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January 18, 2019

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Via Electronic Mail and Courier

Newfoundland and Labrador Board of Commissioners of Public Utilities
120 Torbay Road
P.O. Box 21040
St. John's, NL A1A 5B2

**Attention: Ms. G. Cheryl Blundon, Director of Corporate Services
and Board Secretary**

Dear Ms. Blundon:

Re: Rate Mitigation Reference (the "Reference")

These are the comments of the Island Industrial Customer (IIC) Group (Corner Brook Pulp & Paper Limited, NARL Refining LP, Vale Newfoundland and Labrador Limited) on The Liberty Consulting Group ("Liberty") and Synapse Energy Economics ("Synapse") reports filed as part of Phase 1 of the Reference.

Given the short time frame available to review these reports, and the preliminary nature of much of the information and analysis in the reports themselves, the comments in this correspondence should be understood to be preliminary. They should not be taken as indicative of the IIC Group's final views or comprehensive submissions on the issues raised below and to be addressed by the Reference.

It is the IIC Group's aim that these comments will serve to inform the Board in respect to its own Phase 1 interim report to the Provincial Government and to inform Liberty and Synapse with respect to the issues of interest and concern to the IIC Group and that the IIC Group believe call for further investigation and analysis in Phase 2 of the Reference.

Least cost reliable service

In the view of the IIC Group, the overall analysis and ultimate results to be derived from the Reference should be guided by the overarching power policy of the Province set out in section 3 of the *Electrical Power Control Act, 1994* ("EPCA") While the expression of the power policy in section 3 of the EPCA has several aspects, the IIC Group submit that the policy objective expressed by paragraph 3(b)(iii) is the one most central to this Reference:

all sources and facilities for the production, transmission and distribution of power in the province should be managed and operated in a manner ...that would result in power being delivered to consumers in the province at the lowest possible cost consistent with reliable service ...

The IIC Group acknowledge that the Board's powers to oversee the implementation of this central power policy objective (which is abbreviated in these comments to "least cost reliable service") and of other aspects of the power policy mandated by section 3 of the EPCA, have

been constrained by various directions, exemptions and statutory amendments by government over the years. Now is not the time to question the past advisability of or past necessity for such constraints. However, going forward, the IIC Group respectfully submit that it should be a primary objective of this Reference to identify where such constraints will, if left unmodified, be inimical to the central power policy objective of least cost reliable service.

Comments on the Liberty Phase 1 Report

In the view of the IIC Group, serving the central policy objective of least cost reliable service calls for a focus on the ratepayers being the beneficiaries of rate mitigation measures. A corollary of this focus is that ratepayers should not, by the rates they pay or by acquiescence to unreliable service, be subsidizing or financing other objectives of the utility or of government.

Liberty has identified that utility costs and revenues, under the present Muskrat Falls Project (MFP) financing structure, will not be aligned with utility customer rates:

*"What stands out is that Hydro customers must pay all of Nalcor's \$12.7 million in costs while receiving the benefits of only a portion of the energy produced with revenue from export sales excluded."*¹

Moreover, Liberty has observed the following with respect to Nalcor's expected "equity" return on MFP financing:

...the rates for [Hydro's] customers include several returns that far exceed actual "costs" and will so many times over after commissioning of the MFP assets:

- *The payment that Hydro makes under agreements for purchases from and use of MFP assets include a substantial return (over \$6 billion in the first 20 years of operation), more reflective of investor-owned utility costs; Hydro included these payments in its revenue requirements.*
- *Nalcor will receive the "profits" expected to come from out-of-Province sales, with no rate offset to Hydro customers.*²

[underlining added]

The IIC Group submit that the imposition of these layers and levels of financial burdens on the ratepayers would be unprecedented in this Province, or in any other jurisdiction where utility costs are to be regulated in accordance with generally accepted sound public utility practice³, and would be manifestly inimical to the central power policy objective of least cost reliable service. The IIC Group respectfully submit that government has a responsibility to take prompt and effective steps to remove or ameliorate these financial burdens before their impacts are visited upon the ratepayers.

The IIC Group acknowledge that, as identified by Liberty, there are various stakeholders and possibly "barriers" that must be addressed to pursue mitigation opportunities. Liberty indicates

¹ Liberty Phase One Final Report, page 4.

² Ibid., page 5.

³ EPCA, section 4.

that a focus of its Phase 2 work will be, by working with Nalcor and others, to clearly identify those barriers and any changes needed to make opportunities for revenue requirement reduction executable. The IIC Group support such a focus for Phase 2, but would go further to request that the Board, by its interim Phase 1 report, emphasize to the Provincial Government the urgent need to initiate its own analysis and to begin negotiations with the Federal Government, and with other stakeholders as necessary. The IIC Group respectfully submit such analysis and negotiations at the governmental level need not and ought not be delayed until the conclusion of Phase 2 of this Reference.

Comments on Synapse Phase 1 Report

- **Electrification**

Generally speaking, the IIC Group support reasonable measures to promote electrification, provided that it is demonstrated that it will clearly result in lower rates and is consistent with maintenance of reliable service ("least cost reliable service"). In this context and with those qualifications, the IIC Group sees merit in investigation of the promotion of air source heat pumps (ASHP) for appropriate institutional, commercial and residential usage. It was not clear however from the Synapse report whether ASHP was being proposed as an alternative to existing electric space heating, or as complement to existing oil heating, or for both purposes. We suggest this should be clarified in Phase II. Moreover, we suggest that careful consideration needs to be given to the impact of ASHP and other electrification of heating in an Island power system environment where there may continue to be a risk of limited (or no) capacity surplus on the coldest days.

