

**NEWFOUNDLAND AND LABRADOR  
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

**AN ORDER OF THE BOARD**

**NO. P.U. 29(2013)**

**IN THE MATTER OF** the *Electrical Power Control Act, 1994* SNL 1994, Chapter E-5.1 (the “*EPCA*”) and the *Public Utilities Act, RSNL 1990*, Chapter P-47 (the “*Act*”), as amended, and regulations thereunder; and

**IN THE MATTER OF** an application by Newfoundland and Labrador Hydro for approval of the Rate Stabilization Plan rules and components of the rates to be charged to Island Industrial customers pursuant to section 71 of the *Act*.

**BEFORE:**

Andy Wells  
Chair & Chief Executive Officer

Darlene Whalen, P. Eng  
Vice-Chair

Dwanda Newman, LL.B  
Commissioner

James Oxford  
Commissioner

## 1 **The Application**

2  
3 On July 30, 2013 Newfoundland and Labrador Hydro (“Hydro”) filed an application, pursuant to  
4 Government direction, requesting approval of, among other things, changes to the Island  
5 Industrial customer rates and the Rate Stabilization Plan (the “RSP”) rules (the “Application”).  
6 Specifically, the Application seeks an Order of the Board:

- 7  
8 i) setting the RSP Rate for Teck Resources Limited at (1.111) cents per kWh;  
9 ii) setting the RSP Rate for all other Island Industrial customers to zero;  
10 iii) modifying the RSP rules to change the way the load variation is allocated among  
11 customers in the RSP beginning on September 1, 2013;  
12 iv) finalizing the January 1, 2008, to August 31, 2013 Island Industrial customer rates;  
13 and  
14 v) implementing new RSP rules to effect Government direction in relation to the  
15 disposition of the load variation accumulated to August 31, 2013.  
16

17 Copies of the Application were provided by Hydro to Corner Brook Pulp and Paper Limited,  
18 North Atlantic Refining Limited, Teck Resources Limited, Abitibi-Consolidated Company of  
19 Canada, Vale Newfoundland and Labrador Limited, Praxair Canada Inc., the Consumer  
20 Advocate and Newfoundland Power Inc. The Board published notice of the Application on  
21 August 6, 2013. Intervenor submissions were filed by: i) the Consumer Advocate; ii)  
22 Newfoundland Power Inc. (“Newfoundland Power”); iii) a group of three Island Industrial  
23 customers, Corner Brook Pulp and Paper Limited, North Atlantic Refining Limited and Teck  
24 Resources Limited (the “Industrial Customer Group”); and, iv) Vale Newfoundland and  
25 Labrador Limited (“Vale”).  
26

27 Requests for Information (“RFIs”) were issued to Hydro by the intervenors over the period  
28 August 8<sup>th</sup> to September 13<sup>th</sup>. Written submissions were filed by all parties on September 23,  
29 2013.  
30

## 31 **2. Background**

32  
33 The history and background to this Application dates back to 2007. The Board is of the view that  
34 a summary of the key events is necessary to provide context for the Order being sought by  
35 Hydro.  
36

37 On December 20, 2007 Hydro filed an application seeking to suspend the normal operation of  
38 the RSP and requesting continuation on an interim basis of the Island Industrial customer rates  
39 then in effect. The reason put forth by Hydro at the time was that the impact of a significant load  
40 change of one of its Island Industrial customers would result in potential volatility in rates for  
41 2008 and in future years, and that further analysis was required. The Board approved Hydro’s  
42 request and ordered the continuation of Island Industrial customer rates on an interim basis in  
43 Order No. P.U. 34(2007).  
44

45 On December 11, 2008 Hydro filed an application again requesting, among other things,  
46 approval of the continuation of the interim rates to allow for analysis of further changes in Island

1 Industrial customer load in 2008 along with a reduction in fuel prices. In Order No. P.U.  
2 37(2008) the Board approved the continuation of existing interim rates. The Board also ordered  
3 Hydro to file an application by January 30, 2009 to finalize the interim rates, rules and  
4 regulations for the Island Industrial customers. This date was extended by the Board to June 30,  
5 2009 in Order No. P.U. 6(2009) following application by Hydro.

6  
7 On June 30, 2009 Hydro filed an application proposing that the interim rates for the Island  
8 Industrial customers, except Teck Cominco Limited (now Teck Resources Limited), be made  
9 final. Following public notice interventions were received from the existing Island Industrial  
10 customers (Corner Brook Pulp and Paper Limited, North Atlantic Refining Limited, Teck  
11 Cominco Limited and Vale Inco Newfoundland and Labrador), Abitibi-Consolidated Company  
12 of Canada Limited (as a former Island Industrial customer), Newfoundland Power and the  
13 Consumer Advocate. Information requests were issued by the intervenors and expert evidence  
14 was filed by Hydro and the intervenors.

