

**NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

AN ORDER OF THE BOARD

NO. P.U. 30(2017) AMENDED

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

IN THE MATTER OF a general rate application by Newfoundland and Labrador Hydro to establish customer electricity rates for 2018 and 2019.

BEFORE:

Darlene Whalen, P.Eng.
Vice-Chair

Dwanda Newman, LL.B.
Commissioner

James Oxford
Commissioner

PROCEDURAL ORDER

1 **WHEREAS** Newfoundland and Labrador Hydro (“Hydro”) filed a general rate application (the
2 “Application”) with the Board of Commissioners of Public Utilities (the “Board”) on July 28, 2017
3 requesting approval of, among other things, proposed rates to be effective January 1, 2018 and
4 January 1, 2019; and

5
6 **WHEREAS** notice of the Application and pre-hearing conference was published in newspapers
7 throughout Newfoundland and Labrador beginning on August 19, 2017; and

8
9 **WHEREAS** after publishing notice the Board received intervenor submissions from:

- 10
11 1. Newfoundland Power Inc.;
- 12 2. The Consumer Advocate;
- 13 3. Corner Brook Pulp and Paper Limited, NARL Refining LP, and Vale Newfoundland and
14 Labrador Limited;
- 15 4. The communities of Sheshatshiu, Happy Valley-Goose Bay, Wabush and Labrador City;
16 and
- 17 5. Iron Ore Company of Canada.

18
19 **WHEREAS** on September 21, 2017 a pre-hearing conference was held in the Board’s Hearing
20 Room, 120 Torbay Road, St. John’s; and

21
22 **WHEREAS** the following appeared at the pre-hearing conference:

- 23
24 1. Geoff Young and Alex Templeton for Newfoundland and Labrador Hydro;
- 25 2. Gerard Hayes and Liam O’Brien for Newfoundland Power Inc.;
- 26 3. Stephen Fitzgerald for the Consumer Advocate;
- 27 4. Paul Coxworthy, Denis Fleming and via teleconference Dean Porter for the Industrial
28 Customer Group (Corner Brook Pulp and Paper Limited, NARL Refining LP, and Vale
29 Newfoundland and Labrador Limited);
- 30 5. Senwung Luk via teleconference for the communities of Sheshatshiu, Happy Valley-
31 Goose Bay, Wabush and Labrador City; and
- 32 6. Benoit Pepin via teleconference for Iron Ore Company of Canada.

33
34 **WHEREAS** the issues addressed at the pre-hearing conference include the registration of
35 intervenors, the procedures to be followed in the Application, and the schedule of dates to be
36 followed; and

37
38 **WHEREAS** no objection was raised in relation to the intervenor submissions, the proposed
39 schedule of dates and the rules of procedure, the Board makes the following Order.

IT IS THEREFORE ORDERED THAT:

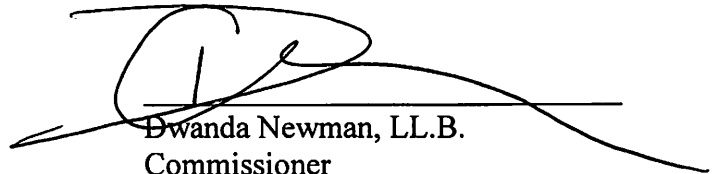
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43 1. The intervenors in the Application are as set out in Schedule “A” to this Order.

- 1 2. The schedule of dates for the Application shall be as set out in Schedule "B" to this Order and
- 2 may be amended by the direction of the Board.
- 3
- 4 3. The rules of procedure for the Application shall be as set out in Schedule "C" to this Order.

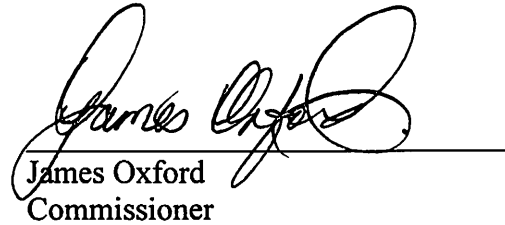
DATED at St. John's, Newfoundland and Labrador this 26th day of September, 2017.