With respect to electrification and the comments made by Synapse regarding the lack of data pertaining to the end-uses of industrial fuel consumption⁴, we note that the Energy Future 2018 Study referenced by Synapse represents a national overview, and is not necessarily reflective of there being significant opportunities for conversion to electricity use for processes of the IIC Group. The IIC Group will keep an open mind to consideration of any conversion opportunities that would promote least cost reliable service that may be identified in Phase 2. However it is the preliminary view of the IIC Group that their respective industrial processes do not appear to present, in any significant measure, such opportunities.

- **Conservation and demand management**

The Synapse Report places considerable emphasis on conservation and demand management (CDM). The IIC Group would sound a note of caution that the lessons, and overall system benefits, of CDM in other jurisdictions may not translate to the post-Muskrat Island power system and the unique demands that system will be under, financially and otherwise. As with other measures that are supposed to be serving the objective of rate mitigation, the IIC Group would submit that it should be demonstrated that any proposed CDM measures will in fact serve overall rate mitigation (i.e., with a positive Rate Impact Measure or RIM test).

- **Rate design**

The Synapse Report also provides some preliminary comment on the opportunities that may be presented by time of use (TOU) rates. We note that the processes of the IIC Group are, to a

⁴ Synapse Phase 1 Report, page 37.

large extent, 24/7 in nature, with shutdown periods not able to be easily coordinated with Island peak loads. As result, it is not apparent what opportunities for TOU are available in the Island industrial context. More generally, again we would caution that the examples of TOU successes in other jurisdictions may be of limited relevance, and measures proposed to promote TOU should be carefully assessed to determine whether they will in fact achieve overall rate mitigation in the context of the post-Muskrat Island power system.

The IIC Group would welcome the identification and investigation by Liberty and Synapse of other rate design initiatives specific to the industrial sector, as may have been implemented or considered in other jurisdictions.

- **Industrial self-supply**

Synapse makes the following comment regarding the impact of sharp rate increases if the impact of MFP costs are not mitigated (at page 25 of the Synapse Report): *“Some large industrial customers, which are price sensitive, are at risk of converting to self-supply or relocation.”* It is not clear whether Synapse, in making this comment, has considered subsection 14.1(2) of the EPCA, a 2012 amendment to that statute which was apparently intended as a barrier to self-supply of electricity by industrial customers.

It is the IIC Group's expectation that their future rates will not be subject to sharp increases and will remain competitive with rates paid by analogous industries in other competitive jurisdictions. If that expectation, however reasonable, turns out to be ill-founded, then it can be expected that the issue of self-supply will come to the fore for one or more of the Island industrial customers. Without acknowledging the legal validity or full interpretation to be given to subsection 14.1(2), the IIC Group notes that the existing legislation contemplates the potential for exemption of industrial customers from this provision. Moreover, the potential for industrial self-supply merits consideration from the perspective of the overall system benefits it could provide, as it could avoid the need of other expenditures by the utility to ensure reliable service and might even serve as a source of additional capacity to the system in emergency circumstances (we note that it is already being mooted that an additional generation source will likely be needed on the Avalon Peninsula, post-Muskrat, for reliability purposes).

- **Maximizing off-system sales**

Both the Synapse and Liberty reports address the issue of maximizing off-system sales revenues. This is a necessary component of responding to the surplus energy situation expected. Since first created, the island system has been designed on the premise that the energy value of production did not vary materially by time of day or time of year (each kW.h produced reduced a portion of oil usage, whether at peak or off-peak). This is no longer the case, as the marginal value of power will vary significantly over the day and year. While “pooling” is referenced as one aspect of this effort in the Liberty report, it will be important to consider options beyond simple water management, as suggested by the term “pooling”, to also include any system configuration changes. This may include changes to overall dispatch, plant reconfiguration, reservoir management approaches, licenced flows, and potentially small capital works such as storage or peaking capacity that may help improve the economic profile of the existing island generation.

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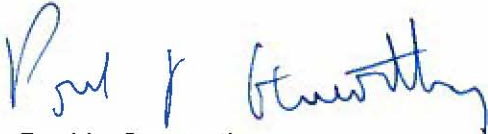
Participation in Phase 2

By not having commented on other aspects of the Liberty and Synapse Phase 2 Reports, the IIC Group do not mean to imply that there is no or little merit in the further investigation and consideration of the other potential mitigation opportunities identified by Liberty and Synapse. However, the IIC Group believes that they can more constructively comment on these other opportunities once further information is generated by the Phase 2 investigations and processes. The IIC Group request that they be provided with reasonable and timely disclosure of that information, and opportunities to test same, in Phase 2.

We trust these comments will be found to be of assistance to the Board, and look forward to opportunities for the IIC Group's further participation in the Reference.

Yours truly,

Stewart McKelvey



Paul L. Coxworthy

PLC/tas

- c: Geoffrey P. Young, Corporate Secretary and General Counsel, Newfoundland & Labrador Hydro
- Dennis M. Brown, Q.C., Consumer Advocate
- Gerard Hayes, Newfoundland Power
- Dean A. Porter, Poole Althouse
- Denis J. Fleming, Cox & Palmer