15  
16 A preliminary hearing was held on June 14, 2010 to receive submissions from the parties on the  
17 question of whether the Board had jurisdiction to change the manner in which the RSP operated,  
18 including the rates charged, the determination of the balance(s) in the RSP, and how these  
19 balances are allocated to customers. These issues were raised in the context of the interim orders  
20 issued by the Board for Island Industrial customer rates since December 2007, and the impact on  
21 the method of allocation between customer classes of the balances accumulating in the RSP due  
22 to load reductions. On August 26, 2010 the Board issued Order No. P.U. 25(2010) in which the  
23 Board found that, in the circumstances, its jurisdiction to make orders in relation to how the RSP  
24 operated in prior years was limited. The Board found that it did not have the jurisdiction to  
25 change how the RSP operated in prior years, either in terms of the rates charged or the resulting  
26 balances.

27  
28 On December 30, 2010 the Board issued Order No. P.U. 39(2010) making Hydro's Utility rate to  
29 Newfoundland Power and the RSP rules interim.

30  
31 Hydro and the Consumer Advocate appealed Order No. P.U. 25(2010) arguing that the Board  
32 erred by failing to find that it had jurisdiction to allocate balances accrued under the RSP rules to  
33 other classes while the Island Industrial customer rates were interim. On June 19, 2012 the Court  
34 of Appeal granted the appeal, finding that the Board had jurisdiction to deal with and dispose of  
35 remaining amounts in the RSP in accordance with the broad powers contained in the *Act*. The  
36 Court of Appeal remitted the matter back to the Board.

### 37 38 **3. Government Direction**

39  
40 On April 19, 2011 the Lieutenant Governor in Council, pursuant to section 5.1 of the *EPCA*,  
41 issued direction to the Board to defer consideration of all matters currently before the Board  
42 pertaining to Island Industrial customer rates and rate adjustments and to consider those matters  
43 in the context of Hydro's general rate application process.

44  
45 On April 4, 2013 the Lieutenant Governor in Council, pursuant to section 39 of the *Hydro*  
46 *Corporation Act, 2007*, issued direction to Hydro to, among other things file a general rate

1 application. At the same time the Lieutenant Governor in Council, pursuant to section 5.1 of the  
2 EPCA, issued direction to the Board as follows:

3  
4 *“Under the authority of section 5.1 of the Electrical Power Control Act, 1994, the*  
5 *Lieutenant Governor in Council is pleased to direct the Board of Commissioners of*  
6 *Public Utilities that:*

7 *1) Effective July 1, 2013, Island industrial customer rates will no longer be frozen.*  
8 *Effective on this date rate increases for island industrial customers will be phased in over*  
9 *a three year period, with funding for this phase-in to be drawn from the January 1, 2007*  
10 *to June 30, 2013 accumulated Load Variation (the Rate Stabilization Plan Surplus)*  
11 *component of the Rate Stabilization Plan and credited to the Island industrial customer*  
12 *Rate Stabilization Plan effective June 30, 2013;*

13 *2) On June 30, 2013 the Island industrial customers' Rate Stabilization Plan will be*  
14 *credited with \$56.5 million, the estimated Rate Stabilization Plan amount required to*  
15 *phase-in industrial customer rates, based on Newfoundland and Labrador Hydro's*  
16 *General Rate Application. The remaining balance in the Rate Stabilization Plan Surplus*  
17 *on June 30, 2013, will be transferred to the credit of Newfoundland Power's Rate*  
18 *Stabilization Plan. No future adjustments will be made to these amounts credited.*  
19 *Effective July 1, 2013 all Island industrial customers, with the exception of Teck*  
20 *Resources, will be subject to the same standard industrial rate, equivalent to the existing*  
21 *base rate but excluding the Rate Stabilization Plan adjustment currently in place;*

22 *3) Teck Resources rate increase will be phased in, to a reasonable degree, in three equal*  
23 *annual percentage increases, and at the end of the phase-in period Teck Resources will*  
24 *be subject to the standard industrial rate;*

25 *4) Over the three year Island industrial rate phase in period, the shortfall in*  
26 *Newfoundland and Labrador Hydro's revenues when compared to revenue at the Board*  
27 *of Commissioners of Public Utilities-approved Island industrial customer rates, shall be*  
28 *funded from the Island industrial customer Rate Stabilization Plan;*

29 *5) Notwithstanding Items 1) through 4) above, effective January 1, 2014, the Island*  
30 *industrial customers will be subject to Rate Stabilization Plan rate changes in*  
31 *accordance with the Board of Commissioners of Public Utilities-approved methodology;*

32 *6) Newfoundland and Labrador Hydro's General Rate Application process shall include*  
33 *a Rate Stabilization Plan surplus refund plan to ratepayers. The refund plan shall*  
34 *comprise direct payments or rebates to ratepayers and shall not be in the form of an*  
35 *electricity rate adjustment. This refund plan will exclude Island industrial customers who*  
36 *will receive Rate Stabilization Plan surplus funds through the three year phase-in of new*  
37 *rates. The Board of Commissioners of Public Utilities shall make the final determination*  
38 *on the details of the refund to remaining ratepayers;*

39 *7) Newfoundland Power's portion of the Rate Stabilization Plan Surplus shall be*  
40 *distributed as a direct payment or rebate to its ratepayers and shall not be in the form of*  
41 *an electricity rate adjustment; and*

