

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 2011 capital budget pursuant to s. 41(1) of the Act; (2) its 2011 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 2011 pursuant to s. 41 (5) of the Act and for an Order pursuant to s. 78 of the Act fixing and determining its average rate base for 2009.

SUBMISSION OF THE CONSUMER ADVOCATE

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INTRODUCTION

1. Section 41 of the *Public Utilities Act*, RSNL, c. p-47 (the “Act”) requires a public utility to submit an annual capital budget of proposed improvements or additions to its property for approval of the Board.
2. Section 78 of the Act places authority in the Board to fix and determine the rate base for the service provided or supplied to the public by the utility and also gives the Board the power to revise the rate base.
3. On August 2, 2010, Newfoundland and Labrador Hydro (“Hydro”) filed its Capital Budget Application (the “Application”) with the Board. In the Application, Hydro requested that the Board make an order:
 - (a) approving its purchase and construction in 2011 of the improvements and additions to its property in the amount of \$65,058,000; and
 - (b) fixing and determining its average rate base for 2009 in the amount of \$1,473,477,000.
4. On November 2, 2010, Hydro filed a Revised Capital Budget Application (“Revised Application”). In the Revised Application, Hydro requests that the Board make an Order *inter alia*:
 - (a) approving its purchase and construction in 2011 of the improvements and additions to its property in the amount of \$60,200,000; and

(b) fixing and determining its existing rate base for 2009 in the amount of \$1,473,477,000.

5. In the Revised Application, Hydro has withdrawn:

- Complete Condition Assessment Phase 2 - p. B-13 (\$1,672,000)
- Overhaul Gas Turbine (Holyrood) - p. B-15 (\$1,291,400)

As regards the former project, on 29 October, 2010, Hydro advised the parties and the Board that due to a delay in its receipt of the Phase 1 Holyrood Condition Assessment Report, it would be withdrawing the project at this time. Hydro further advised that its present intention is to apply for the project as a supplementary 2011 capital project in due course once it has received the Phase 1 Report and the parties have had a proper opportunity to review the same.

As regards the Overhaul Gas Turbine (Holyrood) project, gave notice in reply to IC-NLH-02 that it would be requesting that the project be deferred.

6. Given Hydro's request to withdraw these matters at this time, any comment upon the same will be made when these projects are properly next before the Board for its consideration.
7. In the Revised Application, Hydro has also changed the amount and scope relative to the Application as originally filed of the following projects:

- Upgrade Stack Breeching (B-5) - was originally proposed at \$3,553,000 and is proposed as revised at \$1,770,000
- Replace Network Communications Equipment - various sites (B-83) was originally proposed at \$737,000 and is proposed as revised at \$667,000

Holyrood - General

9. As the Capital Plan at p. A-2 of the Revised Application shows, Hydro's 2011 projects in relation to Hydro (Thermal Plant) are \$10,679,000.
10. Over the next coming years, Hydro indicates that it is projecting to spend as follows at Holyrood:

2011	2012	2013	2014	2015
\$10,679,000	\$19,735,000	\$18,607,000	\$1,359,000	\$3,442,000

11. Hydro has also proposed that expenditures of \$202,000 (in 2010) and \$1,665,400 (in 2011) be approved in relation to its separate 19 October, 2010 application to install pipe blinds or other secure devices at Holyrood.
12. For 2011, the \$10,679,000 proposed in the Capital Budget is comprised (p. A-4 to Revised Application) as follows:

Upgrade Stack Breeching - Unit 1	\$1,770,000
Refurbish Fuel Storage Facility	\$2,638,000
Replace Programmable Logic Controllers	\$747,000
Upgrade Forced Draft Fan Ductwork Unit 1	\$843,000
Upgrade Hydrogen System	\$1,192,000
Replace Steam Seal Regulator	\$389,000
Replace Pumphouse Motor Control Centres	\$999,000
Upgrade Synchronous Condenser Units	\$484,000
Replace Relay Panels - Unit 3	\$277,000
Replace Boiler Blowdown Tanks	\$750,000
Upgrade Electrical Equipment	\$188,000
Replace Fire Pump Diesel	\$195,000
Install Weatherhoods for Vent Fans	<u>\$208,000</u>
	\$10,679,000

13. The Board and the parties are all aware that the future of Holyrood remains uncertain. In its November 14, 2008 submission to the Board (p. 3, line 10-11), Hydro acknowledged that, "The choice and consideration of projects for the Holyrood Thermal Generating Station poses a particularly difficult challenge." The Board in its Decision and Order No. P.U. 36 (2008) at p. 9 stated,

"The Board remains cognizant that all proposed projects for the Holyrood facility must be considered in the context of the uncertainty at this time of the future of the facility."

14. The Board's comments remain apt nearly two years later. These comments were made in the context of a \$2.9 million refurbishment proposed for 2009 consisting of upgrading the drainage system and pipe supports at the Holyrood Tank Farm. The Board immediately continued:

"The Board also notes that Hydro has confirmed that the fuel storage facility will not be required if an HVDC transmission line to the Island is constructed as part of the development of the Lower Churchill project. However, the Board also has responsibility to ensure that Hydro is able to continue to operate the facility safely and reliably until at least 2015, which is the earliest

time the plant's role might change. It is in the context that the Board will approve this project."