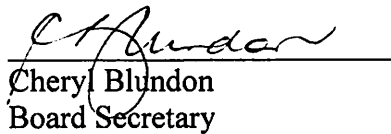
Darlene Whalen, P.Eng.
Vice-Chair



Dwanda Newman, LL.B.
Commissioner



James Oxford
Commissioner



Cheryl Blundon
Board Secretary

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Intervenors
Hydro General Rate Application

6 **1. Newfoundland Power Inc.**

7 **Represented by:**

8 Gerard Hayes
9 Newfoundland Power Inc.
10 55 Kenmount Road, P.O. Box 8910
11 St. John's, NL A1B 3P6
12 Telephone: 709-737-5609
13 E-mail: ghayes@newfoundlandpower.com

Liam O'Brien
Curtis, Dawe Lawyers
11th Floor, Fortis Bldg, 139 Water Street
St. John's, NL A1C 5J9
Telephone: 709-722-5181
E-mail: lobrien@curtisdawe.com

15 **2. Consumer Advocate**

16 Dennis Browne, Q.C.
17 P.O. Box 23135
18 Terrace on the Square, Level 2
19 St. John's, NL A1B 4J9
20 Telephone: 709-724-3800
21 E-mail: dbrowne@bfma-law.com

Represented by:

Stephen Fitzgerald
P.O. Box 23135
Terrace on the Square, Level 2
St. John's, NL A1B 4J9
Telephone: 709-724-3800
E-mail: sfitzgerald@bfma-law.com

23 **3. Industrial Customer Group (Corner Brook Pulp and Paper Limited, NARL Refining LP and Vale Newfoundland and Labrador Limited)**

25 **Represented by:**

26 Paul L. Coxworthy
27 Stewart McKelvey
28 Suite 1100, Cabot Place
29 100 New Gower Street
30 St. John's, NL A1C 6K3
31 Telephone: 709-722-4270
32 E-mail: pcoxworthy@stewartmckelvey.com

Dean A. Porter
Poole Althouse
Western Trust Building
49-51 Park Street, P.O. Box 812
Corner Brook, NL A2H 6H7
Telephone: 709-637-6425
E-mail: dporter@poolealthouse.ca

34 Denis J. Fleming
35 Cox & Palmer
36 Scotia Centre, Suite 1000
37 235 Water Street
38 St. John's, NL A1C 1B6
39 Telephone: 709-570-5321
40 E-mail: dfleming@coxandpalmer.com

1 **4. Labrador Interconnected Group (Communities of Sheshatshiu, Happy Valley-Goose**
2 **Bay, Wabush, and Labrador City)**

3 Sheshatshiu Innu First Nation	Wabush
4 Chief Eugene Hart	Charlie Perry, Town Manager
5 P.O. Box 160	P.O. Box 190
6 Sheshatshiu, NL A0P 1M0	15 Whiteway Drive
7 Telephone: 709-497-8522	Wabush, NL A0R 1B0
8 E-mail: ehart@sifn.ca	Telephone: 709-282-5696
9	E-mail: townmanager@wabush.ca

10	
11 Happy Valley-Goose Bay	Labrador City
12 Wyman Jacque, Town Manager	Cathy Etsell, Town Clerk
13 212 Hamilton River Road	P.O. Box 280
14 P.O. Box 40, Station B	317 Hudson Drive
15 Happy Valley-Goose Bay, NL A0P 1E0	Labrador City, NL A2V 2K5
16 Telephone: 709-896-8222	Telephone: 709-944-2621
17 E-mail: manager@happyvalley-goosebay.com	E-mail: townclerk@labradorcity.ca

18
19 **Represented by:**
20 Senwung Luk
21 Olthuis Klear Townshend LLP
22 250 University Ave, 8th Floor
23 Toronto, ON M5H 3E5
24 Telephone: 416-981-9443
25 E-mail: sluk@oktlaw.com

26
27 **5. Iron Ore Company of Canada**

28 Represented by:	
29 Van Alexopoulos	Benoît Pepin
30 1190 avenue des Canadiens-de-Montreal	1190 avenue des Canadiens-de-Montreal
31 Suite 400	Suite 400
32 Montreal, QC H3A 0E3	Montreal, QC H3A 0E3
33 Telephone: 514-285-8404	Telephone: 514-848-1406
34 E-mail: Van.Alexopoulos@ironore.ca	E-mail: benoit.pepin@riotinto.com

Schedule of Dates
Hydro General Rate Application

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September 2017

September 21(Thursday) Pre-Hearing Conference
September 25 (Monday) Requests for Information filed (RFIs)

October 2017

October 6 (Friday) RFIs from Consumer Advocate
October 20 (Friday) Responses to RFIs filed
October 27(Friday)* Responses to Consumer Advocate RFIs

November 2017

November 1 (Wednesday) 2nd Round of RFIs filed
November 8 (Wednesday) Motions Day (if required)
November 22(Wednesday) Response to 2nd round of RFIs filed
November 29 (Wednesday) Expert Reports and Pre-Filed Evidence
(including Board's Financial Consultant Report)

December 2017

December 6 (Wednesday) RFIs on Expert Reports filed
December 13(Wednesday) Responses to RFIs on Expert Reports
December 20 (Wednesday) Reply evidence from Hydro

