

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

AN ORDER OF THE BOARD

NO. P.U. 8(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 revisions to the Rate Stabilization Plan Rules
10 and Island Industrial customer rates pursuant to
11 sections 70(1) and 71 of the *Act*.
12
13

14 **Background**

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16 The Rate Stabilization Plan (“RSP”) Rules provide that Island Industrial customer rates be adjusted
17 on January 1 each year to update the RSP Fuel Rider and the RSP Current Plan Adjustment. On
18 January 16, 2020 Hydro filed an application with the Board requesting approval to delay the
19 January 1 adjustment and to continue existing Island Industrial customer rates until further Order
20 of the Board. Hydro stated that the January 1, 2020 adjustment would result in a rate increase for
21 Island Industrial customers of approximately 6.3% to become effective January 1, 2020. Taking
22 into account the rate increase implemented as of October 1, 2019, the Island Industrial customers
23 would incur rate increases of approximately 16.0%¹ in a four-month period. Hydro had entered
24 into discussions with the Island Industrial customers regarding whether mitigation of the increase
25 would be necessary and what alternatives may be available and requested a delay in the rate
26 adjustment to allow a proposal for rate mitigation to be submitted to the Board. In Order No. P.U.
27 2(2020) the Board ordered that the January 1, 2020 RSP adjustments for Island Industrial
28 Customers be delayed and that current Island Industrial Customer rates be continued until further
29 order of the Board.
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31 **The Application**

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33 On January 29, 2020 Hydro filed an application (the “Application”) requesting approval of:
34 (i) revisions to Sections C.1, D.1 and D.2 of the RSP Rules;
35 (ii) the use of half of the December 31, 2019 RSP Current Plan balance in the calculation
36 of the RSP Current Plan Adjustment for Island Industrial customers, plus associated
37 financing costs; and

¹ The compound rate increase has been updated to 16.7% in the current application.

- 1 (iii) an Island Industrial Customer RSP Current Plan Adjustment of 0.226 cents per kWh
2 and an Island Industrial Customer RSP Fuel Rider of (0.059) cents per kWh.
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4 The Application was copied to: Newfoundland Power Inc. (“Newfoundland Power”); the
5 Consumer Advocate, Dennis Browne, Q.C. (the “Consumer Advocate”); a group of Island
6 Industrial customers: Corner Brook Pulp and Paper Limited, NARL Refining Limited Partnership
7 and Vale Newfoundland and Labrador Limited (the “Industrial Customer Group”); Praxair Canada
8 Inc.; and Teck Resources Limited.
9

10 The Board, Newfoundland Power and the Consumer Advocate filed requests for information
11 (“RFIs”). Hydro filed responses to the RFIs on February 12, 2020. On February 17, 2020
12 Newfoundland Power and the Industrial Customer Group filed comments. On February 19, 2020
13 the Consumer Advocate filed comments. Hydro filed its reply submission on February 21, 2020.
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15 **Application Proposals**

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17 The Application states that, under existing RSP Rules, the recovery of the December 31, 2019 RSP
18 Current Plan balance of \$2,720,624 would result in an average billing increase of 6.4% which,
19 when combined with the October 1, 2019 increase of 9.7%, would result in a material increase in
20 rates for Island Industrial customers over a short period of time. To mitigate this impact the
21 Application proposes that \$1,360,312 of the December 31, 2019 RSP Current Plan balance be
22 reflected in the calculation of the RSP Current Plan Adjustment, plus forecast financing costs based
23 on the balance proposed to be recovered. To effect this proposal a change to Section D.2 of the
24 RSP Rules to allow recovery of a portion of the December 31 Island Industrial Customer RSP
25 Current Plan balance and corresponding financing charges is proposed. The same adjustment to
26 Section D.1 of the RSP Rules, which addresses the RSP Current Plan adjustment for
27 Newfoundland Power, is also proposed to ensure consistency between the rules for recovery of the
28 RSP Current Plan balances for Island Industrial customers and Newfoundland Power. The
29 Application also proposes a change to Section C.1 of the RSP rules to correct a typographical error.
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31 Approval of the changes in the RSP Rules and the proposed partial recovery of the RSP Current
32 Plan balance would result in the following RSP adjustments for Island Industrial customers
33 effective February 1, 2020:

