

# Office of the Consumer Advocate

PO Box 23135  
Terrace on the Square  
St. John's, NL Canada  
A1B 4J9

Tel: 709-724-3800  
Fax: 709-754-3800

April 11, 2025

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

**Attention: Jo Galarneau**  
**Executive Director and Board Secretary**

Dear Ms. Galarneau:

**Re: NL Hydro – 2025 Capital Budget Supplemental Application**  
**- Application for Early Execution Capital Work for**  
**Bay d'Espoir Unit 8 and an Avalon Combustion Turbine - Refile**  
**- Comments of the Consumer Advocate**

On February 27, 2025 Newfoundland and Labrador Hydro (“Hydro”) filed with the NL Board of Commissioners of Public Utilities (the “Board”) its 2025 Capital Budget Supplemental Application - Application for Early Execution Capital Work for Bay d'Espoir Unit 8 and an Avalon Combustion Turbine. In a letter dated March 7, 2025 the Board indicated to Hydro that the evidence in that application was “*inadequate to allow an efficient and effective review*” and declined to accept it, but gave Hydro the option to refile.

On March 12, 2025 Hydro refiled the application (the “Early Execution Application”). Subsequently, on March 21, 2025 Hydro filed with the Board an Application for Capital Expenditures for the Purchase and Installation of Bay d'Espoir Unit 8 and Avalon Combustion Turbine (the “Build Application”).

Both applications relate to Hydro's 2024 Resource Adequacy Plan. Construction of Bay d'Espoir Unit 8 (“BD8”) and an Avalon Combustion Turbine (“Avalon CT”) form part of Hydro's proposed Minimum Investment Expansion Plan which involves a total of 385MW of capacity investment and is characterized as the initial stage of the Resource Adequacy Plan's Reference Case. The Reference Case foresees the addition of “*approximately 525 MW of new generation to address Island Interconnected System reliability requirements by 2034*” (Early Execution Application Clause 3). BD8 and the Avalon CT would provide approximately 300 MW of that new generation.

The Build Application seeks Board approval to construct BD8 and the Avalon CT at estimated costs of approximately \$1.1 billion and \$0.9 billion, and scheduled in-service dates of 2031 and 2029, respectively. The Early Execution Application seeks approval of \$16.67 million related to BD8 and

\$30.71 million for the Avalon CT, for a total of \$47.38 million. That sum would be spent on activities that Hydro deems necessary to maintain the schedule and costs for BD8 and the Avalon CT as presented in the Build Application.

The Early Execution Application does not seek approval for cost recovery of the \$47.38 million. Instead, Hydro proposes to recover costs included in the Early Execution Application as part of the Build Application. Hydro seeks Board approval for the Early Execution Application by April 30, 2025, and for the Build Application by December 31, 2025 (Build Application, Schedule 1, page 20).

In a letter dated March 27, 2025, the Board established a schedule for the Early Execution Application. Requests for Information were to be filed by April 2, 2025 and Hydro required to respond to the RFIs by April 7, 2025. The RFI responses were subsequently uploaded to the Board's website on April 9, 2025. Comments from the parties were due by April 11, 2025. This document provides the comments of the Consumer Advocate.

### ***Comments***

Our comments on the Early Execution Application follow.

- It is not clear that the Board has the authority to approve funds requested in the Early Execution Application for projects that the Board has not yet approved. We believe that a Board approval of an application for project funds before that project has even been reviewed by the Board sets a bad regulatory precedent, especially for activities costing almost \$48 million. Hydro has not identified an emergency requirement for advancement of BD8 and the Avalon CT such as a catastrophic failure of a key supply facility that threatens to expose customers to an imminent and significant loss of supply or a threat to safety, which might justify such an unusual request. Hydro suggests that without approval of the Early Execution Application cost pressures would lead to a higher total cost for the two Build projects. Such cost pressure is a signal that projects require careful scrutiny by the Board. It does not justify circumventing a regulatory process that has been in place for decades.
- Owing to the March 2025 Settlement Agreement on Reliability and Resource Adequacy (Build Application, Schedule 2), there appears to be a sense in the applications that the parties' support for and Board approval of the Build Application is a foregone conclusion. However, there is no substitute for the required regulatory process. In that regard, the Build Application, which we are still in the process of reviewing and for which the parties have yet to formulate and submit RFIs, contains worrisome information. For example:
  - It is stated in the Build Application (Schedule 1, page 8) that customers "*Prioritize lower electricity rates over improvements in reliability or clean energy.*" However, Chart 5 (Schedule 3) shows that the Reference Case will cost about \$6.7 billion (net present value) and this does not include the costs of transmission and distribution. The Reference Case is

expected to result in an average Domestic customer rate of over 25 cents/kWh in 2035 (Schedule 3, Appendix A, Table 5, page 45 of 97). This compares to a current average Domestic rate of 14.93 cents/kWh. It is our understanding that the forecast rates include rate mitigation, so therefore under-estimate the true impact of the Reference Case on rates. The proposed Reference Case appears to be inconsistent with customer priorities.