January 2018

January 5 (Friday) Filing of issues for settlement discussions
January 10 (Wednesday) Negotiation Period commences
January 19 (Friday) Filing of settlement agreement, issues lists and
witness lists, and proposed order of witnesses
Motions Day (if required)
January 26 (Friday) Final deadline for filing any outstanding
information
January 30 (Tuesday) Public Hearing begins

*Hydro will attempt to answer all RFIs by October 20 but may require additional time to respond to the Consumer Advocate's RFIs filed on October 6

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Rules of Procedure
Hydro General Rate Application

1. Public Record

- (a) Unless otherwise directed by the Board, all documents filed with the Board shall be placed on the public record.
- (b) A party may apply to the Board requesting that a document or other information filed with the Board be considered confidential and not be released or released subject to conditions set by the Board.
- (c) The Board is bound by the provisions of the *Access to Information and Protection of Privacy Act, RSNL 2002 Chapter A-1.1*. Documents which are determined by the Board to be confidential will be dealt with in accordance with the provisions of this legislation.

2. Filing of Documents

- (a) All documents shall be filed with the Board Secretary.
- (b) Documents may be filed by:
 - (a) hand delivery;
 - (b) courier service;
 - (c) registered mail;
 - (d) electronic mail; or
 - (e) facsimile.
- (c) Filing is accomplished on the date when the Board first receives the submission, whether electronically or in paper format.
- (d) When documents are filed electronically, paper copies must be filed within 24 hours or the next business day. For parties located outside of the St. John's area, the Board will allow three (3) business days for the filing of paper copies.
- (e) All documents filed according to the scheduled dates shall be filed no later than 3:00 p.m. on the date stipulated. Documents filed after this time or on a Board holiday shall be considered as filed on the next Board business day.
- (f) All documents will have the date recorded when received by the Board.

3. Form of Documents

- (a) Paper and electronic filings are considered public records in this proceeding.

- 1 (b) All paper documents filed shall be prepared as follows:
2
3 (i) typed, written or printed on 8½" X 11" letter size paper, 3-hole punched;
4 (ii) single or double sided;
5 (iii) each page shall be numbered; and
6 (iv) where reasonable, each line shall be numbered.
7
8 (c) All documents filed electronically must be searchable and allow for key-word
9 searching. This will require documents to be scanned with optical character recognition
10 (OCR) or converted to OCR before they are filed with the Board.
11
12 (d) The electronic copy must be an exact copy of the original signed document, including
13 covering letters.
14
15 (e) Upon request the Board may consider filing exceptions regarding the form of
16 documents.
17
18

19 **4. Revisions to Documents**

- 20
21 (a) A party may revise any document to correct errors or to provide new information before
22 the completion of the hearing.
23
24 (b) Where all or any part of a document is revised, each revision shall indicate the page(s)
25 revised, the line(s) revised, the number of the revision (i.e. 1st revision), and the date of
26 the revision.
27
28 (c) Where all or any part of a document is revised, the document must be re-filed
29 electronically in its entirety; however, only the revised pages are required to be filed in
30 paper copy.
31
32 (d) Where a revision is made to a document the Board may, upon its own motion or upon
33 the request of another party, after receiving submissions of the parties, make any order
34 in respect of the revisions.
35
36

37 **5. Number of Paper Copies to be Filed**

38
39 Unless otherwise directed, a party filing a document with the Board shall:

- 40
41 (a) file with the Board Secretary one (1) original signed copy of each
42 document;
43 (b) provide thirteen (13) copies of the original document to the Board; and
44 (c) serve one (1) copy of each document on the other parties. If a party requires
45 additional copies, they may make a request to the Board. If a party does not
46 require hard copies, they may notify the Board Secretary. If a party chooses to
47 only receive electronic copies, they will not receive any hard copies (i.e., a party
48 cannot choose to receive some documents in hard copy and others in electronic).

1 **6. Information Requests**

- 2
- 3 (a) The parties shall observe the schedule set for the issuance and filing of requests for
4 information ("RFIs") and for responses to RFIs.
5
- 6 (b) RFIs shall be:
7
- 8 (a) labeled with the initials of the party issuing the RFI;
 - 9 (b) designated so as to provide notice of to whom the RFI is directed
10 (i.e. PUB-NP-001; PUB-CA-001); and
 - 11 (c) numbered consecutively with whole numbers. The number should not contain
12 sub-numbering (e.g. PUB-NLH-001A). However, sub-numbering can be used
13 within the request itself (e.g. the number will still be a whole number: PUB-
14 NLH-001 but may contain a, b, c, etc. within the body of the request).
15
- 16 (c) Responses to RFIs shall be:
17 (a) filed as individual pages; and
18 (b) numbered on the top right-hand corner of each page with the RFI number and
19 the page number. If the response has an attachment, the RFI number and the
20 attachment number as well as the number of pages should be included on the
21 top right-hand corner of each page.
22
- 23 (d) RFIs, and responses to RFIs, constitute part of the record in the proceeding and will be
24 considered to be evidence in the proceeding.
25
- 26 (e) Where directed by the Board, a party providing a response to an RFI shall make a
27 witness or witnesses available for cross-examination to speak to the information
28 provided in the response
29

