

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

**AN ORDER OF THE BOARD**

**NO. P.U. 14(2018)**

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

7 **IN THE MATTER OF** a general rate  
8 application by Newfoundland and Labrador  
9 Hydro to establish customer electricity rates  
10 for 2018 and 2019; and  
11

12 **IN THE MATTER OF** an application by  
13 Newfoundland and Labrador Hydro requesting  
14 deferral of certain cost of service methodology  
15 issues raised in the 2017 general rate application.  
16  
17

18 **Background**  
19

20 In Order No. P.U. 49(2016) arising from Newfoundland and Labrador Hydro’s (“Hydro”) 2013  
21 general rate application the Board accepted the settlement agreements filed, including a proposed  
22 schedule and scope for a cost of service methodology review in 2016 to address the forecast  
23 material change in the supply mix arising from the Muskrat Falls project. It was anticipated that  
24 these supply costs would be reflected in 2019 costs for the full year. In June 2016 the  
25 commissioning date for the Muskrat Falls project was extended to 2020, which would result in an  
26 application from Hydro in 2019 for cost recovery beginning in 2020. A request by Hydro to delay  
27 the cost of service methodology review to 2018 was subsequently approved by the Board.  
28

29 On July 28, 2017 Hydro filed its 2017 general rate application based on 2018 and 2019 test year  
30 costs. In Order No. P.U. 30(2017) the Board established that the Consumer Advocate, Dennis  
31 Browne, Q.C., (the “Consumer Advocate”); Newfoundland Power Inc. (“Newfoundland Power”);  
32 a group of Island Industrial customers: Corner Brook Pulp and Paper Limited (“CBPP”), NARL  
33 Refining Limited Partnership, and Vale Newfoundland and Labrador Limited (the “Industrial  
34 Customer Group”); the communities of Sheshatshiu, Happy Valley-Goose Bay, Wabush, and  
35 Labrador City (the “Labrador Interconnected Group”) and the Iron Ore Company of Canada  
36 (“IOC”) are intervenors in this proceeding.

1 As a result of the delay of the Muskrat Falls project Hydro's 2017 general rate application reflects  
 2 to a large extent the existing approved cost of service methodology, with the exception of certain  
 3 cost of service issues not related to the completion of the Muskrat Falls project. In its general rate  
 4 application Hydro requested approval of the following related to the cost of service:

- 5
- 6 i) the CBPP Generation Credit Pilot Project, which was approved on a pilot basis by the  
 7 Board in Order No. P.U. 4(2012), be discontinued;
  - 8 ii) the assignment of the frequency converter to CBPP as a specifically assigned asset be  
 9 approved;
  - 10 iii) the proposal to allocate operating and maintenance expenses for specifically assigned  
 11 assets by customer based on the determination of test year transmission asset values  
 12 via Handy-Whitman indexes be approved;
  - 13 iv) the proposal to classify wind energy purchases as 100% energy-related be approved;  
 14 and
  - 15 v) the proposal to allocate revenue requirements for the 2018 and 2019 test years  
 16 reflecting the allocation of the rural deficit using the revenue requirement method be  
 17 approved.

18  
 19 The 2017 general rate application also set out Hydro's plans for the pending cost of service  
 20 methodology review:

21  
 22 Hydro plans to file an application in the third quarter of 2018 to conduct a Cost of Service  
 23 and Rate Design Methodology Review to determine the changes required to reflect the  
 24 Labrador-Island interconnection. The reports filed by Hydro in 2015 and 2016 in  
 25 accordance with the 2013 GRA Settlement Agreements on marginal costs, cost of service  
 26 methodology, and rate design post Muskrat Falls Project commissioning will be considered  
 27 by the Board in the proposed review process. The results of the Board's decision on these  
 28 matters will be reflected in Hydro's subsequent GRA filing planned for 2019.<sup>1</sup>

