

Office of the Consumer Advocate

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October 25, 2019

Board of Commissions of Public Utilities
120 Torbay Road, P.O. Box 2140
St. John's, NL A1A 5B2

Attention: **G. Cheryl Blundon, Director of
Corporate Services / Board Secretary**

Dear Ms. Blundon:

RE: NLH 2020 Capital Budget Application

Further to the above-captioned, enclosed please find enclosed the original and twelve (12) copies of the Consumer Advocate's Submission re the NLH 2020 Capital Budget Projects & Technical Conference.

A copy of this letter, together with enclosure, has been forwarded directly to the parties listed below.

Yours truly,



Dennis Browne, Q.C.

Encl.
/bb

cc **Newfoundland Power Inc.**
NP Regulatory (regulatory@newfoundlandpower.com)
Gerard Hayes (ghayes@newfoundlandpower.com)
Kelly Hopkins (khopkins@newfoundlandpower.com)

Newfoundland & Labrador Hydro
NLH Regulatory (NLHRegulatory@nlh.nl.ca)
Shirley Walsh (ShirleyWalsh@nlh.nl.ca)

Board of Commissioners of Public Utilities
Jacqui Glynn (jglynn@pub.nl.ca)
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Paul Coxworthy (pcoxworthy@stewartmckelvey.com)
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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

IN THE MATTER OF capital expenditures and rate base of Newfoundland and Labrador Hydro (“NLH”); and

IN THE MATTER OF an application by Newfoundland and Labrador Hydro for an order:

- (i) approving its 2020 Capital Budget in the amount of \$108,487,300;
- (ii) approving its capital purchases and construction projects in excess \$50,000 beginning in 2020;
- (iii) fixing and determining its average rate base for 2015 in the amount of \$1,747,308,000 and for 2016 in the amount of \$1,885,849,000

**CONSUMER ADVOCATE SUBMISSION RE
NLH 2020 CAPITAL BUDGET PROJECTS & TECHNICAL CONFERENCE**

Overview

1. Newfoundland and Labrador Hydro (“NLH”) filed the above-referenced application with the Public Utilities Board on August 1, 2019. On July 5, 2019 Newfoundland Power Inc. (“NP”) filed its 2020 Capital Budget Application. Combined these Capital Budget Applications as filed seeking capital expenditures in excess of \$200,000,000. On September 4, 2019 the Consumer Advocate filed a Notice of Intention to intervene and make submissions pertaining to the above-referenced Application.
2. The Consumer Advocate (the “Consumer Advocate”) appointed as set out in Section 117 of the *Public Utilities Act* will intervene in the above referenced Application to represent these purposes:

- a. To represent consumers in all matters pertaining to the Application;
 - b. To advocate that the Board apply the policy established under the *Electrical Power Control Act* 1994 (the “Act”) and in particular to ensure that the Application will result in power being delivered to consumers at the lowest possible cost consistent with reliable service;
 - c. To attend conferences and hearings, as the case may be, and to file Requests for Information and written submission;
 - d. And to all matters relating to the foregoing.
3. The Government of the Province issued a Reference on September 5, 2018 directing the Board of Commissioners of Public Utilities of Newfoundland and Labrador to review and report on a number of matters including options to reduce the impact of the Muskrat Fall Project (MFP) on electricity rates through to the year 2030 (the “Reference”). The Reference stated in part:
- Government’s position is that the projected rate increases associated with Muskrat Falls Project are not acceptable. Without intervention these projected rate increases would likely cause financial hardship for customers and all classes on the island portion of Newfoundland and Labrador (the “Ratepayer”). With the assistance of the Board the Government of Newfoundland and Labrador wished to examine options to reduce the impact of the Muskrat Falls Project on rates.
4. The Liberty Consulting Group were retained by the Board for the Reference. Page 7 of the Liberty Consulting Group report of September 3, 2019 entitled *Final Report on Phase Two of Muskrat Falls Project Potential Rate Mitigation Opportunities*) “we found striking the nearly \$0.5 billion dollars in five-year capital spending Hydro and Newfoundland Power combined have identified.” Liberty goes on to say (page 45) “it should be noted that only moderate reductions in those amounts will produce revenue requirements

reductions equal to or greater than savings coming from combinations between the two companies.”.

5. The NLH 2020 Capital Budget Application includes projects and capital expenditures totaling \$108,487,300. Each of these proposed expenditures require particular scrutiny and should not be approved until the Applicant NLH has demonstrated to the satisfaction of the parties through a technical conference or a hearing that all reasonable studies have been undertaken and that each expenditure is the least cost reasonable alternative and to state the reasons why that particular expenditure was chosen. This information should be brought to the attention of the Board, the intervenor and the parties.
6. It is worth repeating that the 2020 Capital Budget Applications of Newfoundland Power and NLH combined exceed \$200,000,000. In the past these expenditures have been approved through so called paper filings and requests for information and, with few exceptions, without a technical conference or a hearing. This process and procedure is unacceptable. The Board has a responsibility to the ratepayers of the Province given the magnitude of these expenditures. In short, the ratepayers request Capital Budget Approval Standards commensurate with the expenditure of \$200,000,000; there should be either a technical conference or a hearing open to the public.
7. The Capital Budget Guidelines provide, *inter alia*, for a technical conference.

c. Technical Conference

Where appropriate, a utility may conduct a technical conference.