42 *8) Newfoundland and Labrador Hydro's General Rate Application shall be based on a*  
43 *2013 test year in the determination of new electricity rates for customers.”*

1 On July 16, 2013 the Lieutenant Governor in Council further clarified the direction as follows:

2  
3 *“Under the authority of section 5.1 of the Electrical Power Control Act, 1994, the*  
4 *Lieutenant Governor in Council is pleased to amend OC2013-089 by:*

5 *a) deleting the date “June 30, 2013” wherever it appears and substituting therefor the*  
6 *date “August 31, 2013”;*

7 *b) deleting the date “July 1, 2013” wherever it appears and substituting therefor the*  
8 *date “September 1, 2013”; and*

9 *c) deleting the words “\$56.5 million” wherever they appear and substituting therefor the*  
10 *words “\$49 million”.”*

#### 11 12 **4. Interim Order of the Board**

13  
14 On August 30, 2013, while the Application process was ongoing, the Board issued an interim  
15 Order to address matters that were required by the August 31, 2013 date set out in the direction  
16 of Government. In Order No. P.U. 26(2013) the Board:

- 17  
18 i) approved on an interim basis an RSP rate of \$0 for all Island Industrial customers;  
19 including Teck Resources Limited;  
20 ii) allocated the amounts of the August 31, 2013 accumulated load variation as set out by  
21 the direction of Government; and  
22 iii) clarified that other matters raised by the Application would be addressed by a  
23 subsequent Order of the Board.

#### 24 25 **5. Board Findings**

26  
27 The Application process has now concluded with all outstanding RFIs answered and written  
28 submissions filed. The Board has considered the information filed and the written submissions as  
29 well as the requirements of the direction of Government. The Board notes that on September 16,  
30 2013, in response to CA-NLH-11, Hydro clarified its position with respect to certain of the  
31 issues raised in the Application, confirming that:

- 32  
33 i) the January 1, 2008 to August 31, 2013 rates can and should be made final at this  
34 time;  
35 ii) an Order implementing an RSP rate of (1.111) cents per kWh for Teck Resources  
36 Limited is required prior to October 1, 2013 to comply with the direction of  
37 Government and permit customer billing for September;  
38 iii) the proposed changes to the RSP related to the disposition of the August 31, 2013  
39 accumulated load variation allocated in Order No. P.U. 26(2013) are required prior to  
40 the implementation of rates after the general rate application;  
41 iv) the proposed modifications to the RSP rules in relation to the way in which the load  
42 variation is allocated among customers in the RSP can be deferred to the general rate  
43 application providing that the load variation is segregated beginning on September 1,  
44 2013; and  
45 v) a final Order as to rates for Island Industrial customers approved in Order No. P.U.  
46 26(2013) would be sought by Hydro in due course.

1 Finalization of rates from January 1, 2008 to August 31, 2013

2  
3 Hydro submits that there is sufficient direction and information for the Board to finalize the  
4 Island Industrial customer rates which were interim from January 1, 2008 to August 31, 2013.  
5 Hydro states that:

6  
7 *“Carrying out the plain and direct meaning of the OC provides a full and complete*  
8 *answer to the question as to the disposition of the RSP balance and, with regard to the*  
9 *finalization of the interim rates, the disposition of these amounts completely resolves the*  
10 *issue; there are no other amounts left to be considered. Making a final order confirming*  
11 *the interim rates is a necessary step in bringing about the outcome required by the*  
12 *directive. Reaching a different conclusion on the issue of the interim rates would give a*  
13 *different rates outcome from that contemplated in the OC and, therefore, cannot be*  
14 *reconciled with the policy implicit in the directive to the Board.”* (Hydro, Written  
15 Submission, Page 8)

16  
17 The Industrial Customer Group agrees that the Board should order that the Island Industrial  
18 customer rates from January 1, 2008 to August 31, 2013 be made final, as they are, without any  
19 further review by the Board. They submit:

20  
21 *“The IIC Group, given the constraints imposed by the directions in the Orders-in-*  
22 *Council, and the sweeping effect of those directions in light of section 5.1 of the EPCA,*  
23 *accept that the best means of ensuring the attainment of the objects and purposes of the*  
24 *Orders-in-Council is for the rates in effect for the industrial customers since January 1,*  
25 *2008 and up to August 31, 2013 to be made final as they are.”* (Industrial Customer  
26 Group, Written Submission, Page 7)

27  
28 Vale does not comment on the finalization of the January 1, 2008 to August 31, 2013 interim  
29 rates for Island Industrial customers.

30  
31 Newfoundland Power submits that, based on the direction of Government and the information  
32 filed in the proceeding, it is open to the Board to order that the Island Industrial customer interim  
33 rates in effect from January 1, 2008 to August 31, 2013 be made final. Newfoundland Power also  
34 submits that, if the Board finalizes the Island Industrial customer rates, Hydro’s Utility rate to  
35 Newfoundland Power, which was made interim effective January 1, 2011, should also be made  
36 final.

37  
38 The Consumer Advocate agrees with Hydro’s position and recommends that the Island Industrial  
39 customer rates for the period January 1, 2008 to August 31, 2013 be made final.

