

October 10, 2013

VIA COURIER and ELECTRONIC MAIL

Board of Commissioners of Public Utilities
120 Torbay Road
P.O. Box 21040
St. John's, NL A1A 5B2

Attention: **Ms. G. Cheryl Blundon**
Board Secretary

Dear Ms. Blundon:

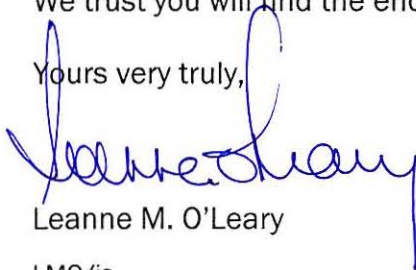
Re: 2014 Capital Budget Application of Newfoundland and Labrador Hydro

Please find enclosed the original and twelve (12) copies of the Supplemental Written Submissions of Vale Newfoundland & Labrador Limited in respect of the above-noted Application, and specifically the issue of average base rate for 2012.

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

We trust you will find the enclosed satisfactory.

Yours very truly,



Leanne M. O'Leary

LMO/js
Encl.

c.c. Geoffrey P. Young, Senior Legal Counsel, Newfoundland & Labrador Hydro
Gerard Hayes, Senior Legal Counsel, Newfoundland Power
Liam O'Brien, Curtis Dawe
Consumer Advocate, Thomas J. Johnson, O'Dea, Earle
Paul Coxworthy, Stewart McKelvey
Dean A. Porter, Poole Althouse

Leanne M. O'Leary | Partner

Direct 709 570 5516 Main 709 738 7800 Fax 709 570 5776 Email loleary@coxandpalmer.com
Suite 1000 Scotia Centre 235 Water Street St. John's NL A1C 1B6

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 2014 capital budget pursuant to s. 41(1) of the Act; (2) its 2014 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 \$5,000.00 pursuant to s. 41(3)(b) of the Act; and (4) its estimated contributions in aid of construction for 2014 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 2012.

1 **Supplemental Submissions of Vale Newfoundland & Labrador Limited**

2 The following is the supplemental written submission of Vale Newfoundland &
3 Labrador Limited (“Vale”) in relation to Newfoundland and Labrador Hydro’s (“Hydro”)
4 2014 Capital Budget Application, specifically the request for an Order pursuant to s.
5 78 of the Public Utilities Act (the “Act”) fixing and determining its average base rate
6 for 2012. At K-1 of its 2014 Capital Budget Application, Hydro requests an Order to
7 fix and determine its average rate base for 2012 in the amount of \$1,526,051,000
8 (2014 Capital Budget Application paragraph 18(4)).

9 With regard to the capital budget of a utility, section 41(3) of the Act states:

10 *41.(3) A public utility shall not proceed with the construction, purchase or*
11 *lease of improvements or additions to its property where*

1 (a) the cost of the construction or purchase is in excess of
2 \$50,000; or

3 (b) the cost of the lease is in excess of \$5,000 in a year of the lease
4 without the prior approval of the board.

5 With regard to the fixing and determination of the rate base, section 78(2)(h)(ii) of
6 the Act states:

7 78. (2) In fixing a rate base the board may, in addition to the value of
8 the property and assets as determined under section 64, include

9 (h) other fair and reasonable expenses which

10 (i) the board thinks appropriate and basic to the
11 public utility's operation, and

12 (ii) has, with the approval of the board, been
13 charged to capital account,

14 but the expenses shall be allowed only to the extent not amortized in
15 previous years.

16 In RFI PUB-NLH-6, the Board asked Hydro to confirm all capital expenditures,
17 including those from the Allowance For Unforeseen Items category, included in the
18 Average Rate Base numbers for 2011 and 2012 that had not yet been specifically
19 approved by the Board for inclusion in these rate base numbers. The Board further
20 requested the status of any of its' information requests related to these items.

21 In its reply, Hydro confirmed that a project is not formally approved for inclusion in
22 rate base until rate base is fixed and determined in accordance with section 78 of
23 the Act [Reply to RFI PUB-NLH-6]. Hydro continued its response by stating: "There are

1 two 2011 unforeseen item projects about which no specific approval has been
2 ascertained: (1) Increase generating capacity – Charlottetown (\$1,481,500); and (2)
3 Ice Storm – Baie Verte Peninsula (\$519,300). There was one 2012 project that falls
4 into this category: Black Tickle Plant Rehabilitation (\$1,374,400). There is one
5 report outstanding on these matters, it concerns the Black Tickle Plant
6 Rehabilitation.” This response to the RFI confirms that Hydro has included a total of
7 \$3,375,200 of capital projects in the proposed Average Rate Base for 2011 and
8 2012 which were not approved by the Board.

