

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

AN ORDER OF THE BOARD

NO. P.U. 38(2020)

1 **IN THE MATTER OF** the *Electrical Power*
2 *Control Act, 1994*, SNL 1994, Chapter E-5.1 (the
3 “*EPCA*”) and the *Public Utilities Act*, RSNL 1990,
4 Chapter P-47 (the “*Act*”), as amended, and regulations
5 thereunder; and
6

7 **IN THE MATTER OF** an application by
8 Newfoundland and Labrador Hydro for approval
9 of an Amended and Restated Pilot Agreement for
10 the Optimization of Hydraulic Resources pursuant
11 to section 3(b)(iii) of the *EPCA* and sections 70 and
12 76 of the *Act*.
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14

15 **WHEREAS** Newfoundland and Labrador Hydro (“Hydro”) is a corporation continued and
16 existing under the *Hydro Corporation Act, 2007*, is a public utility within the meaning of the *Act*,
17 and is also subject to the provisions of the *EPCA*; and
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19 **WHEREAS** in Order No. P.U. 49(2018) the Board approved a Pilot Agreement for the
20 Optimization of Hydraulic Resources (“Pilot Agreement”) between Hydro and Nalcor Energy
21 Marketing (“NEM”); and
22

23 **WHEREAS** the Pilot Agreement allows:

- 24 (i) the purchase and import of low cost energy from off-island sources and the export
25 and sale of an offsetting amount of energy at another time when market prices are
26 higher relative to when the import occurred (“Ponding”); and
27 (ii) the sale of excess energy from the Island Interconnected system which would
28 otherwise be spilled (“Spill Energy”) to NEM which, in turn, can sell this energy
29 to external markets to generate additional revenues; and
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31 **WHEREAS** in Order No. P.U. 49(2018) Hydro was directed to provide updates on its Ponding
32 and Spill Energy activities pursuant to the Pilot Agreement as part of its quarterly reporting to the
33 Board, and to provide a report with its application for approval of a final agreement for the
34 optimization of hydraulic resources addressing its experience in relation to the Pilot Agreement as
35 well as any measures taken to enhance the effectiveness of the Ponding and Spill Energy activities;
36 and
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38 **WHEREAS** the Pilot Agreement expires on the earlier of December 31, 2020, or upon execution
39 and approval by the Board of a final agreement for the optimization of hydraulic resources; and

1 **WHEREAS** on November 25, 2020 Hydro filed an application for approval of an Amended and
2 Restated Pilot Agreement for the Optimization of Hydraulic Resources (the “Extended Pilot
3 Agreement”) which extends the term of the Pilot Agreement with all other terms remaining the
4 same (the “Application”); and
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6 **WHEREAS** the proposed expiration date of the Extended Pilot Agreement is the earlier of (i) the
7 commissioning date as defined in the Power Purchase Agreement between Hydro and the Muskrat
8 Falls Corporation; or (ii) the date that a final agreement for the optimization of hydraulic resources
9 is executed and approved by the Board; and
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11 **WHEREAS** the Application stated that Hydro and NEM believe that it is premature to enter into
12 a final agreement for the optimization of hydraulic resources at this time as i) the re-negotiation of
13 the Muskrat Falls Power Purchase Agreement; ii) the report from the Commission of Inquiry
14 Respecting the Muskrat Falls Project; and iii) the Board’s report on Rate Mitigation Options and
15 Impacts may have implications for this agreement; and
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17 **WHEREAS** the Application stated that the Pilot Agreement has been beneficial for Hydro’s
18 customers as demonstrated in the report filed with the Application and that approval of the
19 Application would enable Hydro to continue to capture opportunities to create value for its
20 customers from Ponding and Spill Energy activities on a pilot basis; and
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22 **WHEREAS** the Application was copied to: Newfoundland Power Inc.; the Consumer Advocate,
23 Dennis Browne, Q.C.; a group of Island Industrial customers: Corner Brook Pulp and Paper
24 Limited, NARL Refining Limited Partnership and Vale Newfoundland & Labrador Limited; Teck
25 Resources Limited; and Praxair Canada Inc.; and
26

27 **WHEREAS** on November 30, 2020 Newfoundland Power Inc. advised they did not have any
28 comments on the Application; and
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30 **WHEREAS** on December 4, 2020 Hydro filed a reply requesting that the Board approve the
31 Application as submitted; and
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33 **WHEREAS** no other comments were received by the Board; and
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35 **WHEREAS** the Board is satisfied that the Ponding and Spill Energy activities pursuant to the Pilot
36 Agreement have benefited Hydro’s customers and that approval of the Extended Pilot Agreement
37 would provide the opportunity for continued customer benefits and therefore the Application
38 should be approved and the established reporting requirements continued.

IT IS THEREFORE ORDERED THAT:

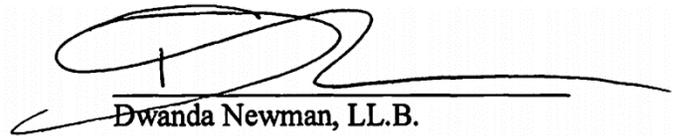
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1. The Amended and Restated Pilot Agreement for the Optimization of Hydraulic Resources is approved.
2. Hydro shall continue to provide updates on its Ponding and Spill Energy activities as part of its quarterly reporting to the Board during the period that the Amended and Restated Pilot Agreement for the Optimization of Hydraulic Resources is in effect.
3. Hydro shall file, as part of its application for approval of a final agreement for the optimization of hydraulic resources, a report summarizing its experience related to Ponding and Spill Energy activities during the pilot period as well as any measures taken to enhance the effectiveness of these activities.
4. Hydro shall pay all expenses of the Board arising from this Application.

DATED at St. John’s, Newfoundland and Labrador, this 17th day of December, 2020.



Darlene Whalen, P. Eng., FEC
Chair and Chief Executive Officer



Dwanda Newman, LL.B.
Vice-Chair



John O'Brien, FCPA, FCA, CISA
Commissioner


Cheryl Blundon
Board Secretary