40  
41 While the direction of Government does not expressly require that the January 1, 2008 to August  
42 31, 2013 interim rates be made final the Board agrees that a purposeful reading of the direction  
43 of Government suggests that these rates should be approved on a final basis. The parties did not  
44 challenge Hydro’s request to finalize these rates. The Board therefore will finalize the Island  
45 Industrial customer rates which were interim from January 1, 2008 to August 31, 2013. The  
46 Board agrees with Newfoundland Power that Hydro’s Utility rate from January 1, 2011 to  
47 August 31, 2013 should also be made final at this time. The Board notes that the rates after

1 August 31, 2013 for both the Island Industrial customers and Newfoundland Power will be  
2 interim rates given that these rates could possibly be impacted by determinations made in  
3 Hydro's general rate application.

4  
5 Rate for Teck Resources Limited

6  
7 Hydro proposes an RSP rate for Teck Resources Limited of (1.111) cents per kWh for electrical  
8 consumption on and after September 1, 2013. Hydro determined this rate based on its estimate of  
9 the three equal annual percentage increases set out in the direction of Government.

10  
11 The Industrial Customer Group submits that the Board should order that the Industrial – Firm  
12 rate components be changed as set out in Schedule A to the Application, which sets a Teck  
13 Resources Limited RSP Surplus Adjustment of (1.111) cents per kWh.

14  
15 Vale submits that:

16  
17 *“As no explanation has been provided, Vale takes no position with respect to the*  
18 *preferential treatment provided to Teck Resources in the Order in Council.”* (Vale,  
19 *Written Submission, Page 5)*

20  
21 Newfoundland Power states that it has no direct interest in the Teck Resources Limited rate and  
22 makes no submission thereon.

23  
24 The Consumer Advocate recommends approval of the RSP rate of (1.111) cents/kWh for Teck  
25 Resources Limited proposed by Hydro.

26  
27 The Board notes that the direction of Government does not set out a specific rate for Teck  
28 Resources Limited but rather states that the rate increase will be phased in with three equal  
29 annual percentage increases so that Teck Resources Limited is subject to the standard Island  
30 Industrial customer rate after the phase-in period. Hydro has calculated an RSP rate for Teck  
31 Resources Limited based on a methodology developed for the implementation of the direction of  
32 Government. Hydro answered several requests for information with respect to how this rate was  
33 calculated and the written submissions filed by the parties do not raise any concerns in relation to  
34 this methodology. The Board accepts Hydro's approach as reasonable in the circumstances and  
35 will therefore order on an interim basis an RSP adjustment rate of (1.111) cents per kWh for  
36 Teck Resources Limited effective September 1, 2013.

37  
38 Segregation of the August 31, 2013 RSP Load Variation amount

39  
40 Hydro submits that, for ease of administration, the (\$10,870,627) balance in the Island Industrial  
41 customer RSP resulting from the amount allocated to the Industrial Customer RSP by Order No.  
42 P.U. 26(2013) should be segregated. Hydro's position is that no customers are disadvantaged by  
43 the segregation of the (\$10,870,627) balance, and that the Board should approve that segregation  
44 at this time. Additionally, a similar segregation of the RSP amount allocated to Newfoundland  
45 Power should be made to facilitate the future disposition of that balance. Hydro submits that  
46 segregation of these amounts will provide transparency in the calculation of rates.

1 The Industrial Customer Group does not specifically discuss the segregation of these amounts  
2 substantially but accepts the proposed changes to the RSP rules set out in the Application  
3 relating to the August 31, 2013 accumulated load variation providing for segregation of the  
4 Island Industrial customer allocated amount.

5  
6 Vale and Newfoundland Power do not specifically address the segregation of the August 31,  
7 2013 accumulated load variation.

8  
9 The Consumer Advocate recommends approval of the new section of the RSP related to the  
10 disposition of the August 31, 2013 accumulated load variation.

11  
12 The Board notes that the direction of Government does not specifically set out the accounting  
13 treatment that is to be given to the August 31, 2013 accumulated load variation. Hydro requests  
14 that the accumulated load variation on August 31, 2013 for both the Island Industrial customers  
15 and Newfoundland Power be segregated for ease of administration. The Board did not receive  
16 any submissions to suggest that the segregation should not be allowed. The Board will therefore  
17 approve Hydro's proposal to segregate the August 31, 2013 accumulated load variation for both  
18 the Island Industrial customers and Newfoundland Power.

19  
20 Island Industrial customer rate phase-in and funding

21  
22 Hydro proposes changes to the RSP rules so that the RSP adjustment for Teck Resources  
23 Limited is applied to the accumulated load variation amount. Hydro states:

24  
25 *"To complete compliance with the Orders in Council, and in particular the direction that*  
26 *the funding for the phase-in be drawn from the January 1, 2007 to June 30, 2013*  
27 *accumulated Load Variation (the Rate Stabilization Plan Surplus), the RSP adjustment for*  
28 *Teck must be applied to the IC RSP Surplus"* (Hydro, Written Submission, Pages 9-10)

29  
30 Hydro also proposes changes to the RSP rules to provide for the phase-in of the other Island  
31 Industrial customer rates and draw down of the RSP Surplus to phase in these rates. Hydro  
32 submits that the Board should approve the proposed changes to comply with the direction of  
33 Government.

