

June 4, 2019

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

Attention: Ms. Cheryl Blundon
Director of Corporate Services & Board Secretary

Dear Ms. Blundon:

Re: Network Additions Policy Review and Labrador Interconnected System Expansion Study - Hydro's Reply

Please find enclosed one original and eight copies of Newfoundland and Labrador Hydro's ("Hydro") reply to the Parties' comments with regard to the above-mentioned filings.

Background

In Order No. P.U. 9(2018), the Board of Commissioners of Public Utilities (the "Board") directed Hydro to provide an expansion study for the Labrador Interconnected System and a network addition policy setting out how new customers will be treated in regards to their impacts and how costs caused by new customers will be allocated. Hydro filed the "Network Additions Policy Review" on October 1, 2018. It then filed the "Labrador Interconnected System Transmission Expansion Study" (the "Transmission Expansion Study") on October 31, 2018, and filed a revised version of the Study on November 5, 2018. Hydro filed a further revised version of the Study on April 3, 2019. On December 14, 2018, Hydro filed the "Labrador Interconnected System Network Additions Policy Summary Report" (the "Labrador Network Additions Policy"). The Labrador Interconnected Group ("LIG"), Newfoundland Power, the Iron Ore Company of Canada and the Board issued Requests for Information ("RFIs") to Hydro concerning the Labrador Network Additions Policy and Transmission Expansion Study on February 21, 2019. Hydro provided its responses to the RFIs on March 15, 2019.

The LIG filed an expert report prepared by Mr. Philip Raphals on April 25, 2019 (the "Raphals Report") and an addendum to this report on May 6, 2019 (the "Raphals Report Addendum"). Hydro and the Board provided RFIs to the LIG with respect to the Raphals Report and Raphals Report Addendum on May 13, 2019 and the LIG responded to these RFIs on May 23, 2019.

On May 28, 2019 Hydro received submissions from the LIG. Newfoundland Power advised it would not be providing comments. No comments were forthcoming from the Island Industrial Customers, Consumer Advocate, or the Iron Ore Company of Canada.

Factual Inaccuracies with the Labrador Interconnected Group's Submission

In the LIG's correspondence as well as in their responses to the RFIs, there were a number of factual inaccuracies, specifically: the assertion that Hydro's policy proposal does not reflect the review of Labrador Network Additions Policy issues completed by Hydro's consultant, Christensen Associates

Energy Consulting, LLC (“Christensen”); the implication that Hydro’s policy proposal is not consistent with Christensen’s recommendation; and that the proposed use of Expected Unserved Energy (“EUE”) to reflect improvements in reliability—all are incorrect or based on misconceptions.

Included with Hydro’s Reply as Attachment 1, is a Memorandum prepared by Christensen detailing these inaccuracies and providing the correct information. Hydro felt it important that the Board have accurate information regarding Christensen’s thoughts on Hydro’s proposed policy and the proposed beneficiary pays approach upon which to base their decision.

Hydro’s Response

The LIG submissions indicate that the LIG agrees with the purpose of the Labrador Network Additions Policy and they support Board approval of the majority of the document for a certain segment of Hydro’s customers. The LIG contends that the Board should adopt Hydro’s Labrador Network Additions Policy conditional on Hydro’s continued work with stakeholders to address what the LIG perceives to be various weaknesses in the Transmission Expansion Study and the Labrador Network Additions Policy. The LIG submits that the Labrador Network Additions Policy should not apply to new rural load requests, but rather only to industrial and cryptocurrency customers.