- The 2024 Resource Adequacy Plan had estimated the cost of BD8 and the Avalon CT at between \$1.2 and \$1.6 billion (2024 Resource Plan Overview, Page vii). The cost is now estimated at approximately \$2 billion; \$0.9 billion for the Avalon CT and \$1.1 billion for BD8. In the Reliability and Resource Adequacy Study – 2022 Update, (Volume III: Long-Term Resource Plan, Attachment 6, Page 2 of 9) the cost of BD8 was \$0.522 billion. According to the Build Application, it is now double that.
- While BD8 and the Avalon CT may continue to be the “least-cost” options for capacity additions, they are not low-cost. They are very high cost, at \$2 billion. Such high costs and the current environment of supply chain and cost pressures are signals for Hydro to re-think its approach and consider alternatives to adding very costly capacity.
- The need for the Avalon CT and BD8 is driven by growth in demand. Growth over the next 10 years is forecast to average about 22 MW annually (Schedule 3, Appendix A, page 39 of 97). Yet, the Build Application (Application Overview, page 14) shows the new information that in 2024 the load was the same as in 2023 and as in 2019. That casts doubt on the load forecast. Moreover, a substantial portion of forecast growth is based on the assumption of governments’ continuing to incentivize electricity consumption via subsidies and carbon taxes but such policies can change as evidenced by the recent reduction in carbon taxation.
- Little thought has been given to mobilizing consumers to be active managers of demand. Time-varying rate options, customer-owned generation and other behind-the-meter alternatives which would necessitate the implementation of smart meters do not appear to be given full consideration relative to that given in neighboring provinces like Quebec, Nova Scotia and New Brunswick. It is obvious that the implementation of smart meters in our neighbouring provinces was undertaken to address the identical capacity problems we now face here in our province. Of the many advantages that smart meters offer for both utilities and consumers, the primary advantage would be to assist in the reduction of the scale of future capital builds.

### ***Recommendation***

A fulsome review of the Build Application has not yet been undertaken and a schedule for its review has not been established. In the absence of such review, we are unable to support the Early Execution

Application. The Board should reject the Early Execution Application and direct its attention to the Build Application. Regulatory precedent for approving expenditures for a project that has not been approved by the Board has not been established, and we believe it would set a bad regulatory precedent. We have questions concerning the magnitude of, and recent increases in, the estimated costs for the Avalon CT and the Bay d'Espoir Unit 8 projects, and their impact on electricity rates. We believe these projects are inconsistent with customer priorities. They might be the least-cost of available capacity investments but it may well be that customers are neither willing nor able to pay for them.

In sum, the Early Execution Application should be not be approved because it undermines the regulatory process by presuming Board approval of both projects in the Build Application and because the Build Application itself contains information that raises serious questions about the merits of those two projects.

Please contact the undersigned if you have any questions relating to this submission.

Yours truly,



Stephen Fitzgerald, KC  
Counsel for the Consumer Advocate

Encl.  
/bb

cc **Newfoundland & Labrador Hydro**  
Shirley Walsh ([ShirleyWalsh@nlh.nl.ca](mailto:ShirleyWalsh@nlh.nl.ca))  
NLH Regulatory ([Regulatory@nlh.nl.ca](mailto:Regulatory@nlh.nl.ca))

**Newfoundland Power Inc.**  
Dominic J. Foley ([dfoley@newfoundlandpower.com](mailto:dfoley@newfoundlandpower.com))  
Douglas Wright ([dwright@newfoundlandpower.com](mailto:dwright@newfoundlandpower.com))  
NP Regulatory ([regulatory@newfoundlandpower.com](mailto:regulatory@newfoundlandpower.com))

**Board of Commissioners of Public Utilities**  
Board General ([board@pub.nl.ca](mailto:board@pub.nl.ca))  
Jacqui Glynn ([jglynn@pub.nl.ca](mailto:jglynn@pub.nl.ca))  
Maureen Greene ([mgeene@pub.nl.ca](mailto:mgeene@pub.nl.ca))  
Colleen Jones ([cjones@pub.nl.ca](mailto:cjones@pub.nl.ca))  
Katie Philpott ([kphilpott@pub.nl.ca](mailto:kphilpott@pub.nl.ca))

**Industrial Customers Group**  
Paul Coxworthy ([pcoxworthy@stewartmckelvey.com](mailto:pcoxworthy@stewartmckelvey.com))  
Denis Fleming ([dfleming@coxandpalmer.com](mailto:dfleming@coxandpalmer.com))  
Glen Seaborn ([gseaborn@poolealthouse.ca](mailto:gseaborn@poolealthouse.ca))

**Labrador Interconnected Group**  
Senwung Luk ([sluk@oktlaw.com](mailto:sluk@oktlaw.com))  
Nick Kennedy ([nkennedy@oktlaw.com](mailto:nkennedy@oktlaw.com))