

April 15, 2025

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  
Executive Director and Board Secretary

**Re: Application for Early Execution Capital Work for Bay d'Espoir Unit 8 and Avalon Combustion Turbine – Hydro's Reply**

On March 12, 2025, Newfoundland and Labrador Hydro ("Hydro") filed an application with the Board of Commissioners of Public Utilities ("Board") requesting approval of the capital expenditures related to early execution capital work for Bay d'Espoir Unit 8 ("BDE Unit 8") and the Avalon Combustion Turbine ("Avalon CT") ("Early Execution Application"). Submitted with the application was a settlement agreement reached among the parties in the related *Reliability and Resource Adequacy Study Review* proceeding ("Settlement Agreement"), in which the parties agreed with a variety of issues including that the recommendation to build BDE Unit 8 and the Avalon CT is appropriate as part of the first step in addressing the requirements for additional capacity for the Island Interconnected System and applications for these projects should be evaluated at this time. The parties also agreed that the Settlement Agreement should be used in related proceedings.

Hydro provided its responses to Requests for Information ("RFI") filed by the Board, Newfoundland Power Inc. ("Newfoundland Power"), and the Consumer Advocate to those parties on April 8, 2025.<sup>1</sup> On April 11, 2025, Newfoundland Power and the Consumer Advocate filed comments with respect to Hydro's request for authorization to proceed with early execution capital work for BDE Unit 8 and the Avalon CT. No submissions were received from any other parties.

**Hydro's Response**

***Newfoundland Power***

Newfoundland Power reiterated its agreement that new capacity on the Island Interconnected System is necessary and that it was appropriate for Hydro to file applications for BDE Unit 8 and the Avalon CT as the first step in addressing the requirements for additional capacity for the Island Interconnected System. Newfoundland Power recognized that approval of the Early Execution Application will provide Hydro with the ability to move forward with certain advance work and analysis to allow the BDE Unit 8 and the Avalon CT projects to proceed prior to approval of the Application for Capital Expenditures for the Purchase and Installation of BDE Unit 8 and Avalon CT ("2025 Build Application"), and that delays in advancing the projects are likely to result in increased costs to customers. For these reasons, and as

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<sup>1</sup> The Early Execution Application schedule had set a filing deadline for the RFI responses at April 7, 2025; Hydro requested an extension to April 8, 2025, due to technological issues.

Hydro is not seeking cost recovery from customers at this time, Newfoundland Power advised that they do not object to the Early Execution Application.

### **Consumer Advocate**

The Consumer Advocate's submissions detailed a variety of concerns regarding the Early Execution Application as well as information contained in Hydro's 2025 Build Application. The concerns specific to the Early Execution Application queried whether the Board has the authority to approve funds requested in the Early Execution Application for projects that the Board has not yet approved. The Consumer Advocate believes that doing so would be a bad regulatory precedent, particularly in a circumstance that the Consumer Advocate does not believe has been identified as an emergency. The Consumer Advocate submitted that the cost pressures Hydro has outlined that would lead to a higher total cost for the projects if delays are introduced is a "signal that projects require careful scrutiny by the Board" but do not justify early execution.

### **Board Authority**

Section 41(3) of the *Public Utilities Act* ("Act") stipulates that:

A public utility shall not proceed with the construction, purchase or lease of improvements or additions to its property without the prior approval of the board where (a) the cost of the construction or purchase is in excess of the amount prescribed in the regulations. . .

The amount prescribed in the regulations is \$750,000. This is noted in Hydro's Early Execution Application as the impetus for the application. Hydro is unable to proceed with the capital work that is required to ensure that, if the proposed projects are approved, they have not incurred substantial delays in schedule that would result in significant cost increases.

The Board has the ability to approve Hydro's capital expenditures if the Board determines, through the evidence presented by Hydro, that the expenditures are necessary to ensure that the power policy of the province is met. Specifically, that facilities are operated in a manner that would result in: (i) the most efficient production, transmission and distribution of power; (ii) consumers having equitable access to an adequate supply of power; and (iii) power being delivered to consumers at the lowest possible cost consistent with reliable service.