29  
 30 On April 11, 2018 a settlement agreement was filed which set out the parties' agreement on certain  
 31 cost of service issues related to the assignment of assets and the methodology to be used to allocate  
 32 the rural deficit between Newfoundland Power and the Labrador Interconnected system.<sup>2</sup> The  
 33 parties also agreed that, in preparation for the implementation of customer rates reflecting the costs  
 34 of the Labrador-Island interconnection, the Board should direct Hydro to file, no later than  
 35 November 15, 2018, an application for a cost of service and rate design methodology review.<sup>3</sup>

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<sup>1</sup> Hydro's 2017 General Rate Application, page 5.4

<sup>2</sup> 2017 GRA Settlement Agreement, April 11, 2018, page 3. The parties agreement on cost of service issues was set out as follows:

15. The assignment of assets as common or specifically assigned as proposed in the Application and amended by a report from Hydro dated December 21, 2017, with the exception of the assignment of the frequency converter as specific, should be approved.

16. The revenue requirement method to allocate the rural deficit between Newfoundland Power and the Labrador Interconnected system approved by Order No. P.U. 49(2016) should continue to be applied.

<sup>3</sup> 2017 GRA Settlement Agreement, April 11, 2018, page 5

## 1 **Application**

2  
3 On April 4, 2018 Hydro filed an application (the “Application”) requesting that the Board define  
4 the scope of the cost of service methodology issues to be dealt with in the 2017 general rate  
5 application. In the Application Hydro claimed that the Consumer Advocate has raised other cost  
6 of service methodology issues for consideration in the general rate application, including  
7 allocation between demand and energy of the costs associated with the recently completed  
8 transmission line TL267 from Bay d’Espoir to Western Avalon, and the marginal cost signal to be  
9 reflected in the Newfoundland Power wholesale rate design as a result of the interconnection with  
10 the North American grid.

11  
12 Hydro submitted that the cost of service methodology issues to be addressed in the 2017 general  
13 rate application should be limited to the proposals as set out in its evidence. Hydro stated:

14  
15       These are matters ongoing from the 2013 GRA for which Hydro has submitted expert  
16 evidence to support its proposals. While the issues presented by the Consumer Advocate  
17 are proper matters for the Board’s inquiry, the present GRA proceeding is not the most  
18 efficient and effective process for their examination. Hydro submits that the goal of  
19 regulatory efficiency is best achieved by dealing with these issues at the proceeding  
20 focused on, and specifically dedicated to, their resolution.<sup>4</sup>

21  
22 Hydro requested the Board issue an order defining the scope of the cost of service methodology  
23 issues to be dealt with in the 2017 general rate application.

24  
25 Parties were provided the opportunity to make submissions on the Application. The Labrador  
26 Interconnected Group’s submission dated April 11, 2018 was filed on April 26, 2018. The  
27 Consumer Advocate, Newfoundland Power, the Industrial Customer Group and IOC filed  
28 submissions on April 30, 2018.

29  
30 Hydro filed a reply submission on May 4, 2018.

31  
32 The Consumer Advocate filed a further submission on May 7, 2018 in response to Hydro’s reply  
33 submission. On May 10, 2018 Hydro filed an objection to the follow up submission of the  
34 Consumer Advocate on the basis it was outside the set schedule for the matter. The Board  
35 determined it would allow the submission and invited further comment from the parties. The Island  
36 Industrial Customers and Hydro filed further comments on May 17, 2018.

## 37 38 **Submissions**

39  
40 The Consumer Advocate raised a number of concerns with Hydro’s application. According to the  
41 Consumer Advocate Hydro’s request to restrict discussion of cost of service and rate design issues  
42 in the 2017 general rate application to only those set out in its evidence eliminates discussion of  
43 cost of service issues raised by other parties. With respect to Hydro’s submission that its  
44 application is founded on the goal of regulatory efficiency the Consumer Advocate noted Hydro’s  
45 multiple revised filings and subsequent applications and information filings for its 2017 general

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<sup>4</sup> Application, page 11

1 application as not being consistent with this goal and also questioned why all cost of service issues  
2 should not be deferred to the cost of service methodology review in the interest of regulatory  
3 efficiency. The Consumer Advocate also submitted that the schedule for the cost of service hearing  
4 and the 2019 general rate application appears unrealistic, noting the ongoing matters before the  
5 Board and the timing of the cost of service review hearing.

