

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

AN ORDER OF THE BOARD

NO. P.U. 29(2024)

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** an application by
8 Newfoundland and Labrador Hydro for
9 approval of an extension of the Third
10 Amended and Restated Pilot Agreement
11 for the Optimization of Hydraulic Resources,
12 pursuant to section 3(b)(iii) of the **EPCA** and
13 sections 70 and 76 of the **Act**.
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16 **WHEREAS** Newfoundland and Labrador Hydro (“Hydro”) is a corporation continued and existing
17 under the **Hydro Corporation Act, 2007**, SNL 2007, Chapter H-17, is a public utility within the
18 meaning of the **Act**, and is also subject to the provisions of the **EPCA**; and
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20 **WHEREAS** in Order No. P.U. 49(2018) the Board approved a Pilot Agreement for the Optimization
21 of Hydraulic Resources (“Pilot Agreement”) between Hydro and Nalcor Energy Marketing
22 (“NEM”); and
23

24 **WHEREAS** in Order No. P.U. 38(2020) the Board approved an Amended and Restated Pilot
25 Agreement for the Optimization of Hydraulic Resources with an expiration date of the earlier of
26 (i) the commissioning date as defined in the Power Purchase Agreement between Hydro and the
27 Muskrat Falls Corporation; or (ii) the date that a final agreement for the optimization of hydraulic
28 resources is executed and approved by the Board; and
29

30 **WHEREAS** in Order No. P.U. 31(2021), Order No. P.U. 35(2022) and Order No. P.U. 30(2023) the
31 Board approved extensions to the Amended and Restated Pilot Agreement for the Optimization
32 of Hydraulic Resources, with the most recent agreement having an expiry of the earlier of (i)
33 December 31, 2024; (ii) approval by the Board of an agreement to replace the Third A&R Pilot
34 Agreement; or (iii) agreement by the parties to discontinue the Third A&R Pilot Agreement; and

1 **WHEREAS** on December 2, 2024 Hydro filed an application for approval of another extension to
2 the Amended & Restated Pilot Agreement with an expiration of the earlier of (i) December 31,
3 2025; (ii) approval by the Board of an agreement to replace the Third Amended & Restated Pilot
4 Agreement; or (iii) agreement by the parties to discontinue the Third Amended & Restated Pilot
5 Agreement, with all other terms remaining the same (the “Application”); and
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7 **WHEREAS** the Application stated that Hydro continues to consider the type of agreement that
8 should follow the pilot agreement; and
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10 **WHEREAS** the Application stated that the approval of this Application will enable Hydro to
11 continue to capture opportunities to create value for its customers from ponding and the sale of
12 spill energy on a pilot basis while considering what future agreements may be necessary; and
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14 **WHEREAS** the Application was copied to: Newfoundland Power Inc.; the Consumer Advocate,
15 Dennis Browne, KC; a group of Island Industrial customers: Corner Brook Pulp and Paper Limited,
16 Braya Renewable Fuels (Newfoundland) GP Inc. and Vale Newfoundland & Labrador Limited; Teck
17 Resources Limited; and Linde Canada Inc.; and
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19 **WHEREAS** no comments were received by the Board and on December 13, 2024 Hydro filed a
20 reply requesting that the Board approve the Application; and
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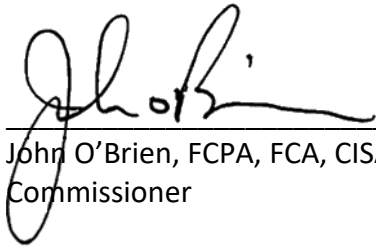
22 **WHEREAS** the Board is satisfied that a further extension of the Third Amended and Restated Pilot
23 Agreement should be approved to enable Hydro to continue to capture opportunities to create
24 value for customers from its ponding and spill energy activities.
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26
27 **IT IS THEREFORE ORDERED THAT:**
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- 29 1. The extension of the Third Amended and Restated Pilot Agreement for the Optimization of
30 Hydraulic Resources to the earlier of (i) December 31, 2025; (ii) approval by the Board of an
31 agreement to replace the agreement; or (iii) agreement by the parties to discontinue the
32 agreement, is approved.
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- 34 2. Hydro shall continue to provide updates on its ponding and spill energy activities as part of its
35 monthly reporting to the Board during the period that the extended Third Amended and
36 Restated Pilot Agreement for the Optimization of Hydraulic Resources is in effect.
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- 38 3. Hydro shall file, as part of its application for approval of a final agreement for the optimization
39 of hydraulic resources or upon discontinuance of the agreement, a report summarizing its
40 experience related to ponding and spill energy activities during the pilot period as well as any
41 measures taken to enhance the effectiveness of these activities.
42
- 43 4. Hydro shall pay all expenses of the Board arising from this Application.

DATED at St. John's, Newfoundland and Labrador, this 16th day of December 2024.


Kevin Fagan
Chair and Chief Executive Officer


John O'Brien, FCPA, FCA, CISA
Commissioner


Christopher Pike, LL.B., FCIP
Commissioner


Jo-Anne Galarneau
Executive Director and Board Secretary