As the Board notes in its Provisional Capital Budget Application Guidelines:

The Board has the general supervision of utilities and is given broad powers and responsibilities. The *Act* is to be read liberally, providing the Board with all the additional authority and powers appropriate or necessary for it to exercise its authority. The Board may dispense with, vary or supplement the provisions of the Regulations and may issue directions it considers necessary for the proper consideration and disposition of a matter.<sup>2</sup>

Hydro has indicated through its Early Execution Application and the responses to the RFIs that followed that the approval of the application, and Hydro's ability to incur these capital expenditures, is essential to prevent significant schedule delays and cost escalations that would ultimately impact ratepayers.<sup>3</sup>

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<sup>2</sup> "Capital Budget Application Guidelines (Provisional)," Board of Commissioners of Public Utilities, January 2022, p. 1.

<sup>3</sup> Please refer to Hydro's response to CA-NLH-001 of this proceeding.

Hydro notes that postponed equipment procurement exposes Hydro to price escalation, higher demand costs, and additional Interest During Construction. Hydro estimates that these factors could increase costs by \$30 million to \$50 million per project per year of delay. Delayed in-service dates for the Avalon CT and BDE Unit 8 would require extending the steam operation of Holyrood Thermal Generating Station, costing over \$120 million per year. Additionally, delays may result in overlap with projects associated with the New Energy Partnership between Hydro and Hydro-Québec, further intensifying cost increases due to competition for labor, engineering, equipment, and materials.

The Board has the ability and the jurisdiction to consider the specific capital expenditures proposed in Hydro's Early Execution Application and determine whether those expenditures are necessary to best enable power to be delivered to customers at the lowest possible cost consistent with reliable service. Approval of these expenditures does not bind the Board to any approval of the overall expenditures proposed in the 2025 Build Application, which will be reviewed and considered independently to ensure that the projects themselves meet the provincial power policy before they are approved.

The Board also has the ability to approve capital expenditure but to hold consideration and determination of recovery of the costs associated with that capital expenditure to a later process, as Hydro has proposed in this case. In Board Order No. P.U. 34(2021), the Board approved additional capital expenditures through the Allowance for Unforeseen Account to allow for Hydro to proceed expeditiously with urgent capital expenditures while addressing the issue of whether those expenditures should be added to rate base and recovered from customers in a later, separate application. In Hydro's 2014 application for a combustion turbine to meet its established generation reliability criteria, Hydro submitted that early approval was necessary to ensure the expedited installation by late 2014. In response to Hydro's request, the Board suggested to Hydro and the parties that the only option to allow Hydro to meet the stated timeline would be to grant approval for Hydro to proceed with the project and establish a separate process to review the issues of costs and cost recovery.<sup>4</sup> This suggestion was supported by Newfoundland Power, the Consumer Advocate at the time, and was not opposed by the Industrial customers. The Board approved the expenditure, with full review of the issues of costs and cost recovery to be determined by the Board at a later date.

While the Allowance for Unforeseen application noted above was clearly an emergent supply issue, and the installation of the Holyrood Combustion Turbine was also time-sensitive, those are simply the circumstances under which the Board exercised their jurisdiction to approve capital expenditure with consideration of recovery to follow at a later date in a later process. There is no legislative requirement for that jurisdiction to be exercised only in an urgent scenario. However, Hydro submits that the current circumstances are similar to the other applications. Hydro has made the Early Execution Application because of the sensitivity and urgency of these capital expenditures and the impacts that delay would present to customers. As noted in the settlement agreement, the Island Interconnected System needs capacity. This means that projects to meet that need, which take substantial time to complete, need to be started as soon as possible. To ensure that the schedule is as expeditious as possible and the costs remain as low as possible in the current circumstances, Hydro must continue with the immediate capital expenditures outlined in the Early Execution Application.

