



Newfoundland and Labrador Hydro  
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December 2, 2024

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

Attention: Jo-Anne Galarneau  
Director of Corporate Services and Board Secretary

Dear Ms. Galarneau:

**Re: Application for Approval of the Extension of a Third Amended and Restated Pilot Agreement for the Optimization of Hydraulic Resources**

Please find enclosed Newfoundland and Labrador Hydro's ("Hydro") Application for Approval of the extension of the previously approved Third Amended and Restated Pilot Agreement for the Optimization of Hydraulic Resources ("Third A&R Agreement").

On December 18, 2018, the Board of Commissioners of Public Utilities ("Board") issued Board Order No. P.U. 49(2018), approving Hydro's application for approval of a Pilot Agreement for the Optimization of Hydraulic Resources ("Initial Pilot Agreement") between Hydro and Nalcor Energy Marketing ("NEM"). The Initial Pilot Agreement, as filed and approved, defined the term as ending on ". . . the earlier of (a) December 31, 2020 or (b) approval by the Board of the Final Agreement . . ." <sup>1</sup> Since that time, Hydro has applied for and received approval to extend the Initial Pilot Agreement, with certain amendments. <sup>2</sup>

Since the approval of the Initial Pilot Agreement in 2018, Hydro and NEM have worked together to create net gains that will benefit Hydro's customers. <sup>3</sup> Hydro is now continuing its consideration of the nature of the appropriate replacement agreement(s). While that review is underway, Hydro wishes to once again extend the pilot agreement to December 31, 2025 to enable the continued creation of net gains through activities provided for in the Third A&R Agreement.

Should you have any questions, please contact the undersigned.

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<sup>1</sup> "An Application by Newfoundland and Labrador Hydro for approval of the Pilot Agreement for the Optimization of Hydraulic Resources, a Hydraulic Resources Optimization Deferral Account, and revised Rate Stabilization Plan rules," Newfoundland and Labrador Hydro, August 23, 2018, sch. 2, p. 2 of 4, part B, sec. 3.

<sup>2</sup> The Amended and Restated Pilot Agreement was approved in Board Order No. P.U. 38(2020), December 17, 2020; the Second Amended and Restated Pilot Agreement was approved in Board Order No. P.U. 31(2021), November 8, 2021; the Third Amended and Restated Pilot Agreement was approved in Board Order No. P.U. 35(2022), December 16, 2022 and An Extension of the Third Amended and Restated Pilot Agreement was approved in Board Order No. P.U. 30(2023), December 12, 2023.

<sup>3</sup> Hydro intends to file an application in the first quarter of 2025 that would propose that all gains currently in the Hydraulic Resources Optimization Deferral Account be transferred to the Supply Cost Variance Deferral Account.

Jo-Anne Galarneau  
Board of Commissioners of Public Utilities

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Yours truly,

**NEWFOUNDLAND AND LABRADOR HYDRO**



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Shirley A. Walsh  
Senior Legal Counsel, Regulatory  
SAW/rr

ecc:

**Board of Commissioners of Public Utilities**

Jacqui H. Glynn  
Katie Philpott  
Board General

**Consumer Advocate**

Dennis M. Browne, KC, Browne Fitzgerald Morgan Avis  
Stephen F. Fitzgerald, Browne Fitzgerald Morgan Avis  
Sarah G. Fitzgerald, Browne Fitzgerald Morgan Avis  
Bernice Bailey, Browne Fitzgerald Morgan Avis

**Linde Canada Inc.**

Sheryl E. Nisenbaum  
Peter Strong

**Teck Resources Limited**

Shawn Kinsella

**Newfoundland Power Inc.**

Dominic J. Foley  
Regulatory Email

**Island Industrial Customer Group**

Paul L. Coxworthy, Stewart McKelvey  
Denis J. Fleming, Cox & Palmer  
Glen G. Seaborn, Poole Althouse

# Application for Approval of the Extension of the Third Amended and Restated Pilot Agreement for the Optimization of Hydraulic Resources

December 2, 2024

An application to the Board of Commissioners of Public Utilities



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

**IN THE MATTER OF** an application by Newfoundland and Labrador Hydro (“Hydro”) pursuant to Section 3(b)(iii) of the EPCA, and Section 70 and 76 of the Act, for approval of an extension of the Third Amended and Restated Pilot Agreement for the Optimization of Hydraulic Resources (“Third A&R Agreement”).

**To: The Board of Commissioners of Public Utilities (“Board”)**

**THE APPLICATION OF HYDRO STATES THAT:**

**A. Background**

1. Hydro is a corporation continued and existing under *the Hydro Corporation Act, 2007*, is a public utility within the meaning of the Act, and is subject to the provisions of the EPCA.
2. On August 23, 2018, Hydro filed an application for approval of a Pilot Agreement for the Optimization of Hydraulic Resources (“Initial Pilot Agreement”) between Hydro and Nalcor Energy Marketing (“NEM”).<sup>1</sup> The Initial Pilot Agreement would facilitate the sale of excess energy from the Island Interconnected System that would otherwise be spilled (“Spill Energy”) and allow for the creation of additional value for customers through the use of Hydro’s reservoirs to undertake Ponding.<sup>2</sup>
3. Hydro’s application proposed that the Initial Pilot Agreement would expire on the earlier of December 31, 2020 or upon execution and approval by the Board of the longer-term agreement for the optimization of hydraulic resources (“Final Agreement”), which was under negotiation between Hydro and NEM at the time.