A technical conference will be used in concert with the RFI process to gain a full understanding of the scope and nature of the proposed projects and will most often involve the participation of Board staff. To the extent that relevant information is brought forward at the technical conference, it will not be available for the consideration of the panel unless it is entered on the record through the RFI process or in the evidence of a witness. The technical conference will generally not be recorded and the information provided will not be part of the record.

Where the parties agree and the Board determines that it would be of assistance, the Commissioners of the Board hearing the application may participate in the presentation portion of the technical conference. Where the Commissioners participate the technical conference shall be transcribed or, in the alternative with the agreement of the parties, the utility shall file as part of the record a written copy of the substance of the presentation which shall be reflective of the presentation and may be referred to in the decision making of the Board. After the presentation the Commissioners may ask questions but generally will not be present during the discussion/questions of the other participants.

8. Both NL Hydro and NP continued to plan Capital Budget expenditures without regard to the purpose of the Reference or the Liberty Consulting Group comments, or to the reality in which ratepayers find themselves come Muskrat Falls. NP's 2020 Capital Budget Application boldly states:

1.0 Introduction

Newfoundland Power's *2020 Capital Plan* provides an overview of the Company's 2020 capital budget, together with an outlook for capital expenditures through 2024. The *2020 Capital Plan* is consistent with the Company's obligation to provide least-cost reliable electrical service to its customers as required by the *Public Utilities Act* and the *Electrical Power Control Act, 1994*.

Newfoundland Power's 2020 capital budget totals \$96,614,000. The Company's annual capital expenditure for the next 5 years is forecast to average approximately \$116 million.

The Company's 2020 capital budget reflect the capital investment required to maintain the condition of the electrical system.¹ Consistent with previous capital budgets, it focuses primarily on expenditures related to plant replacement. Expenditures on plant replacement account for 60% of total expenditures over the next 5 years.

¹ In its report titled *Island Interconnected System to Interconnection with Muskrat Falls addressing Newfoundland Power*, December 17, 2014, page #S-2, Liberty Consulting Group found that Newfoundland Power's effective maintenance and capital programs, that appropriately recognize the age of its assets, have contributed materially to improve reliability.

9. The *Public Utilities Act* states in part:

General Powers of the Board

16. The board shall have the general supervision of all public utilities, and may make all necessary examinations and inquiries and keep itself informed as to the compliance by public utilities with the law and shall have the right to obtain from a public utility all information necessary to enable the board to fulfil its duties.

Regulations re practice

20. The board may make, revoke and alter rules and regulations for the effective execution of its duties and of the intention and objects of this Act, and the regulations of the practice and procedure with regard to the matters over which it has jurisdiction and the rules and regulations, when approved by the Lieutenant-Governor in Council, shall have the force of the law.

Board may prescribe forms

22. The board may prepare suitable forms for carrying out the purposes of this Act and shall when necessary provide the forms to each public utility.

Capital budget of public utility

41. (1) A public utility shall submit an annual capital budget of proposed improvements or additions to its property to the board for its approval not later than December 15 in each year for the next calendar year, and the budget shall include an estimate of contributions toward the cost of improvements or additions to its property the public utility intends to demand from its customers.
- (2) The budget shall contain an estimate of future required expenditures on improvements or additions to the property of the public utility that will not be completed in the next calendar year.
- (3) A public utility shall not proceed with the construction, purchase or lease of improvements or additions to its property where
- (a) the cost of the construction or purchase is in excess of \$50,000;
or

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

- (4) A public utility shall submit a report on its actual expenditures on improvements or additions to its property in the prior calendar year, together with an explanation as to expenditures in excess of those approved under subsection (1) not later than April 1 in each year.**
- (5) A public utility that intends to demand from its customers a contribution towards the cost of improvements or additions to its property shall not demand the contribution without the prior approval of the board.**
- (6) Notwithstanding subsection (5), a public utility may, without the prior approval of the board, demand from its customers a contribution toward the cost of an improvement or an addition to its property where the demand for the contribution is approved under a policy of the board.**