### **Load Forecast and Cost Increases/Scrutiny**

The Consumer Advocate also notes particular issues with the 2025 Build Application, which was filed shortly after the Early Execution Application. The Consumer Advocate specifically references details regarding: (i) the increase in the total cost of the proposed projects from the initial estimates that had

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<sup>4</sup> Board Order No. P.U. 16(2014).

been provided in the 2024 Resource Adequacy Plan; (ii) estimated costs Hydro used in a sensitivity comparison for the Reference Case, which is not the Minimum Investment Required proposal before the Board; and, (iii) certain issues with the load forecast.

Hydro respectfully submits that those concerns are more appropriately discussed and assessed throughout the 2025 Build Application process. Hydro notes that the Settlement Agreement entered into by the parties has, as settled issues, that the load forecast methodology used by Hydro in the Long-term Load Forecast for the Island Interconnected System completed in 2023 and filed with the Board on March 28, 2024 (“2023 Load Forecast”) is consistent with utility industry standards. In addition, the settled issues include that the 2023 Load Forecast and the reliability planning analysis outlined in the 2024 Resource Adequacy Plan demonstrate that additional capacity is required for the Island Interconnected System in the period 2031–2034, with the Minimum Investment Required Expansion Plan—based on the Slow Decarbonization load forecast results—indicating a minimum of 385 MW of new capacity is required by 2034. Hydro notes that the negligible difference between the 2023 and 2024 Load Forecasts was identified in its 2024 Resource Adequacy Technical Conference held on September 17, 2024,<sup>5</sup> prior to the signing of the Settlement Agreement, with the 385 MW of new capacity still shown as required within the planning period.

The parties also agreed that Hydro analyzed an appropriate range of scenarios and sensitivities for the analysis included in the Resource Adequacy Plan to determine its recommendations regarding the minimum investment required being BDE Unit 8 and the Avalon CT. They also agreed that the recommendation to build a new 154 MW unit at Bay d’Espoir and a 150 MW combustion turbine on the Avalon Peninsula, which is based on the Slow Decarbonization Case, is appropriate as part of the first step in addressing the requirements for additional capacity for the Island Interconnected System and applications for these projects should be evaluated at this time.

The Consumer Advocate concludes by saying that the Early Execution Application should not be approved because it undermines the regulatory process by presuming board approval of both projects. Hydro respectfully disagrees with this categorization. As detailed above, the Board has the authority to approve capital expenditures pursuant to the *Act* and can, in line with Hydro’s proposal, determine whether those expenditures can be recovered from customers within the 2025 Build Application process. The approval of the Early Execution Application serves to protect customers from unnecessary cost increases that result from a delay in the initial steps necessary to prepare to quickly move forward with the projects IF approval is ultimately granted.

## Summary

As Hydro has noted in its application and RFI responses, the activities Hydro proposes to undertake as part of the Early Execution Capital Work are essential to preserving the project schedule and cost estimate. The proposed expenditures will not limit the consideration of other options or preclude fulsome consideration of the projects in the 2025 Build Application. Hydro has put in place mitigation measures to reduce the risks and the costs if the 2025 Build Application is not approved; however, without approval of the Early Execution Application, Hydro is less able to reduce the risks of cost increases and schedule delays that would ultimately impact customers.

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<sup>5</sup> “2024 Resource Adequacy Plan, Technical Conference #1: Load Forecast/Reliability Planning Criteria,” Newfoundland and Labrador Hydro, September 17, 2024, slides 30–33.  
<http://www.pub.nl.ca/applications/NLH2018ReliabilityAdequacy/reports/From%20NLH%20-%20Presentation%20-%20Technical%20Conference%201%20Load%20Forecast%20-%20Reliability%20Planning%20Criteria%20-%202024-09-17.PDF>.

Hydro respectfully requests that its Early Execution Application be approved as submitted.

Should you have any questions, please contact the undersigned.

Yours truly,

**NEWFOUNDLAND AND LABRADOR HYDRO**



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