15. In making this conclusion the Board noted that the consequences of not undertaking the project, including the possibility of an oil spill, were serious.
16. In Order No. P.U. 1 (2010) the Board addressed a proposed 2010 project which included *inter alia* the cleaning, inspection, replacement of floor plates and installation of a roof platform on Tank 4. The Board noted in approving the project (at p. 8, lines 36-8) that,

"As long as the period of time is indefinite for the use of these facilities they must be maintained in a safe and operational condition."

17. With this in mind, the Consumer Advocate would wish to comment upon the Refurbished Fuel Storage Facility project as proposed.

Refurbish Fuel Storage Facility - B-8

18. In this year's Capital Budget Application, Hydro has proposed a \$2.6 million dollar project to clean, inspect, replace floor plates, paint the floor and install a roof platform for Tank No. 3. Beyond that, the project also includes the installation of a fuel oil level indication system on Tank 3 that is said to reduce or eliminate the need to complete manual fuel reconciliations. In addition, the program includes the installation of access steps over the fuel oil and stream piping system that run between Tanks 1 and 2 and also between Tanks 3 and 4.

19. Given that the fuel storage facility will not be required if an HVDC transmission line to the Island is constructed, one obviously has to balance off the consequences of not undertaking the project at the time with the consequences of approving a project that may not be required several years from now. It goes without saying that the possibility of having an oil spill within the Fuel Oil Storage Facility at Holyrood should be guarded against. However, there is no evidence on the record which analyzes whether from a fuel storage capacity perspective Hydro may be able to postpone or avoid this project by more fully utilizing other tanks besides Tank 3.
20. Hydro has 4 above ground fuel oil storage tanks containing No. 6 fuel. Each tank has a storage capacity of 200,000 barrels. Fuel storage data produced in reply to IC-NLH-23 tends to show that Total Storage (including the Day Tank) has been quite substantially below 800,000 barrels over the past 3 years. In fact, the highest volume reached was approximately 566,000 barrels recorded at month end on 31 March, 2009. For most other month ends, the figure was substantially lower. One also notes that frequently it is the case that one or more of the tanks at the same time have quite low volumes relative to their capacity.
21. Given the financial magnitude of the project, the Consumer Advocate would respectfully submit that this project not be entertained until these issues are satisfactorily addressed by Hydro.

Project Prioritization

22. At page 6 of its Capital Plan, Hydro stated that in the past year Hydro has developed a Project Prioritization methodology “to facilitate the selection of projects which best meet the criteria of providing reliable service at least cost.” Hydro indicates that its methodology considers project benefits, environmental and safety aspects, customer impacts, equipment failure risk and other factors to screen and prioritize all projects being considered. In reply to CA-NL-05, Hydro also provided a ranking of its 2011 capital projects.
23. The Consumer Advocate is on record in the proceeding relating to Newfoundland Power’s Capital Budget Application as regards Hydro’s initiative¹. The Consumer Advocate believes that this is useful information which adds transparency to the capital budget process. The ranking of projects also complements the purpose of the Capital Budget Application Guidelines².
24. Hydro’s ranking of the importance of its projects is itself sufficiently important to the regulatory oversight of its capital budget that such rankings should become a routine filing requirement, as opposed to information to be provided upon request in the Request for Information process.

¹Submission of the Consumer Advocate dated 7 October, 2010, at paras. 22-29.

²Part IV - Purpose

The purpose of this policy is to provide clarity and consistency in the submission of capital expenditures by a utility, while ensuring transparent and fair oversight by the Board. The policy sets out in the format, process, schedule and obligations of the utility and participating parties.

Replace Off-Road Track Vehicles (Bishop's Falls and Fogo) - p. B-53

25. In relation to this project, CA-NLH-51 is referenced. This RFI essentially asks why replacement of Unit V7895, a 1996 heavy duty off road track vehicle cannot be deferred. Hydro's report at Tab 22 states that maintenance costs for Unit No. 7895 are low. This unit is 3 years newer than Unit V7809 (which is also proposed for replacement) and the report states that, "The main drivers for replacement are technological improvements that are now available in newer units." In the report the technological improvements cited were 1) improvements in cab design which have reduced noise and heat levels 2) hydrostatic as opposed to mechanical drive trains and 3) interlocks - which prevent operation of the unit without the operator being in the driver's seat. Hydro in reply to CA-NLH-51 states that the planned replacement vehicle has a material hauling boom to "improve efficiency of the crew" by allowing it to serve as a heavy lift unit. The problem with the existing unit, according to Hydro, is that it is not configured to lift loads in excess of 600 lbs. Hydro adds, "Failure to replace unit could result in system outages as a result of not being able to use the present unit for system maintenance."
26. In the Consumer Advocate's submission, the fact that there are newer, more technologically advanced units on the market should not be regarded as a sufficient "driver" to justify the project. Unit V7895 is, as stated, 3 years younger than Unit V7809. There is really no evidence that this unit needs to be replaced at this time and cannot be reasonably deferred. Unit V7895 and V7809 have both operated without "heavy lift" capability since they were brought into service.