6  
7 Newfoundland Power noted the Board's busy near-term regulatory calendar and submitted that  
8 there are no compelling reasons to address the cost of service methodology issues raised by the  
9 Consumer Advocate's expert in the general rate application proceeding. According to  
10 Newfoundland Power changes to the marginal cost signal reflected in the wholesale rate and the  
11 question of whether the costs of TL267 should be allocated differently than other common  
12 transmission assets are better addressed as part of the more comprehensive cost of service review  
13 planned. According to Newfoundland Power deferral of the cost of service issues as requested by  
14 Hydro is appropriate and will contribute to an orderly and efficient regulatory process.

15  
16 The Industrial Customer Group supported Hydro's request that only those cost of service issues  
17 proposed in the Application should be decided in the 2017 general rate application. According to  
18 the Industrial Customer Group the evidentiary record does not contain the necessary evidence to  
19 fully test the options and make a reasonable decision. The Industrial Customer Group further  
20 submitted, however, that the parties should not be restricted from asking questions on any cost of  
21 service issues raised in the evidence. The Industrial Customer Group submitted the issues can be  
22 investigated in the general rate application through questioning but reasonably deferred for final  
23 determination in the cost of service review.

24  
25 The Industrial Customer Group also submitted that the methodology for calculating specifically  
26 assigned charges should be considered in the 2017 general rate application, in accordance with the  
27 condition set by the Board in September 2016 when approval was given for the delay of the cost  
28 of service methodology review. According to the Industrial Customer Group, if this issue is  
29 deferred, two of the three members of the Industrial Customer Group would continue to pay an  
30 inequitable specifically assigned charge until Hydro files its next general rate application. The  
31 Industrial Customer Group also noted that Hydro's evidence supports a change in the methodology  
32 for calculating specifically assigned charges and that no challenge has been provided from the  
33 intervenors to the proceeding.

34  
35 With respect to the CBPP Generation Credit Agreement, which has been in place on a pilot basis,  
36 the Industrial Customer Group proposed that it be continued in its present form until the Board's  
37 decision in the cost of service review. It was noted that the agreement is scheduled to be  
38 discontinued on December 31, 2018 and that there have been no discussions to date on a new pilot  
39 project to start in 2019. According to the Industrial Customer Group this proposal would not  
40 impose any financial consequences on any other party to the proceeding and will allow for  
41 discussions on a new pilot project beyond 2018.

42  
43 The Labrador Interconnected Group expressed concern that the remedy sought by Hydro is overly  
44 broad and, if accepted as formulated, would unnecessarily and improperly restrict debate in the  
45 general rate application hearing. While acknowledging the importance of regulatory efficiency the  
46 group cautioned that it must be balanced with the task of the Board, which is the consideration of

1 Hydro's proposed rates and regulations under the *Act*. The Labrador Interconnected Group also  
2 submitted that the Board must ensure it has sufficient information regarding the cost of service in  
3 making a determination on the reasonableness of costs. The Labrador Interconnected Group urged  
4 the Board to take a balanced approach to ensure there is sufficient evidence before it and to refrain  
5 from imposing a blanket ban on methodological issues other than those mentioned in Hydro's  
6 submission.

7  
8 IOC submitted that, should the Board approve the Application in whole or in part, it is preferable  
9 for the Board to frame its order in a way that does not unduly restrict debate in the general rate  
10 application as it may hamper the Board in the exercise of its jurisdiction at a later stage.