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31 **7. Service of Documents**

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33 The Board may direct to whom service shall be provided.
34
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36 **8. Time**

- 37
- 38 (a) The parties shall observe the schedule for the proceeding established by the Board as
39 amended from time to time.
40
- 41 (b) All references to time shall be clear days. The first and last day shall be excluded.
42
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44 **9. Motions**

- 45
- 46 (a) Motions must be filed with the Board and served upon the other parties no later than

- 1 three (3) days before the scheduled Motion Day.
2
- 3 (b) Motions shall be filed in writing, contain a clear concise statement of the facts, the
4 order or the decision sought and the reasons for such an order or decision.
5
- 6 (c) The responding parties must file with the Board and serve upon the other parties
7 response briefs one (1) day before the Motions Day.
- 8 (d) A motion may be made orally or in writing at any time during the course of the
9 hearing and shall be disposed of in accordance with such procedures as the Board may
10 direct.
11
12
- 13 **10. Procedures for Presentation of Evidence and Cross-examination of Witnesses**
14
- 15 (a) Pre-filed testimony should be adopted as evidence by the witness in sworn testimony.
16
- 17 (b) Direct examination should be limited to matters set out in the witness pre-filed
18 testimony. The Board may allow a witness to provide supplementary evidence or may
19 restrict direct testimony where it is irrelevant, redundant or not helpful to the Board in
20 making its decision.
21
- 22 (c) Direct evidence may be presented by way of a panel of witnesses where prior notice
23 has been given to the Board Secretary and the parties. When examining a panel of
24 witnesses counsel shall put each question to a particular witness on the panel. Co-
25 counsel may examine the same witness, or panel of witnesses, provided notice is given
26 to the Board Secretary and the parties prior to the start of the cross-examination of the
27 witness.
28
- 29 (d) Co-counsel should not examine the same witness on the same subject matter.
30
- 31 (e) The party calling the witness shall be afforded an opportunity for re-direct examination
32 and all parties shall have an opportunity to pose questions in relation to new matters
33 arising from questions of the Board.
34
- 35 (f) A party wishing to examine or cross-examine a witness on a document that is not:
36
37 (i) already part of the record of the proceeding;
38 (ii) a portion of a transcript of the witness' own prior testimony; or
39 (iii) an Order of the Board;
40
- 41 shall file one (1) original and twelve (13) copies of the document with the Board and
42 serve one (1) copy on each party by 3:00 p.m. on the last business day before the
43 examination or cross-examination is to take place.
44
- 45 (g) Where the witness adopts the document it will be marked as an exhibit to his testimony.
46
- 47 (h) Where a document was not adopted as part of the witness' testimony the document may

1 be, if the parties consent, entered as a consent exhibit; or entered as an information item.
2
3

4 **11. Public Viewing**
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6 Interested persons may view any or all documents filed with the Board, except confidential or
7 private information, on the Board's website (www.pub.nl.ca) or at the Board's office by
8 contacting the Board Secretary.

9 **12. Copies of Documentation/Information Filed in this Proceeding**
10

11 (a) The Board will provide one copy of any document authored by the Board or its
12 consultants, and which is not available on its website, at no charge.
13

14 (b) Copies of documents originating or authored by a party should be requested directly
15 from that party.
16

17 (c) One (1) copy of the transcript for each day of the hearing will be provided to each
18 party at no cost.
19

20 (d) Copies of the Legislation can be obtained from the Queen's Printer, viewed at the
21 Board's Office, or viewed on the Board's website at www.pub.nl.ca.
22

23 (e) The Board may charge copy fees for the cost associated with the reproduction of any
24 document requested in accordance with the applicable legislation.
25
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27 **13. Exceptions**
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29 The Board may dispense with, vary or supplement any provisions of these Rules on those
30 terms the Board considers necessary.
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33 **14. Failure to Comply**
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35 Where a party to a proceeding has not complied with any requirement of these rules or any
36 direction of procedure or order issued by the Board, the Board may stay the proceedings until
37 satisfied that such requirement has been complied with or take such other steps as it considers
38 reasonable.