34  
35 The Industrial Customer Group submits that none of the proposed changes to the RSP should be  
36 approved at this time aside from paragraph 1 of Section E which allows for the allocation of the  
37 August 31, 2013 load variation balance in accordance with the direction of Government. They  
38 state:

39  
40 *"In this regard, the IIC Group note that the calculation of subsequent phase-in rates will*  
41 *not be possible, as Hydro acknowledges at page 9, lines 12-17 of its Application*  
42 *Evidence, until new base rates are approved by the Board in the GRA process, and will*  
43 *need to be addressed through the RSP in effect at that time. It is therefore premature, and*  
44 *unnecessary at this time, to approve the changes proposed by Schedule B to Hydro's*  
45 *Application in Section E: RSP Surplus, paragraph 2 Island Industrial Customer RSP*  
46 *Surplus Balance, and these changes can and should be addressed in the context of other*

1           *changes to be considered for the RSP in the GRA process.*" (Industrial Customer Group,  
2           Written Submission, Page 10)  
3

4           Vale makes detailed submissions in relation to Hydro's proposals in relation to the phase-in  
5           period. Vale notes that the rates which are proposed may be changed following the general rate  
6           application process. Vale submits that the phase-in period suggested by Hydro is inconsistent  
7           with the direction of Government and that the calculation of rate adjustments over the phase-in  
8           period should be based on forecasted energy for 2014 to 2016 rather than 2013 test year energy.  
9

10          Newfoundland Power submits that it is appropriate that final approval of the new RSP rules  
11          should be determined following the hearing of Hydro's general rate application.  
12

13          The Consumer Advocate does not specifically comment on the proposed allocation of the Teck  
14          Resources Limited RSP adjustment to the segregated accumulated load variation or the proposed  
15          changes to address the phase-in of the other Island Industrial customer rates but states:  
16

17                 *"The Consumer Advocate recommends that approval be granted for the new section of*  
18                 *the RSP related to disposition of the load variation, including financing, which has*  
19                 *accumulated since January 1, 2007 consistent with the final form of the RSP ordered by*  
20                 *the Board following the GRA."* (Consumer Advocate, Written Submission, Page 2)  
21

22          The Board notes that the direction of Government requires that the funding for the three-year  
23          Island Industrial customer rate phase-in is to be drawn from the August 31, 2013 accumulated  
24          load variation. While Hydro applies in the Application for changes to the RSP rules to implement  
25          the phase-in and funding of the phase-in from the accumulated load variation, Hydro states in  
26          CA-NLH-11 that the proposed changes to the RSP rules are not required until the conclusion of  
27          its general rate application. The parties raise several issues in relation to the phase-in of rates and  
28          seem to agree that this issue should be deferred to Hydro's general rate application. Given that  
29          the general rate application provides an opportunity to address outstanding issues in relation to  
30          the phase-in of rates and funding thereof and, further that Hydro advises that approval is not  
31          required immediately, the Board will not at this time approve the proposed changes to the RSP  
32          rules in relation to the phase-in of rates and allocation of the RSP surplus for Island Industrial  
33          customers, including the Teck Resources Limited. Hydro will accumulate the RSP rate for Teck  
34          Resources Limited and segregate the balance from the components of the Industrial Customers  
35          Rate Stabilization Plan to be dealt with by a future Order of the Board.  
36

### 37          Changes to the RSP Rules to change the way the load variation is allocated 38

39          In its submissions Hydro confirms that the proposed modifications to the RSP rules related to the  
40          allocation of the load variation, such that year-to-date net load variation for both Newfoundland  
41          Power and the Island Industrial customers are allocated among the customer groups based on  
42          energy ratios, can be properly dealt with at a later time and will be addressed in its general rate  
43          application. Hydro asks for approval to hold, in a separate account from the Island Industrial  
44          customer and Newfoundland Power RSP plans, the load variation that occurs from September 1,  
45          2013 until it is disposed of through Hydro's application to modify the load variation allocation.

1 The Industrial Customer Group submits that:

2  
3 *“In the context of the current application, which is a limited scope application to*  
4 *implement the OICs, there is no urgency to implement changes to the go-forward RSP.”*  
5 *(Industrial Customer Group, Written Submission, Page 9)*  
6

7 They agree that the Board should order that the load variation that occurs for each customer class  
8 from September 1, 2013 until a determination of the Board as part of the general rate application  
9 be held in a separate account for disposition as determined in a future Order of the Board.  
10

11 Vale requests that the Board order that the load variation provision continue without changes at  
12 this time except that the load variation from September 1, 2013 be held in a separate account for  
13 disposition by the Board. Vale states:

14  
15 *“Vale submits that the continuation of, or changes to, the load variation component of*  
16 *the RSP requires investigation, discussion and negotiation that is not possible within the*  
17 *timelines of the current Application. Further, by ordering that any load variation that*  
18 *occurs between September 1, 2013 and conclusion of the GRA proceedings is to be*  
19 *placed in a separate account for future disposition by the Board, the Board can remove*  
20 *any urgency for a determination on this matter.”* (Vale, Written Submission, Pages 6-7)  
21

