

2026-08-03

Newfoundland and Labrador Hydro

Shirley Walsh

Email: shirleywalsh@nlh.nl.ca

Dear Ms. Walsh:

Re: Newfoundland and Labrador Hydro - 2027 Capital Budget Application - Hydro's Claim for Confidential Treatment of Information

On July 29, 2026 the Board advised that it did not accept that information redacted by Hydro in its 2027 Capital Budget Application (Application) met the threshold for confidential treatment. In the cover letter to the Application, Hydro stated that the information was commercially sensitive. On July 31, 2026 Hydro submitted that the release of the annual forecast expenditure for these projects would provide information that proponents and contractors could use to extrapolate the budgeted value of work for specific construction work packages when combined with general information about the schedule of work for those projects.

The Board has addressed the treatment of confidential information in the Major Build Application.¹ In that matter, the Board did not accept Hydro's claim for confidential treatment of high-level information, stating that it did not accept that a contractor could reasonably determine redacted detailed costs based on construction subtotals. The Board notes that the high-level budget information provided in the annual forecast expenditures, whether based on a class 5 or class 3 budget estimate, includes many of the same components as construction subtotals, such as direct and indirect construction costs, contingency, escalation, and interest during construction. As noted by the Board in the Major Build Application, Hydro has not addressed how a contractor can infer individual budgeted amounts given the number of items in the totals. Therefore, the Board's position remains unchanged, that a contractor would not be able to use annual forecast expenditures to determine individual budgeted amounts, even when combined with general information about the schedule of work.

Hydro further stated that the cumulative impact of information gathered over a number of filings can create a competitive advantage for some suppliers, potentially influencing future bidding strategies or negotiations. The Board has accepted that detailed cost and schedule information could be used by competitors and that treating detailed information as confidential serves to

¹ Correspondence to Hydro from the Board dated March 19, 2026 and April 2, 2026.

protect Hydro's negotiating position. The Board does not accept that the high-level information of annual forecast expenditures can be used in the same way as detailed cost information to create competitive advantage or influence negotiations.

As with the Major Build Application, the Board reviewed Hydro's claim for confidentiality balancing the competing interests of protecting commercially sensitive information while ensuring openness and transparency. The Board reviewed Hydro's proposed redactions to determine whether the information was commercially sensitive and whether the release of the information is likely to: (i) cause undue financial harm; (ii) harm Hydro's competitive or negotiating position; or (iii) interfere with contractual negotiations.

The Board concludes that Hydro has not justified its claim for confidential treatment of the annual expenditure amounts. The Board will publish the Application without redactions on August 6, 2026.

If you have any questions, please do not hesitate to contact the Board's Legal Counsel, Ms. Jacqui Glynn, by email, jglynn@pub.nl.ca or by telephone 709-726-6781.

Sincerely,



Mike McNiven
Board Secretary

MM/cj

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