11  
12 In its reply submission Hydro clarified that the Application was solely intended to defer the cost  
13 of service methodology issues raised by the Consumer Advocate to the cost of service  
14 methodology review. According to Hydro the cost of service issues raised in the Consumer  
15 Advocate's expert's evidence would be most efficiently addressed in a discrete cost of service  
16 hearing, and that to include them in the 2017 general rate application will increase the risk of delay  
17 in implementing final rates in 2019, leading to intergenerational equity concerns. Hydro noted the  
18 Board's busy regulatory calendar and submitted that bringing additional issues into the 2017  
19 general rate application will increase the length of the hearing and put pressure on the schedule for  
20 the 2018 cost of service hearing. Hydro also stated that, if any other methodological issues are  
21 subsequently identified, the parties will have the opportunity to make submissions on whether they  
22 should be addressed in the general rate application or deferred to the cost of service review.  
23 Specifically with respect to the wholesale rate design for Newfoundland Power Hydro stated:

24  
25 Hydro believes that if it were anticipated that a material revision to Newfoundland Power's  
26 rate structure was expected in the 2017 GRA, then Newfoundland Power may have  
27 submitted expert evidence in the current proceeding. It is Hydro's position that it is  
28 consistent with regulatory efficiency and procedural fairness that modifications to the  
29 wholesale rate design to better reflect marginal cost changes resulting from interconnection  
30 with the North American grid should be dealt with in the hearing planned to review the  
31 cost of service and rate design methodologies.<sup>5</sup>

32  
33 Hydro also accepted the request by the Industrial Customer Group to defer the discontinuation of  
34 the CBPP Generation Credit Agreement to the cost of service methodology review, which  
35 according to Hydro will allow for a more fulsome discussion of this topic and result in a more  
36 efficient 2017 general rate application.

37  
38 In a follow up reply to Hydro's submission the Consumer Advocate proposed that, in the interest  
39 of regulatory efficiency, all outstanding cost of service matters be deferred to the pending cost of  
40 service methodology review rather than only those raised by the Consumer Advocate. It was  
41 proposed that the tail-block energy charge for Newfoundland Power would not change, the cost of  
42 service study referred to as the Expected Supply Scenario in Hydro's compliance filing be accepted  
43 as the basis for rates and customer class allocations in the 2018 and 2019 test years, and that the  
44 parties decide through negotiations whether or not it is desirable to include a rate rider or surcharge

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<sup>5</sup> Hydro, May 4, 2018, page 4

1 to recover revenues beyond the approved revenue requirement for the purposes of future rate  
2 mitigation. According to the Consumer Advocate:

3  
4 The Consumer Advocate's proposal provides a fair and efficient settlement of cost of  
5 service issues as it would eliminate the need for further discussion of cost of service and  
6 the need to call expert witnesses except as might be required to assist in the determination  
7 of the cost of service scenario to be used as the basis for revenue requirement and cost  
8 allocation.<sup>6</sup>  
9

10 Hydro objected to the Consumer Advocate's proposal to defer all cost of service issues, stating  
11 that the proposal is impractical and contrary to the principle of regulatory efficiency. According to  
12 Hydro the methodological issues raised by Hydro in its 2017 general rate application are ongoing  
13 from the 2013 general rate application and are matters for which Hydro has submitted supporting  
14 expert evidence. Hydro also objected to the Consumer Advocate's alternate proposal that all cost  
15 of service issues raised by the Consumer Advocate be considered in the 2017 general rate  
16 application, for the reasons set out in its reply submission. Hydro submitted that the Consumer  
17 Advocate's further proposals do not relate to the cost of service methodology issues framed by the  
18 motion and that there is insufficient evidence and discussion of these matters on the record for the  
19 Board to make these determinations. Hydro confirmed it remains open to discussions and  
20 negotiation on both of these issues.

21  
22 The Industrial Customer Group also opposed the Consumer Advocate's proposal to delay all the  
23 cost of service issues proposed in the general rate application for the reasons set out in its April  
24 30, 2018 submission.

## 25 26 **Board Findings**

27  
28 In the Application Hydro requested the Board issue an order defining the scope of the cost of  
29 service methodology issues to be dealt with in the 2017 general rate application. In its reply Hydro  
30 clarified that its intent was to defer the cost of service methodology issues raised by the Consumer  
31 Advocate to the cost of service methodology review. The Board understands Hydro's position to  
32 be that the cost of service methodology issues raised by the Consumer Advocate's expert should  
33 be deferred – specifically the classification of TL267 and the wholesale rate design for  
34 Newfoundland Power – based on regulatory efficiency and procedural fairness. This position was  
35 supported by Newfoundland Power. The Industrial Customer Group, the Labrador Interconnected  
36 Group and IOC favored less restrictive approaches than suggested by Hydro.