22 Newfoundland Power notes in its submission that Hydro has agreed this matter may be deferred  
23 to the general rate application and submits that there is insufficient evidence in this proceeding to  
24 approve the proposed changes to the rules respecting the future allocation of the load variation  
25 component of the RSP at this time. Newfoundland Power agrees that segregation of the load  
26 variation amount as suggested by Hydro is an appropriate interim measure pending the final  
27 resolution of the issue.  
28

29 The Consumer Advocate notes that Hydro has indicated that the allocation of the load variation  
30 component of the RSP can be deferred to the general rate application and suggests that the Board  
31 limit its Order to resolution of the three issues for which Hydro seeks Board approval.  
32

33 The Board notes that the proposed change to the way in which the load variation provision is  
34 allocated in the RSP is not a matter addressed in the direction of Government. The parties agree  
35 that changes to way that the load variation is allocated in the RSP should be addressed in  
36 Hydro’s general rate application and that Hydro should account separately for the load variation  
37 amounts beginning on September 1, 2013. The Board will therefore postpone consideration of  
38 these proposed changes to the RSP rules and will order that, beginning on September 1, 2013,  
39 the load variation amounts be segregated.  
40

#### 41 Conclusions

42

43 In conclusion the Board finds that:

- 44 i) Hydro’s January 1, 2008 to August 31, 2013 Island Industrial customer rates should  
45 be finalized;
- 46 ii) Hydro’s January 1, 2011 to August 31, 2013 Utility rate should be finalized;

- 1       iii) Hydro's interim Island Industrial customer rates approved in Order No. P.U. 26(2013)  
2       should be continued on an interim basis, except that an RSP rate of (1.111) cents per  
3       kWh should be approved on an interim basis for Teck Resources Limited effective  
4       September 1, 2013;
- 5       iv) Hydro's Utility rate should be continued on an interim basis from September 1, 2013;
- 6       v) Hydro should file revised interim RSP rules effective September 1, 2013 based on the  
7       following findings of the Board;
- 8       a. the August 31, 2013 accumulated load variation for the Island Industrial  
9       customers and Newfoundland Power should be segregated;
- 10      b. the proposed changes to the way in which the load variation is allocated in the  
11      RSP is not approved at this time;
- 12      c. the proposed changes to the RSP rules to phase in Island Industrial customer rates,  
13      and the proposed funding of the phase-in for Teck Resources Limited and the  
14      other Island Industrial customers from the August 31, 2013 accumulated load  
15      variation is not approved at this time;
- 16      d. the RSP rate for Teck Resources Limited should be accumulated and segregated  
17      from the other components of the Industrial Customer RSP; and
- 18      e. the load variation accumulating on and after September 1, 2013 should be  
19      segregated.

## 21 Costs

22  
23 The Industrial Customer Group and Vale request an award of costs.

24  
25 The Industrial Customer Group submits that Hydro's lack of justification for finalizing the  
26 existing interim Island Industrial customer rates resulted in the need for the Industrial Customer  
27 Group to develop extensive RFIs.

28  
29 Vale requests an award of costs on the same basis as any award of costs made in favour of the  
30 Consumer Advocate and/or the Industrial Customer Group. Vale submits that an award of costs  
31 in its favour is justified on the basis that it will be the single largest Island Industrial customer of  
32 Hydro when its plant in Long Harbour begins production and that its interests in this Application  
33 were distinct from the interests of the Industrial Customer Group.

34  
35 The Board has jurisdiction to award costs to a party under section 90 of the *Act*. Neither Hydro  
36 nor the other parties sought leave to argue the requests for cost awards by the Industrial  
37 Customer Group or Vale. The Board finds the participation of the Industrial Customer Group and  
38 Vale was necessary in the circumstances of this Application, given that the Application  
39 specifically concerned the RSP rules and components of the rates to be charged to Island  
40 Industrial customers. The participation of both these parties was helpful to the Board in its  
41 consideration of the Application and contributed to the Board's understanding of the issues  
42 before it. The Board finds an award of costs to both the Industrial Customer Group and Vale, in  
43 an amount to be determined by the Board, is appropriate and should be made. A bill of costs will  
44 be required to be submitted by both parties to the Board for its consideration.