The restrictions recommended by the LIG,¹ along with Hydro’s responses to them, are as follows.

a. Provisionally accept the Labrador Network Additions Policy as proposed by Hydro, provided that it only applies to industrial and cryptocurrency customers

In its submission the LIG requests that the Board accept the Labrador Network Additions Policy as proposed by Hydro, provided that it only applies to industrial and cryptocurrency customers. Hydro has stated on the record in other proceedings that in its opinion, the legislative framework in the Province, and in particular s3 of the *Electrical Power Control Act, 1994, Chapter E-5.1* (the “EPCA”) which the LIG has quoted in its comments, do not permit Hydro to discriminate between customers based solely on the end use for their purchased energy. In its reply the LIG reproduced the following excerpt from the EPCA:

3. It is declared to be the policy of the province that:
 - (a) the rates to be charged, either generally or under specific contracts, for the supply of power within the province
 - (i) should be reasonable and not unjustly discriminatory, [. . .]
 - (v) should promote the development of industrial activity in Labrador [. . .]
 - (b) all sources and facilities for the production, transmission and distribution of power in the province should be managed and operated in a manner
 - (i) that would result in the most efficient production, transmission and distribution of power,
 - (ii) that would result in consumers in the province having equitable access to an adequate supply of power,

¹ “Submissions of the Labrador Interconnected Group,” May 28, 2019, at pp. 25 f.

(iii) that would result in power being delivered to consumers in the province at the lowest possible cost consistent with reliable service

[. . .]

The LIG in its reply goes on to quote the end of s3(b) of the *EPCA* which states, "where necessary, 'all power, sources and facilities of the province are to be assessed and allocated and re-allocated in the manner that is necessary to give effect to this policy'."

Hydro submits that for the Board to approve the Labrador Network Additions Policy and provide that it applies only to industrial and cryptocurrency customers is directly contrary to s3(a)(i) of the *EPCA* which requires that power rates and the supply of power within the Province not be unjustly discriminatory, and also contrary to s3(b)(ii) of the *EPCA* which requires that all customers in the Province have an equitable access to an adequate supply of power. Hydro further submits that to approve the Labrador Network Additions Policy and provide that it applies only to industrial and cryptocurrency customers also runs contrary to the notion of fairness in ratemaking and regulatory principles as discussed by the Board in Order No. P.U. 8(2007). In that Order the Board stated: "Fairness of specific rates in the apportionment of total costs of service among the different ratepayers should be such so as to avoid arbitrariness, capriciousness, inequities or discrimination."²

b. Provisionally use the definition of cryptocurrency customer as set out in the Régie decision and described on page 7 of the Raphals Report Addendum

The LIG in its reply, goes further than seeking to restrict the application of the Labrador Network Additions Policy to industrial and cryptocurrency customers and requests that the Board provisionally use a definition of cryptocurrency customer as has been approved by the Régie de l'énergie (the "Régie") in the province of Quebec. In effect, the LIG has proposed the creation of a new class of customer which has been established by the Régie. What the LIG ignores in its submission is that the proceedings before the Régie that led to the establishment of this new class were in large part driven by direction from the Government of Quebec in an appropriate exercise of its power to enact energy policy. No such direction or intervention has been taken as of yet by the Government of Newfoundland and Labrador. Hydro submits that, absent direction on energy policy changes from the Government of Newfoundland and Labrador, neither Hydro nor the Board is empowered by the existing legislation to enact the change suggested by the LIG.

In the same vein, Hydro submits that to subject only industrial customers and cryptocurrency customers to the charges in the Labrador Network Additions Policy is discriminatory and not justified. Indeed Hydro, as stated in the Muskrat Falls to Happy Valley Interconnection project proceedings, confirmed that it has received a request from a the Department of National Defense, a large general service customer, regarding its intentions with respect to the possible conversion of its central heating plant from oil to electricity. This conversion will likely result in a network addition that, if the LIG's suggestions as to the applicability of the Labrador Network Additions Policy to only industrial and cryptocurrency customers is accepted, will not be captured by the Labrador Network Additions Policy further illustrating the discriminatory nature and failings of the LIG's proposal as it relates to the Power Policy of the Province as contained in the *EPCA* and the concept of regulatory fairness as discussed by the Board in Order No. P.U. 8(2007).

² Board Order No. P.U. 8(2007), April 12, 2007, App. A at p.7