37  
38 In assessing the Application the Board looks to Section 26 of the Regulations:

39  
40 Notwithstanding the other provisions of these regulations, the board, in its discretion may  
41 allow any of the proceedings to be amended or may order to be amended or struck out any  
42 matters which are irrelevant or may tend to prejudice, embarrass or delay a fair hearing of  
43 an application or other proceeding upon its merits.  
44

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<sup>6</sup> Consumer Advocate, May 7, 2018, page 2

1 Hydro, as the applicant before the Board, is entitled to a fair and efficient hearing of its general  
2 rate application. In the same context the Board must ensure that the hearing of the application  
3 provides the opportunity for the necessary information to be gathered, through evidence and  
4 argument, to enable the Board to fulfill its statutory mandate in considering Hydro's general rate  
5 application proposals.  
6

7 In its 2017 general rate application Hydro requested approval of five specific proposals related to  
8 cost of service. In the Settlement Agreement Hydro's proposed assignment of assets as common  
9 or specifically assigned, with the exception of the specific assignment of the frequency converter  
10 to CBPP, was accepted, as well as the use of the revenue requirement method to allocate the rural  
11 deficit. During submissions in this Application Hydro accepted the position of the of the Industrial  
12 Customer Group to continue the CBPP Generation Credit Pilot Project, which was proposed to be  
13 discontinued in December 2018, pending discussions during the cost of service methodology  
14 review. This would leave the following cost of service proposals from Hydro's general rate  
15 application to be addressed during the hearing based on Hydro's submission:  
16

- 17 i) the assignment of the frequency converter to CBPP as a specifically assigned asset;
- 18 ii) the methodology to be used for the allocation of operating and maintenance expenses  
19 for a specifically assigned asset; and
- 20 iii) the classification of wind energy purchases.  
21

22 There is no objection on the record to these matters proceeding to the hearing as set out in Hydro's  
23 2017 general rate application, though the Consumer Advocate suggested, in the alternative, that  
24 all of the cost of service matters could be deferred. In addition the status of the CBPP Generation  
25 Credit Agreement may still be an issue for some parties. The outstanding issue before the Board  
26 then is whether the two cost of service issues raised by the Consumer Advocate – the classification  
27 of costs for TL267 and the marginal cost to be reflected in Newfoundland Power's wholesale rate  
28 design – should be deferred as requested by Hydro.  
29

30 As stated in Order No. P.U. 35(2017) the Board continues to believe that effective and efficient  
31 regulation is served by full disclosure of information which may be relevant early in the process  
32 to allow for appropriate focus on relevant issues as the matter progresses. While the general rate  
33 application has been before the Board since July 2017 there has been a substantial record generated  
34 as part of the review, including responses to information requests and substantive additional  
35 information filings. The public hearing of the general rate application is in its early stage with a  
36 number of witness panels scheduled and significant issues still to be canvassed. In considering  
37 Hydro's request to define the cost of service issues to be dealt with at the hearing by excluding  
38 specific issues the Board must be satisfied that the issues at hand are not relevant to the proceeding  
39 or may prejudice, embarrass or delay a fair hearing of the general rate application. The exclusion  
40 of certain issues on the basis of regulatory efficiency must also be balanced with the interests of  
41 the parties to participate fully and the needs of the Board to have the information necessary to  
42 make its determinations on Hydro's general rate application proposals.  
43

44 With respect to the TL267 transmission line costs the Board acknowledged in Order No. P.U.  
45 36(2017) that the fair classification and allocation of costs for TL267 may be an issue which the  
46 parties may wish to address in the general rate application. The Board expressed the view that,

1 while it may ultimately determine that such issues should be left to be addressed in the cost of  
2 service methodology review proceeding, it is reasonable at this stage to allow the parties to gather  
3 information with respect to this issue.<sup>7</sup> The matter of the recovery of costs for TL267 in Hydro's  
4 test year costs is clearly before the Board in the general rate application as part of the findings to  
5 be made with respect to Hydro's proposed revenue requirement to be determined by the Board.  
6 The Board has heard no compelling argument to place restrictions on the parties' ability to ask  
7 questions or raise issues with respect to matters which are before the Board in the proceeding,  
8 including TL267 cost recovery.