**IT IS THEREFORE ORDERED THAT:**

- 1  
2  
3     **1. Hydro's Island Industrial customer rates charged for electrical consumption from**  
4     **January 1, 2008 to August 31, 2013 are approved on a final basis.**  
5
- 6     **2. Hydro's Utility rate charged for electrical consumption from January 1, 2011 to**  
7     **August 31, 2013 is approved on a final basis.**  
8
- 9     **3. The rates to be charged to Island Industrial customers to be effective for electrical**  
10    **consumption on and after September 1, 2013, are approved on an interim basis, as**  
11    **set out in Schedule A to this Order.**  
12
- 13    **4. Hydro's Utility rate to be charged to Newfoundland Power Inc. to be effective for**  
14    **electrical consumption on and after September 1, 2013, is approved on an interim**  
15    **basis, as set out in Schedule B to this Order.**  
16
- 17    **5. Hydro shall file revised Rate Stabilization Plan rules reflecting the findings of the**  
18    **Board in this Order to be effective September 1, 2013 on an interim basis.**  
19
- 20    **6. The Industrial Customers (Corner Brook Pulp and Paper Limited, North Atlantic**  
21    **Refining Limited and Teck Resources Limited) are entitled to an award of costs in**  
22    **an amount to be fixed by the Board.**  
23
- 24    **7. Vale Newfoundland and Labrador Limited is entitled to an award of costs in an**  
25    **amount to be fixed by the Board.**  
26
- 27    **8. Hydro shall pay all costs and expenses of the Board incurred in connection with the**  
28    **Application.**

**DATED** at St. John's, Newfoundland and Labrador this 30<sup>th</sup> day of September, 2013.

---

Andy Wells  
Chair & Chief Executive Officer

---

Darlene Whalen, P.Eng.  
Vice-Chair

---

Dwanda Newman, LL.B.  
Commissioner

---

James Oxford  
Commissioner

---

Cheryl Blundon  
Board Secretary



**NEWFOUNDLAND AND LABRADOR HYDRO**

**INDUSTRIAL - FIRM (INTERIM)**

**Availability:**

Any person purchasing power, other than a retailer, supplied from the Interconnected Island bulk transmission grid at voltages of 66 kV or greater on the primary side of any transformation equipment directly supplying the person and who has entered into a contract with Hydro for the purchase of firm power and energy.

**Rate:**

**Demand Charge:**

The rate for Firm Power, as defined and set out in the Industrial Service Agreements, shall be \$6.68 per month per kilowatt of billing demand.

**Firm Energy Charge:**

Base Rate\* ..... @ 3.676 ¢ per kWh  
 RSP Adjustment ..... @ 0.00 ¢ per kWh\*\*

**\*\*Exception:**

**Teck Resources Limited RSP Adjustment** ..... @ (1.111) ¢ per kWh

Net Energy Rate ..... @ 3.676 ¢ per kWh\*\*\*

**\*\*\* Exception:**

**Teck Resources Limited Net Energy Rate** ..... @ 2.565 ¢ per kWh

**\*Subject to RSP Adjustment:**

RSP Adjustment refers to all applicable adjustments arising from the operation of Hydro's Rate Stabilization Plan, which levelizes variations in hydraulic production, fuel cost, load and rural rates.

**Specifically Assigned Charges:**

The table below contains the additional specifically assigned charges for customer plant in service that is specifically assigned to the Customer.

	<b>Annual Amount</b>
Abitibi-Consolidated (Grand Falls)	\$ 1,244
Abitibi-Consolidated (Stephenville)	\$ 104,647
Corner Brook Pulp and Paper Limited	\$ 347,167
North Atlantic Refining Limited	\$ 150,976
Teck Resources Limited	\$ 186,169

1 **Adjustment for Losses:**

2  
3 If the metering point is on the load side of the transformer, either owned by the customer or  
4 specifically assigned to the customer, an adjustment for losses as determined in consultation with the  
5 customer prior to January 31 of each year shall be applied.

6  
7 **General:**

8  
9 Details regarding the conditions of Service are outlined in the Industrial Service Agreements.  
10 **This rate schedule does not include the Harmonized Sales Tax (HST) which applies to electricity**  
11 **bills.**

NEWFOUNDLAND AND LABRADOR HYDRO

UTILITY (INTERIM)

Availability:

This rate is applicable to service to Newfoundland Power (NP).

Definitions:

"Billing Demand"

In the Months of January through March, billing demand shall be the greater of:

- (a) the highest Native Load less the Generation Credit, beginning in the previous December and ending in the current Month; and
- (b) the Minimum Billing Demand.

In the Months of April through December, billing demand shall be the greater of:

- (a) the Weather-Adjusted Native Load less the Generation Credit, plus the Weather Adjustment True-up; and
- (b) the Minimum Billing Demand.

"Generation Credit" refers to NP's net generation capacity less allowance for system reserve, as follows:

	kW
Hydraulic Generation Credit	80,104
Thermal Generation Credit	<u>37,826</u>
Total Generation Credit	117,930

In order to continue to avail of the Generation Credit, NP must demonstrate the capability to operate its generation to the level of the Generation Credit. This will be verified in a test by operating the generation at a minimum of this level for a period of one hour as measured by the generation demand metering used to determine the Native Load. The test will be carried out at a mutually agreed time between December 1 and March 31 each year. If the level is not sustained, Newfoundland Power will be provided an opportunity to repeat the test at another mutually agreed time during the same December 1 to March 31 period. If the level is not sustained in the second test, the Generation Credit will be reduced in calculating the associated billing demands for January to December to the highest level that could be sustained.

1           “Maximum Native Load” means the maximum Native Load of NP in the four-Month  
2 period beginning in December of the preceding year and ending in March of the  
3 current year.