Re Construct Transmission Line Equipment Off-Loading Areas (p. B-63)

27. This is a \$791,000 project. In 2011, Hydro proposes that it construct 15 off-loading areas in the central region and a further 20 along the Great Northern Peninsula Highway.
28. This project has grown since its introduction. The project was originally for a five year period for the construction of 100 off-loading areas in the central region. The scope has been expanded to increase the total number of sites and to accelerate the rate at which off-loading areas are constructed. Hydro has also extended the project life by an additional two years to allow for the construction of additional off-loading areas on the Great Northern Peninsula. In its 2011 Capital Plan (p. A-8) Hydro indicates that over the period 2011 to 2014 it plans to spend \$2,691,000 on this initiative.
29. The Consumer Advocate proposes that this year's project be deferred for a year. This project can be reasonably deferred. This is not a project that is considered a "mandatory" project or one that is being proposed due to a legislative requirement. Amongst Hydro's projects, Hydro has assigned this project a rank of #45 out of all of its projects (CA-NLH-05), which tends to indicate that this project is not one that must necessarily proceed this coming year.
30. The Consumer Advocate also approaches this project in the context of the fact that Hydro is also proposing in 2011 nearly a one million dollar upgrading of the existing access road to Burnt Dam. This is a very significant road construction project in its own right and one which Hydro has assigned a Rank #52 out of 53 (CA-

NLH-05).

31. Given the fact that there is nothing to indicate that these projects cannot be deferred, the Consumer Advocate would recommend that Hydro's Transmission Line Equipment Off-Loading Areas project be scheduled so as to not coincide with the Burnt Dam Access Road project.
32. As noted previously, Hydro has recently made a large, non-routine application to spend approximately \$1,800,000 on the installation of pipeblinds or other secure devices at Holyrood. This initiative is solely presented for safety benefits. It will bring no additional benefits to customers. Put into context, this pipeblinds application is in total larger than every project which Hydro has proposed in its Revised Application in relation to Holyrood, save the refurbishment of the fuel storage facility. Hydro has stated that this project cannot be deferred and that in fact its importance was such that it was such that it was not included in its 2011 Capital Budget Application³. If such financially significant projects are indeed to be accommodated in 2011, then it is reasonable for parties to this Revised Application to propose that projects of much lesser priority be deferred to a subsequent year.

³Hydro's cover letter of 19 October states: "This project was not included in Hydro's 2011 Capital Budget Application as it should be started as soon as possible to guarantee a safe work environment and to fully meet OH&S compliance regulations, as described in the attached documentation."

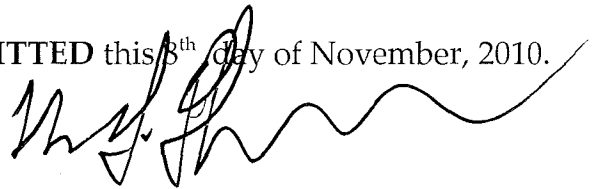
Remove Safety Hazards (Various Sites) p. c-204

33. Hydro has proposed a \$252,400 project for the yet to be determined removal of safety hazards in 2011. The \$252,400 cost is a “high level budget number” that is considered to be adequate to address safety hazards as they are identified (IC-NLH-43).
34. According to its 2011 Capital Plan (p. A-14), Hydro intends to spend similar amounts in each of the next 4 years.
35. While the Consumer Advocate acknowledges Hydro’s goal to provide a safe work environment for employees, contractors and the general public, there is concern whether, in the existing legislative framework, it is appropriate to approve significant projects in this manner. In essence, once the amount is approved, decisions as to which specific safety project are approved and funded is made by Hydro, not the Board.
36. It is questionable whether this approach is permitted under the *Public Utilities Act*, as s. 41 (3) prohibits a public utility from proceeding with the construction, purchase, or lease of improvements or additions to its property (subject to a cost threshold) without the *prior approval* of the Board. For instance, Hydro’s Application (c-205) states that it has identified two safety related projects to be identified in 2010 at Holyrood, being \$151,000 and \$120,000 respectively. Hydro’s Vice-President Regulated Operations and Vice-President Engineering Services decided that these specific projects were to be approved and funded (CA-NLH-32). In such circumstances, one cannot be assured that the particular project put forward

through Hydro's internal SWOP initiative and sanctioned by Hydro's executives satisfied the requirements of the *Electrical Power Control Act, 1994*, and particularly the requirement that utilities manage and operate its facilities in a manner that results in power being delivered to consumers in the province at the "lowest possible cost consistent with reliable service."

37. Apart from the legal concerns, there is also the issue of whether such an approval process is necessary in order for Hydro to carry out its safety mission. Though Hydro states (p. c-204) that its "project is required to ensure adequate capital funding is available to quickly address capital related safety hazards as they are identified", there is nothing to suggest that safety hazards cannot be quickly addressed in the absence of such projects as this (see CA-NLH-33). Newfoundland Power which similarly aspires to be responsive in a timely manner to safety concerns, does so without proposing projects of this nature.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 8th day of November, 2010.



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