9  
10 The issue of the wholesale power rate for Newfoundland Power was raised by the Consumer  
11 Advocate's expert, Douglas Bowman, who has recommended that Hydro should propose a  
12 wholesale rate for Newfoundland Power that better reflects marginal costs as part of its general  
13 rate application. Hydro proposed in the general rate application to maintain the historical rate  
14 design approach on the basis of the pending cost of service and rate design review. According to  
15 Mr. Bowman, since the Holyrood production costs on which the wholesale rate design is based  
16 will be changing as a result of the availability of off-island power purchases, the wholesale rate  
17 should be redesigned to reflect updated marginal costs. Hydro and Newfoundland Power support  
18 the deferral of this issue to the upcoming cost of service on the basis of regulatory efficiency.

19  
20 The Board agrees that changes to Newfoundland Power's wholesale rate to reflect marginal costs  
21 may be more properly addressed in a comprehensive cost of service and rate design review.  
22 However the Board is not prepared at this stage in the proceeding to foreclose discussion on  
23 whether the proposed wholesale rate design for Newfoundland Power continues to be appropriate  
24 in the context of the changing supply mix for the Island Interconnected system beginning in 2018.  
25 These changing circumstances, which remain to be clarified on the record, will be a matter for the  
26 Board as it considers Hydro's general rate application proposals. As in the case of TL267, while  
27 the Board may ultimately determine that Newfoundland Power's wholesale rate design should not  
28 be changed, the Board does not believe that it is appropriate at this stage to place restrictions on  
29 the party's ability to ask questions or raise issues with respect to matters which are before the  
30 Board in the proceeding.

31  
32 For the reasons set out above the Board will not accept Hydro's request to define the scope of the  
33 cost of service issues to be addressed in the general rate application by excluding those issues  
34 raised by the Consumer Advocate. Nevertheless, the Board asks that the parties make every effort  
35 to ensure an efficient proceeding bearing in mind that there will be a full cost of service  
36 methodology and rate design review application filed by Hydro in the fall. The Board leaves open  
37 the opportunity for further settlement discussions on any cost of service matters, including those  
38 raised by the Consumer Advocate, in advance of the scheduled recommencement of the hearing in  
39 July, 2018.

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<sup>7</sup> Order No. P.U. 36(2017) addressed a submission by Hydro that it not be required to respond to certain information requests of the Consumer Advocate. The Board's findings with respect to TL267 are set out on page 4 of that Order.



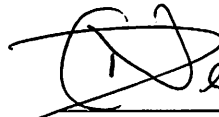
1 **IT IS THEREFORE ORDERED THAT:**  
2

- 3 1. Hydro's application to defer certain cost of service methodology issues raised in the 2017  
4 general rate application is denied.  
5  
6 2. Hydro shall pay all expenses of the Board arising from this Application.

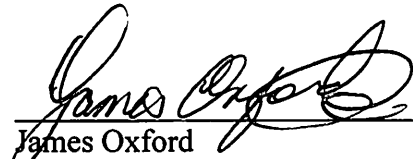
**DATED** at St. John's, Newfoundland and Labrador, this 22<sup>nd</sup> day of May, 2018.



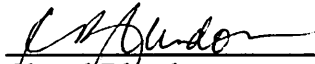
\_\_\_\_\_  
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Vice-Chair



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Dwanda Newman, LL.B.  
Commissioner



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James Oxford  
Commissioner



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Cheryl Blundon  
Board Secretary