 ***Page B-166 Application Enhancements – Work Protection Code : \$678,100***

2 While no one can deny the importance of worker safety, nothing that Hydro has filed in
3 connection with this project demonstrates that worker safety will be enhanced by spending the
4 \$678,000.00 that Hydro seeks under this heading. In response to IC 46- NLH, Hydro has
5 produced a comprehensive Work Protection Code with, as it notes in IC 44-NLH, “strict rules
6 and guidelines” for creating safe work permits. The proposed system essentially computerizes
7 the current system. Errors and problems under any such system are essentially human ones.
8 Errors in handwritten systems can be clarified and explained whereas errors in entry of
9 information into computerized systems can produce bizarre results which are often more difficult
10 to track or clarify. Undoubtedly, this management software is impressive and, perhaps, even
11 leading edge, but unless it can be demonstrated to actually enhance workers safety, its cost is not
12 justified.

13 ***Page B-192 Public Address System (Holyrood): \$1,139,100***

14 For a project of this size, there was little justification offered in the initial filing. The nature of
15 the project was fleshed out somewhat in the responses to IC 50-NLH and IC 51-NLH, but one is
16 left with the concern that this project does not appear to have been fully thought out. The use of
17 personal pagers and/or two way radios, equipment common in even more high risk operations
18 such as fire fighting, has not been satisfactorily addressed. For instance, it is difficult to
19 contemplate that there is not a discrete technological solution to the circumstance of a user
20 working at a difficult task requiring use of both hands, as described in the response to IC53-NLH
21 (which in any event will not be a perpetually-existing circumstance for all contemplated users of
22 this system). Also, the need for extension of the system into nine new areas has not been
23 addressed. While technology in this area has obviously progressed enormously since the original

1 installation in 1970, the approach seems to have been simply to replace an existing system with a
2 new but similar system.

3 Given that the project contemplates expenditures in excess of \$1.1 million, representing almost
4 3% of the proposed 2008 Capital Budget, the material filed does not justify Hydro's suggested
5 approach. As well, given the reasonable assumption that this new system would be intended to
6 be operational for a period at least approaching the useful life of the existing system (25 to 30
7 years per the response to PUB NLH 112.0), it is not prudent to consider such a level of
8 expenditure until the future operational life of the Holyrood facility is clarified, in 2009.

9 ***Page B-212 Upgrade Security System : \$906,300***

10 The Operating Experience and Project Justification sections here do not appear to be directed to
11 the project described. The Critical Infrastructure Protection Group in its post 9/11 considerations
12 was obviously directing its attention toward actions which might collapse large portions of the
13 North American Grid. As Hydro has admitted, nothing that happens on the island of
14 Newfoundland could ever possibly have such a result. While the role of security has changed,
15 even in Newfoundland and Labrador, since September 11, 2001, as regards fixed infrastructure,
16 the change here has frankly not been dramatic. The fear of terrorism is not an adequate
17 justification for the expenditures Hydro is suggesting, but it is notable that September 11, 2001 is
18 mentioned twice in the two page description and justification of this project. While Hydro should
19 take appropriate steps to protect its system, the material does not justify expenditures on this
20 scale.

21

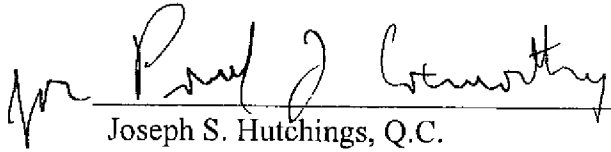
22

1 All of which is respectfully submitted on behalf of the Industrial Customers.

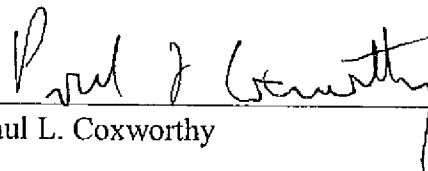
POOLE ALTHOUSE / STEWART McKELVEY

Solicitors for the Industrial Customers

Per:



Joseph S. Hutchings, Q.C.



Paul L. Coxworthy

2 October 12, 2007