- 10. Hydro's 2020 Capital Budget Application includes projects and capital expenditures totaling \$108.5 million. Each of these proposed expenditures requires scrutiny and should not be approved until Hydro has demonstrated to the satisfaction of the parties through a technical conference or a hearing that all reasonable studies have been undertaken and that each expenditure is the least cost reasonable alternative with reasons why that particular expenditure was chosen.
- 11. In particular, all Capital Budget expenditures require general scrutiny and the following issues which relate to project expenditures require particular scrutiny, all of which should be addressed in a public technical conference:
 - 1) Other than conversion of Holyrood Unit 3 to synchronous condenser operation, what are the plans for Holyrood TGS and what are the impacts of these plans on the 2020 capital budget? Hydro states (Volume 1, page 9) "*The Holyrood TGS remains critical to the supply of reliable power to the Island Interconnected System until the reliable in-service of the Muskrat Falls Project, as Holyrood TGS serves the base load of the system and will be required to do so in the short to medium*

term.” Does Hydro plan to use Holyrood to meet base load requirements even after Muskrat Falls generation is commissioned or will Hydro use Holyrood as a backup generator only for use when Muskrat Falls generation is not available to supply Island customer needs?

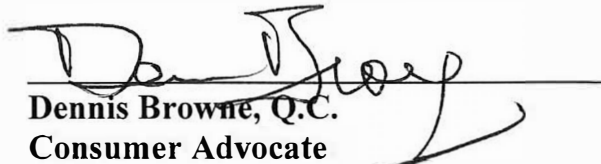
- 2) What are Hydro’s plans for the Stephenville and Hardwoods gas turbines and any backup generation or transmission requirements if these plants are retired? Although there are no projects relating to these plants in the 2020 Capital Budget, will these plants be available if the Supply Adequacy and Reliability Study determines that there is a need?
- 3) What are the impacts on the 2020 capital budget relating to the uncertainty of LIL operation, and the ability of the Maritime Link to transfer power to the Island system during emergency supply situations?
- 4) How has the potential 3-digit rate increase brought on by the Muskrat Falls Project been incorporated in Hydro’s decisions relating to its 2020 Capital Budget? For example, has Hydro thought about deferring the acquisition of a new mobile substation (Volume II, Bishop’s Falls, Tab 9, page 2) when it already has five mobile substations? Has Hydro thought about delaying its Terminal Station Refurbishment and Modernization project which accounts for “*nearly 50% of the planned expenditure for 2020*” (Volume I, page 11), its wood pole line management program or any plans relating to reliability improvements on its distribution system; i.e., distribution systems upgrade project?
- 5) How has the very low marginal cost of energy following commissioning of the Muskrat Falls Project relative to the very high marginal cost of energy under the current Holyrood TGS regime influenced Hydro’s 2020 capital budget application?

- 6) The Consumer Advocate understands that Hydro is undertaking a study to determine customer value of lost load. Will information from this study impact Hydro's 2020 Capital Budget?
 - 7) Is there overlap or duplication of services between Hydro and Newfoundland Power relating to information systems and telecontrol? Does Hydro's Supervisory Control and Data Acquisition (SCADA) System supersede the need for Newfoundland Power's SCADA (page 77 of 91 of Newfoundland Power's 2020 Capital Budget Application)? Why do both Hydro and Newfoundland Power require SCADA systems?
 - 8) Has meter acquisition been impacted in the 2020 Capital Budget to accommodate implementation of time-varying rates which may be desirable for electrification and demand control activities post Muskrat Falls commissioning?
 - 9) What is the relevant portion of the cost to replace elevator motors and control equipment at Hydro Place (Volume I, page C78) to be recovered from unregulated business units based at Hydro Place?
12. Hydro's 2020 Capital Budget Application includes projects and capital expenditures totaling \$108.5 million. Each of these proposed expenditures requires scrutiny and should not be approved until Hydro has demonstrated to the satisfaction of the parties through a technical conference or a hearing that all reasonable studies have been undertaken and that each expenditure is the least cost reasonable alternative with reasons why that particular expenditure was chosen.
 13. A technical conference on the Capital Budget Application is timely and necessary given that there will be a complete change in the Island operating regime a year from now when the Muskrat Falls Project is forecast to be commissioned with its huge impacts on rates, operating regime and the value of energy on the Island Interconnected System, and at a time when electricity demand on the Island is expected to remain flat or even decrease over the coming decade. The Consumer Advocate is concerned that Hydro's Capital Budget Application

reflects a “*business as usual*” approach at a time when the Muskrat Falls Project will ensure that business is “*anything but usual*”. We are particularly concerned about capital projects relating to reliability such as Holyrood TGS and the Stephenville and Hardwoods gas turbines when the *Supply Adequacy and Reliability Study* is underway. There is no way to tell prior to the conclusion of this study what level of capital, if any, should be spent on these power plants when we do not even know if they will continue to be in operation.

14. Based on all of the foregoing, previous submissions and the guidelines, and in the interest of a transparent and open process, a technical conference should be ordered in reference to the NLH 2020 Capital Budget Application.

DATED at St. John’s, Newfoundland and Labrador, this 25th day of October, 2019.



Dennis Browne, Q.C.

Consumer Advocate

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