4  
5           “Minimum Billing Demand” means ninety-nine percent (99%) of:

6  
7                         NP’s test year Native Load less the Generation Credit.

8  
9           “Month” means for billing purposes, the period commencing at 12:01 hours on the  
10 last day of the previous month and ending at 12:00 hours on the last day of the month  
11 for which the bill applies.

12  
13           “Native Load” is the sum of:

- 14  
15           (a) the amount of electrical power, delivered at any time and measured in kilowatts,  
16           supplied by Hydro to NP, averaged over each consecutive period of fifteen minutes  
17           duration, commencing on the hour and ending each fifteen minute period thereafter;  
18           and  
19  
20           (b) the total generation by NP averaged over the same fifteen-minute periods.

21  
22           “Weather-Adjusted Native Load” means the Maximum Native Load adjusted to  
23 normal weather conditions, calculated as:

24  
25           Maximum Native Load  
26           plus (Weather Adjustment, rounded to 3 decimal places, x 1000)

27  
28           Weather Adjustment is further described and defined in the Weather Adjustment  
29 section.

30  
31           “Weather Adjustment True-up” means one-ninth of the difference between:

- 32           (a) the greater of:  
33                 - the Weather Adjusted Native Load less the Generation Credit, times  
34                 three; and  
35                 - the Minimum Billing Demand, times three; and  
36           (b) the sum of the actual billed demands in the Months of January,  
37           February and March of the current year.

1 **Monthly Rates:**  
2

3 **Billing Demand Charge:**

4 Billing Demand, as set out in the Definitions section, shall be charged at the following  
5 rate:

6  
7 \$4.00 per kW of billing demand  
8

9 **Energy Charge:**

10 First 250,000,000 kilowatt-hours\* ..... @ 3.246 ¢ per kWh

11 All excess kilowatt-hours\* ..... @ 8.805 ¢ per kWh  
12

13 **Firming-up Charge:**

14 Secondary energy supplied by

15 Corner Brook Pulp and Paper Limited\* ..... @ 0.841 ¢ per kWh  
16

17 **RSP Adjustment:**

18 Current Plan ..... @ (1.101) ¢ per kWh

19 Fuel Rider ..... @ 1.634 ¢ per kWh  
20

21 Total RSP Adjustment – All kilowatt-hours ..... @ 0.533 ¢ per kWh  
22

23 **\*Subject to RSP Adjustment:**  
24

25 RSP Adjustment refers to all applicable adjustments arising from the operation of  
26 Hydro's Rate Stabilization Plan, which levelizes variations in hydraulic production,  
27 fuel cost, load and rural rates.  
28

29 **Adjustment for Losses:**  
30

31 If the metering point is on the load side of the transformer, either owned by the  
32 customer or specifically assigned to the customer, an adjustment for losses as  
33 determined in consultation with the customer prior to January 31 of each year, shall  
34 be applied to metered demand and energy.  
35

36 **Adjustment for Station Services and Step-Up Transformer Losses:**  
37

38 If the metering point is not on the generator output terminals of NP's generators, an  
39 adjustment for Newfoundland Power's power consumption between the generator  
40 output terminals and the metering point as determined in consultation with the  
41 customer prior to the implementation of the metering, shall be applied to the metered  
42 demand.

1 **Weather Adjustment:** This section outlines procedures and calculations related to the weather  
2 adjustment applied to NP's Maximum Native Load.

- 3
- 4 (a) Weather adjustment shall be undertaken for NP's actual Maximum Native Load.
- 5
- 6 (b) Weather adjustment shall be derived from Hydro's NP native peak demand model.
- 7
- 8 (c) By September 30<sup>th</sup> of each year, Hydro shall provide NP with updated weather adjustment  
9 coefficient incorporating the latest year of actuals.
- 10
- 11 (d) The underlying temperature and wind speed data utilized to derive weather adjustment shall  
12 be sourced to weather station data for the St. John's, Gander, and Stephenville airports  
13 reported by Environment Canada. NP's regional energy sales shall be used to weight  
14 regional weather data. Hydro shall consult with NP to resolve any circumstances arising  
15 from the availability of, or revisions to, weather data from Environment Canada and/or wind  
16 chill formulation.
- 17
- 18 (e) The primary definition for the temperature weather variable is the average temperature for  
19 the peak demand hour and the preceding seven hours. The primary definition for the wind  
20 weather data is the average wind speed for the peak demand hour and the preceding seven  
21 hours. Hydro will consult with NP should data anomalies indicate a departure from the  
22 primary definition on underlying weather data.
- 23
- 24 (f) Subject to the availability of weather data from Environment Canada, Hydro shall prepare a  
25 preliminary estimate of the Weather-Adjusted Native Load by March 15<sup>th</sup> of each year, and  
26 a final calculation of Weather-Adjusted Native Load by April 5<sup>th</sup> of each year.

27

28 **General:**

29

30 **This rate schedule does not include the Harmonized Sales Tax (HST) which applies**  
31 **to electricity bills.**

32

33 With respect to all matters where the customer and Hydro consult on resolution but are  
34 unable to reach mutual agreement, the billing will be based on Hydro's best estimate.