9 The Grant Thornton’s report to the Board dated September 20, 2013 entitled
10 “Newfoundland and Labrador 2012 Average Rate Base and 2012 Average Deferred
11 Charges” adds a fourth project and lists a total of unapproved capital project
12 expenditure of \$3,609,920, as follows:

13 2012 Rate Base:

14 1. 2012 capital asset purchase of \$234,000 relating to the
15 upgrade of the Cat Arm access road which has not been approved by
16 the Board;

17 2. 2012 capital expenditure of \$1,374,000 relating to the Black
18 Tickle Diesel Fire Restoration Project which has not been approved by
19 the Board.

20 2011 Rate Base:

21 1. 2011 capital asset purchases of \$2,001,920 which has not
22 been approved by the Board.”

23 Vale submits that the \$3,609,920 of capital projects identified by Grant Thornton
24 were undertaken by Hydro without the prior approval of the Board and then

1 subsequently included as part of the rate base submitted to the Board for approval
2 with the 2014 Capital Budget. Vale submits that this contravenes the language and
3 intent of the Act. The legislation provides a framework whereby capital expenditures
4 are approved by the Board through the application process and the rate base is fixed
5 by the Board to include those expenditures which have been justified to the
6 satisfaction of the Board. The inclusion of this \$3,609,920 is a significant issue for
7 customers of the province as the base rate has a direct, negative impact on
8 customers' rates [Reference: Replies to RFIs V-NLH-1 and V-NLH-7(b)].

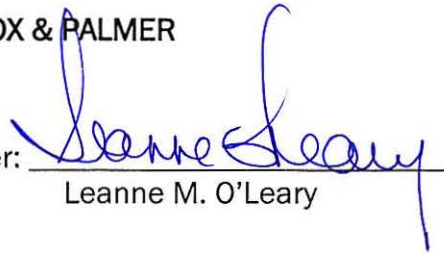
9 Vale respectfully submits that in the absence of Board approval for the capital
10 expenditures totaling \$3,609,920, and based on the current information before the
11 Board on these expenditures, the Board should remove the \$3,609,920 from the
12 proposed rate base included in Hydro's 2014 Capital Budget application at K-1.
13 Further, Vale respectfully submits that the Board direct Hydro not to include any of
14 the \$3,609,920 of capital expenditures in the rate base used to determine rates in
15 the current GRA pending before the Board.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED ON BEHALF OF VALE NEWFOUNDLAND &
LABRADOR LIMITED.**

DATED at St. John's, in the Province of Newfoundland and Labrador, this 10th day of
October, 2013.

COX & PALMER

Per:


Leanne M. O'Leary

TO: The Board of Commissioners of Public Utilities
Suite E210, Prince Charles Building
120 Torbay Road
P. O. Box 21040
St. John's, NL A1A 5B2
Attention: Cheryl Blundon
Board Secretary

TO: Newfoundland & Labrador Hydro
P. O. Box 12400
500 Columbus Drive
St. John's, NL A1B 4K7
Attention: Geoffrey P. Young
Senior Legal Counsel

TO: Newfoundland Power
P. O. Box 8910
55 Kenmount Road
St. John's, NL A1B 3P6
Attention: Gerard Hayes
Senior Legal Counsel

TO: Curtis Dawe
11th Floor, Fortis Building
139 Water Street
St. John's, NL A1C 5J9
Attention: Liam O'Brien

TO: Consumer Advocate, Thomas J. Johnson
O'Dea, Earle
323 Duckworth Street
P. O. Box 5955, Stn. C
St. John's, NL A1C 5X4

TO: **Island Industrial Customers**
Corner Brook Pulp and Paper Limited,
North Atlantic Refining Limited
and Teck Resources Limited

Stewart McKelvey
PO Box 5038
11th Floor, Cabot Place
100 New Gower Street
St. John's, NL A1C 5V3
Attention: Paul Coxworthy

&

Poole Althouse
Western Trust Building
49-51 Park Street
Corner Brook, NL A2H 2X1
Attention: Dean A. Porter