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<sup>1</sup> “An Application by Newfoundland and Labrador Hydro (Hydro) for approval of the Pilot Agreement for the Optimization of Hydraulic Resources, a Hydraulic Resources Optimization Deferral Account, and revised Rate Stabilization Plan rules,” Newfoundland and Labrador Hydro, August 23, 2018.

<sup>2</sup> The purchase and import of low-cost energy from off-island sources to serve Hydro’s customers and the export and sale of an offsetting amount of energy at another time when market prices are higher relative to when the import occurred.

4. The Board approved Hydro's application on December 18, 2018 in Board Order No. P.U. 49(2018), noting that it was satisfied that the proposed Ponding activities, as well as the sale of Spill Energy, has the potential to benefit Hydro and its customers. The Board also noted that the Initial Pilot Agreement provides that NEM assume all financial responsibility and risk in the event there is no net gain from Ponding activities; this protects ratepayers from potential losses during the term of the Initial Pilot Agreement.
5. The Board further ordered that the Initial Pilot Agreement be in place for a minimum of one year. During that timeframe, Hydro was directed to provide updates on its Ponding and Spill Energy activities as part of its quarterly reporting to the Board.<sup>3</sup> Hydro has provided these updates in its Quarterly Regulatory Reports to the Board, beginning in February 2019 with the report for the period ended December 31, 2018.<sup>4</sup>
6. Since the approval of the Initial Pilot Agreement, Hydro has applied for amendments to and extensions of that agreement on three occasions, the most recent on November 21, 2023. In that application, Hydro noted that the Initial Pilot Agreement, as continued under the subsequent amended and restated agreements, had been beneficial for Hydro's customers. However, in light of the changing system, Hydro was considering what should follow the pilot agreement. While that analysis and review was underway, Hydro wished to once again extend the pilot agreement.
7. The term of the Third A&R Pilot Agreement was extended, as approved by the Board in P.U. 30(2023) to the earlier of:
  - i. December 31, 2024;
  - ii. Approval by the Board of an agreement to replace the Third A&R Pilot Agreement; or
  - iii. Agreement by the parties to discontinue the Third A&R Pilot Agreement.

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<sup>3</sup> Board Order No. P.U. 49(2018), p. 4/14–15.

<sup>4</sup> "Quarterly Report for the period ended December 31, 2018," Newfoundland and Labrador Hydro, updated April 12, 2019 (originally filed February 14, 2019), sec. 1, sec. 5.3, p. 21.

**B. Application**

8. Hydro continues to consider the type of agreement that should follow the pilot agreement. While that analysis is underway, Hydro wishes to once again extend the pilot agreement. The proposed expiration would be the earlier of:

- i. December 31, 2025;
- ii. Approval by the Board of an agreement to replace the Third A&R Pilot Agreement; or
- iii. Agreement by the parties to discontinue the Third A&R Pilot Agreement.

All other terms of the Third A&R Pilot Agreement remain the same.

9. Approval of this application will enable Hydro to continue to capture opportunities to create value for its customers from Ponding and the sale of Spill Energy on a pilot basis while considering what future agreements may be necessary.

10. This application is in accordance with Hydro's mandate to ensure service is delivered to consumers in the province at the lowest possible cost consistent with reliable service in an environmentally responsible manner.

**C. Hydro's Request**

11. Hydro requests that the Board approve the extension of the Third A&R Pilot Agreement to the earlier of:

- i. December 31, 2025;
- ii. Approval by the Board of an agreement to replace the Third A&R Pilot Agreement; or
- iii. Agreement by the parties to discontinue the Third A&R Pilot Agreement.

**D. Communications**

12. Communications with respect to this application should be forwarded to Shirley A. Walsh, Senior Legal Counsel, Regulatory for Hydro.

**DATED** at St. John's in the province of Newfoundland and Labrador this 2nd day of December, 2024.

**NEWFOUNDLAND AND LABRADOR HYDRO**



Shirley A. Walsh  
Counsel for the Applicant  
Newfoundland and Labrador Hydro,  
500 Columbus Drive, P.O. Box 12400  
St. John's, NL A1B 4K7  
Telephone: (709) 685-4973

# Affidavit





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

**IN THE MATTER OF** an application by Newfoundland and Labrador Hydro (“Hydro”), pursuant to Section 3(b)(iii) of the *EPCA*, and Sections 70 and 76 of the *Act*, for approval of an extension of the Third Amended and Restated Pilot Agreement for the Optimization of Hydraulic Resources.

### AFFIDAVIT

I, Robert Collett, of St. John’s in the province of Newfoundland and Labrador, make oath and say as follows:

- 1) I am Vice President, Engineering and NL System Operator for Newfoundland and Labrador Hydro, the applicant named in the attached application.
- 2) I have read and understand the foregoing application.
- 3) To the best of my knowledge, information, and belief, all of the matters, facts, and things set out in this application are true.

**SWORN** at St. John’s in the province of Newfoundland and Labrador this 2nd day of December 2024, before me:



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Barrister, Newfoundland and Labrador  
Witnessed through the use of audio-visual  
technology in accordance with the  
*Commissioners for Oaths Act* and  
*Commissioners for Oaths Regulations*



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Robert Collett, P. Eng.