

May 12, 2020

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

Attention: G. Cheryl Blundon
Director of Corporate Services
and Board Secretary

Ladies and Gentlemen:

Re: Newfoundland and Labrador Hydro – Application for Approval to Delay the Filing of 2020 General Rate Application

A. Introduction

On April 15, 2020, Newfoundland and Labrador Hydro (“Hydro”) filed an *Application to Delay the Filing of Newfoundland and Labrador Hydro’s Next General Rate Application* (the “Application”).

The Application requests the Board approve:

- (i) The filing of Hydro’s next general rate application (“GRA”) no later than 9 months from the date upon which both the revised financial structure of the Muskrat Falls Purchase Power Agreement (“PPA”) and the Provincial Government’s rate mitigation plan have been finalized and publicly communicated; and
- (ii) That the GRA be based on a 2021 Test Year and additional test years, if required.¹

The Board has requested written submissions on the Application be filed by May 12, 2020. The following constitutes the written submissions of Newfoundland Power.

B. Background

In Order No. P.U. 16 (2019), the Board required Hydro to file its next GRA no later than September 30, 2020, for rates based on a 2021 Test Year.

¹ See the Application, Section D, Paragraph 19.

In that order, the Board acknowledged the uncertainty surrounding future customer rates as they relate to the Muskrat Falls Project:

In terms of Hydro's next general rate application the Board acknowledges that there is a great deal of uncertainty as to a number of important factors that will have to be considered in the preparation of this application. In particular the Board notes that the commissioning of the Muskrat Falls Project will result in a material change to the forecast supply cost. Currently it is expected that 2021 will be the first full year of operation after the commissioning of Muskrat Falls. To ensure that this significant change can be addressed in a timely and orderly fashion Hydro should file its next general rate application by September 30, 2020. To the extent that circumstances change Hydro may apply to the Board to alter this filing date.²

The Application proposes to delay the filing of Hydro's next GRA based on continued uncertainty regarding the Muskrat Falls Project.³ The Application further proposes that Hydro's next GRA include both a 2021 Test Year and a separate test year for use in establishing future customer rates, if required.⁴

C. Newfoundland Power's Submissions

C1. Filing Delay

The Application cites 2 principal reasons to delay the filing of Hydro's next GRA. Each of these reasons relates to continued uncertainty regarding the Muskrat Falls Project. They are:

(i) which of the Board's recommendations on Muskrat Falls Project rate mitigation will be implemented by the Provincial Government and the nature and timing of those implementations; and (ii) uncertainty regarding the revised financial structure for the Muskrat Falls PPA.⁵

The Application states that, if Hydro were to file its GRA by September 30, 2020, it would be required to refile its GRA at a later date to reflect up-to-date information as it is released. Any necessary re-filing would result in inefficiencies and extend the duration of the regulatory process for the GRA.⁶

² See Order No. P.U. 16 (2019), Page 61, Lines 13 to 20.

³ See the Application, Section B, Paragraphs 7 to 13.

⁴ See the Application, Section C, Paragraph 18.

⁵ See the Application, Section B, Paragraphs 7 to 13.

⁶ See the Application, Section D, Paragraphs 20(iv) and (v).

Newfoundland Power has no objection to Hydro's request to delay the filing of its next GRA.

C2. Test Year for GRA

The Application proposes that Hydro's next GRA include: (i) a 2021 Test Year to determine any under-recovery of costs through customer rates in 2021; and (ii) if required, a separate test year as a basis for establishing future customer rates.⁷

Based on the existing PPA and Transmission Funding Agreement, Hydro expects to incur monthly costs of approximately \$60 million once the Muskrat Falls Project and Labrador Island Link ("LIL") are commissioned. However, the effect that the ongoing PPA restructuring or Provincial Government rate mitigation will have on these costs is currently uncertain.⁸

Hydro states that full commissioning of the Muskrat Falls Project and LIL are expected in 2021.⁹ However, the Application notes that the Muskrat Falls Project is currently in care and maintenance mode due to the ongoing COVID-19 pandemic. The effect of the COVID-19 pandemic on project commissioning has yet to be ascertained.¹⁰

Hydro also notes that it will have additional borrowing, depreciation and return requirements in 2021 resulting from increased capital investments since its 2019 Test Year. According to Hydro, a preliminary financial review has indicated its 2021 earnings are projected to fall below the lower range of its allowed return on rate base, even without consideration of potential Muskrat Falls Project costs.¹¹ These depreciation and financing costs are not referenced in the Application. There is no evidence on the record of this proceeding quantifying these costs or their potential impact on Hydro's financial position.

While Newfoundland Power acknowledges Hydro may need to recover 2021 costs related to the Muskrat Falls Project, there remains considerable uncertainty regarding the timing and magnitude of costs to be incurred by Hydro in 2021. In the absence of such information, it is Newfoundland Power's submission that it is not possible to determine the appropriate mechanism for the recovery of such costs.

⁷ See the Application, Section C, Paragraph 18.

⁸ See the Application, Section B, Paragraphs 7 to 11.

⁹ See response to Request for Information PUB-NLH-003.

¹⁰ See the Application, Section B, Paragraph 12.

¹¹ See response to Request for Information PUB-NLH-002.

Since Hydro's next GRA may not conclude until late 2022 or early 2023, the Board asked Hydro how its proposed use of a backward-looking test year would avoid complications as demonstrated in Hydro's last 2 GRAs. In Newfoundland Power's submission, Hydro did not directly address that question, and its response did not indicate how its proposal is consistent with an efficient regulatory process.¹²

The power policy of the province requires that customer rates be based on forecast costs *wherever practicable*.¹³ In Newfoundland Power's submission, Hydro has not provided evidence that justifies Board approval of an exception to that requirement at this time.

Given the considerable uncertainty that exists regarding the timing and magnitude of costs to be incurred by Hydro in 2021, Newfoundland Power submits it would be premature for the Board to direct the use of a 2021 Test Year as part of Hydro's next GRA. In Newfoundland Power's submission, the matter of an appropriate mechanism to provide for recovery of additional costs that may be incurred by Hydro in 2021 should be addressed only when there is more certainty regarding the timing and magnitude of those costs and their financial impact on Hydro.

If you have any questions, please contact the undersigned at your convenience.

Yours truly,



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¹² See Response to Request for Information PUB-NLH-002.

¹³ Section 3(a)(ii) of the *Electrical Power Control Act, 1994*.