

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

AN ORDER OF THE BOARD

NO. P.U. 29(2012)

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*”), and regulations thereunder;

5
6 **AND**

7
8 **IN THE MATTER OF** an application by
9 Newfoundland and Labrador Hydro for
10 approval of the proposed regulatory
11 treatment of asset retirement obligations
12 pursuant to Section 58 of the *Act*.

13
14
15 **WHEREAS** Newfoundland and Labrador Hydro (“Hydro”) is a corporation continued and
16 existing under the *Hydro Corporation Act*, is a public utility within the meaning of the *Act*, and
17 is subject to the provisions of the *EPCA*; and

18
19 **WHEREAS** on May 29, 2012 Hydro applied to the Board requesting approval of its proposed
20 regulatory treatment of asset retirement obligations associated with decommissioning liabilities
21 related to components of the Holyrood Thermal Generating Station and to polychlorinated
22 biphenyl removals, in accordance with International Financial Reporting Standards (“IFRS”) (the
23 “Application”); and

24
25 **WHEREAS** Hydro has, since 2010, recognized asset retirement obligations in relation to these
26 two decommissioning liabilities in its audited and regulatory financial statements in accordance
27 with Generally Accepted Accounting Principles (“GAAP”); and

28
29 **WHEREAS** in Order No. P.U. 13(2012) the Board approved the adoption and use of IFRS by
30 Hydro for financial reporting for regulatory purposes, effective January 1, 2012; and

31
32 **WHEREAS** notice of the Application was provided to the Industrial Customers, the Consumer
33 Advocate and Newfoundland Power Inc.; and

34
35 **WHEREAS** on June 1, 2012 the Board requested that Hydro file an additional report to support
36 the Application addressing, among other things, the impact of its proposals on rate base and
37 revenue requirement as well as other options considered; and

1 **WHEREAS** on June 20, 2012 Hydro filed a report addendum addressing the issues identified by
2 the Board; and

3
4 **WHEREAS** the Board's financial consultants, Grant Thornton, filed a report dated July 16, 2012
5 which concludes that Hydro's proposed regulatory treatment of the asset retirement obligations
6 represents a reasonable approach which will allow Hydro to recover all costs associated with the
7 asset retirement obligations over time; and

8
9 **WHEREAS** the Consumer Advocate and the Industrial Customers issued Requests for
10 Information which were answered by Hydro on July 31, 2012; and

11
12 **WHEREAS** the Industrial Customers provided a written submission on August 7, 2012
13 submitting that the Application should be denied and the issues addressed in a general rate
14 application; and

15
16 **WHEREAS** the Industrial Customers submit that the Board has a continuing obligation to
17 review proposed IFRS driven changes to Hydro's regulatory accounting, particularly those which
18 will have a revenue requirement or other rate impact on Hydro's customers; and

19
20 **WHEREAS** the Industrial Customers further submit that any decisions on proposed new
21 revenue requirements, as well as the issues of discount rate for credit risk, the proposed
22 allowances for contingencies and market escalation, and the application of the IFRS criteria
23 should be addressed in the context of a general rate application; and

24
25 **WHEREAS** the Consumer Advocate provided a written submission on August 13, 2012
26 submitting that the Application should be denied and the issues explored through normal
27 regulatory process; and

28
29 **WHEREAS** the Consumer Advocate submits that Hydro's application for pre-approval of asset
30 retirement obligations related revenue requirements is premature; and

31
32 **WHEREAS** the Consumer Advocate further submits that he does not oppose the recognition of
33 revenue requirements for appropriate decommissioning costs, however the burden of establishing
34 an appropriate decommissioning cost level, and that such amounts are prudent, rests with Hydro;
35 and

36
37 **WHEREAS** Newfoundland Power Inc. did not submit comments on the Application; and

38
39 **WHEREAS** Hydro provided a written response on August 21, 2012 clarifying that its proposed
40 treatment of asset retirement obligations is not an IFRS driven requirement and that the
41 Application is requesting approval to account for the expenses resulting from a new item in
42 accordance with appropriate accounting standards; and

43
44 **WHEREAS** Hydro states that the actual expenses to be included in final test year costs will be
45 based on estimates that include greater project definition and which will be subject to review at
46 Hydro's general rate application; and

1 **WHEREAS** the Board notes that, under IFRS, Hydro is required to record legal or constructive
2 obligations and further that identifying and recording potential decommissioning liabilities as an
3 asset retirement obligation is in compliance with IFRS; and
4

5 **WHEREAS** the determinations in relation to the proposed asset retirement obligations,
6 including whether the decommissioning liabilities meet IFRS criteria, the amount to be included
7 in revenue requirement, the discount rate to be used, and the calculation of depreciation and
8 accretion expenses, are made annually based on the circumstances at the time and, as noted by
9 Hydro, the annual determinations and calculations may change with changes in circumstances;
10 and
11

12 **WHEREAS** the issues surrounding the proposed asset retirement obligations are appropriately
13 addressed in the context of a general rate application so that the assessment can be made and the
14 impacts considered in the context of the relevant circumstances; and
15

16 **WHEREAS** the Board has reviewed the material and supporting documentation filed with the
17 Application and agrees with the Industrial Customers and the Consumer Advocate that the
18 Application should be denied given that Hydro has the necessary approval to establish
19 appropriate asset retirement obligations in accordance with IFRS and that determinations in
20 relation to particular asset retirement obligations are appropriately considered in the context of a
21 general rate application in the ordinary course.
22
23

24 **IT IS THEREFORE ORDERED THAT:**
25

- 26 1. Hydro shall appropriately recognize and record asset retirement obligations in accordance
27 with IFRS.
28
- 29 2. Approval of the regulatory treatment of the proposed asset retirement obligations is
30 denied at this time.
31
- 32 3. Hydro shall pay all expenses of the Board arising from this Application.

DATED at St. John's, Newfoundland and Labrador this 2nd day of October, 2012.

Andy Wells
Chair & Chief Executive Officer

Darlene Whalen, P.Eng.
Vice-Chair

Dwanda Newman
Commissioner

James Oxford
Commissioner

Cheryl Blundon
Board Secretary