- 34 i) an Island Industrial Customer RSP Current Plan Adjustment of 0.226 cents per kWh;
35 and
36 ii) revision of the existing Island Industrial Customer RSP Fuel Rider of 0.000 cents per
37 kWh to (0.059) cents per kWh to reflect the forecast No. 6 fuel price of \$103.65 per
38 barrel (CDN).
39

40 The average billing impact of these proposals is estimated to be an increase of approximately 2.7%.
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42 The Industrial Customer Group stated that they have consistently reiterated their interest in rate
43 stability and that a compound billing increase of 16.7% within a four-month period would not be
44 consistent with rate stability. The Industrial Customer Group submitted that the existing RSP Rules
45 should not be adhered to so rigidly that they would undermine the purpose for which they were
46 established. The Industrial Customer Group support the proposed change to the RSP Rules and
47 submitted that a change to the RSP Rules is the better approach compared to an ad hoc suspension
48 and alteration of the normal operation of the rules. The Industrial Customer Group agreed with

1 Hydro that any future applications to extend the one-year recovery period of the RSP Current Plan
2 balance would have to be considered on a case-by-case and submitted that there could be other
3 circumstances beyond the examples provided by Hydro where an application may be appropriate
4 to promote rate stability.

5
6 Newfoundland Power noted that Hydro confirmed there would be no future impacts on the rates
7 of Hydro's other customer classes as a result of the deferred balance in the Island Industrial
8 Customer Current Plan. On that basis Newfoundland Power does not oppose Hydro's proposal to
9 recover 50% of the December 31, 2019 Island Industrial Customer RSP Current Plan balance in
10 the 2020 Island Industrial Customer RSP Adjustment. Newfoundland Power does not support the
11 proposed revision to the RSP Rules, stating that no evidence has been provided to justify that the
12 proposed revision of the RSP Rules is necessary. Newfoundland Power submitted that it is within
13 the Board's power to approve the proposed recovery of 50% of the December 31, 2019 Island
14 Industrial Customer RSP Current Plan balance, and deferred recovery of the remainder, without
15 any permanent revision of the RSP Rules and that revising the RSP Rules is not necessary to
16 address the current needs of the Island Industrial Customers. Newfoundland Power further
17 submitted that the proposed revision would not appear to provide any regulatory efficiency gain
18 as any proposal would still require an application to the Board.

19
20 The Consumer Advocate expressed concerns that the Application proposal defeats the purpose of
21 the RSP to provide rate stability to customers by pushing unrecovered costs into future years when
22 these costs may become more difficult to recover, particularly in light of the introduction of the
23 Muskrat Falls project costs into rates. The Consumer Advocate stated that there are also issues of
24 inter-generational equity which were not considered by Hydro and that it would be rare that the
25 Board would issue an order to forego recovery of RSP amounts owing. According to the Consumer
26 Advocate it is also not clear which Island Industrial customers have agreed to the proposal. The
27 Consumer Advocate concluded that pushing costs into the future during this period of rate
28 uncertainty is problematic and advocated a cautious approach. The Consumer Advocate submitted
29 that any Board Order approving the Application should make clear that both Hydro and the Island
30 Industrial customers will ensure there is no prejudice, now or in the future, to other customer
31 classes.

32
33 In its response Hydro noted that the proposed change to the RSP Rules is merely to allow for the
34 possibility of recovery of only a portion of the RSP balance in future years and that any deviation
35 from the standard full recovery of any Current Plan balance would be subject to a further
36 application and review by the Board and the parties. Hydro reiterated its position that the purpose
37 for the proposals is to allow Hydro to smooth rate impacts for customers and that it believes its
38 proposal to recover the Island Industrial Customer RSP Current Plan balance over two years
39 presents a reasonable approach to meet that goal. Hydro also stated that its proposal to amend the
40 RSP Rules was based on its belief that the RSP Rules are clear in their requirement to recover the
41 entire Current Plan balance in the following year and that a change to the RSP Rules was necessary
42 to allow for recovery over a longer period of time. Hydro acknowledged the Board's broad
43 discretion and large jurisdiction in its choice of methodologies and approaches to achieve the
44 purposes of the legislation and to implement provincial power policy and stated that, if the Board
45 concurs with Newfoundland Power's position that a permanent revision of the RSP Rules is
46 unnecessary, it has no objection to a one-time deviation to the RSP Rules to allow for rate relief in
47 the circumstance.

1 **Board Findings**

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3 The Board agrees that the combined billing impact for Island Industrial customers of the 9.7%
4 increase as of October 1, 2019 arising from Hydro's 2017 general rate application and the expected
5 increase of 6.4% as of February 1, 2020 associated with the recovery of the December 31, 2019
6 Island Industrial Customer RSP Current Plan balance under the existing RSP Rules raises concerns
7 with respect to rate shock and that rate relief is justified. Hydro's proposal to use half of the
8 December 31, 2019 RSP Current Plan balance in the calculation of the RSP Current Plan
9 Adjustment for Island Industrial customers, plus associated financing costs, would reduce the
10 February 1, 2020 billing increase to 2.7%. While the combined billing impact of both increases
11 over a short period of time would still be significant the Board is satisfied that Hydro's proposal
12 is reasonable in the circumstances.

13
14 To allow for the deferred recovery of the December 31, 2019 Island Industrial Customer RSP
15 Current Plan balance Hydro has proposed changes to the RSP Rules to permit the recovery of a
16 portion of the December 31 RSP Current Plan balances and corresponding financing costs for both
17 the Island Industrial customers and Newfoundland Power. The Board is not persuaded that
18 approval of changes to the RSP Rules is necessary to effect a one-time mitigation measure which
19 arises as a result of timing of implementation of rate approvals from the Board. The Board has and
20 will continue to assess such proposals on a case-by-case basis, considering the circumstances at
21 the time. The Board will approve Hydro's rate mitigation proposal for the Island Industrial
22 customers as a one-time exception to the RSP Rules. The Board will also approve the proposed
23 revision to Section C.1 of the RSP Rules to correct the typographical error.

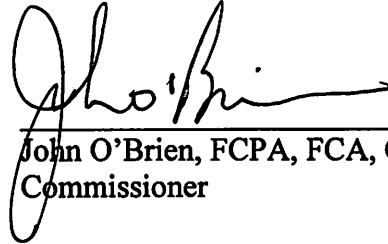
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26 **IT IS THEREFORE ORDERED THAT:**

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28 1. An exception to the Rate Stabilization Plan Rules to allow for the use of half of the December
29 31, 2019 RSP Current Plan balance in the calculation of the RSP Current Plan Adjustment for
30 Island Industrial customers, plus forecast financing costs based on the balance proposed to be
31 recovered, is approved.
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33 2. The proposed revision to Section C.1 of the Rate Stabilization Plan Rules is approved.
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35 3. The following RSP adjustments for Island Industrial customers are approved effective
36 February 1, 2020:
37 i) an Island Industrial Customer RSP Current Plan Adjustment of 0.226 cents per kWh;
38 and
39 ii) an Island Industrial Customer RSP Fuel Rider of (0.059) cents per kWh.
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41 4. Hydro shall pay all expenses of the Board arising from this Application.

DATED at St. John's, Newfoundland and Labrador, this 26th day of February, 2020.



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



John O'Brien, FCPA, FCA, CISA
Commissioner



Cheryl Blundon
Board Secretary