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December 23rd, 2015

Via Email and Courier

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Newfoundland and Labrador Board of Commissioners of Public Utilities

120 Torbay Road
P.O. Box 21040
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Dear Sirs/Madams,

Re: Newfoundland and Labrador Hydro - Amended General Rate Application - Prudence Review – Final Submission of Mr. Danny Dumaresque - Intervenor

With respect to the above noted matter, please find enclosed a copy of the final submission of Mr. Danny Dumaresque. Hard copies to the Board to follow.

Trusting you will find the above to be in order.

Yours truly,

WILLIAM S. KENNEDY LAW OFFICE



JILLIAN A. HEWITT

Encl.

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IN THE MATTER OF the *Electrical Power Control Act*, 1994, SNL 1994, Chapter E-5.3 (the “*EPCA*”) and the *Public Utilities Act*, RSNL, 1990, Chapter P-47 (the “*Act*”), as amended, and Regulations thereunder; and

IN THE MATTER OF a general rate application filed by Newfoundland and Labrador Hydro on July 30, 2013; and

IN THE MATTER OF an amended general rate Application filed by Newfoundland and Labrador Hydro on November 10, 2014; and

IN THE MATTER OF a prudence review relating to certain Action and costs of Newfoundland and Labrador Hydro

SUBMISSION OF DANNY DUMARESQUE – INTERVENOR

Introduction

1. On May 7, 2014 the Newfoundland and Labrador Board of Commissioners of Public Utilities (the “Board”) issued an Order of the Board No. P.U. 16(2014) in which it granted approval to Newfoundland and Labrador Hydro to proceed with the purchase and installation of the 100 MW combustion turbine generation at the Holyrood Thermal Generating Station. On Page 4 of that Order, the Board stated that, “*the Board accepts that a separate process should be established to address issues such as generation alternatives, reliability, prudence, costs and cost recovery from ratepayers.*”
2. Subsequently, the Board began the process by engaging the Liberty Consulting Group to provide assistance relating to a prudence review of certain of Hydro's expenditures as part of the Board's investigation and a review of Hydro's General Rate Application (the “Review”). The Board therefore called for submissions on February 27, 2015 from those who wished to participate in the Review as intervenors.
3. Mr. Danny Dumaresque submitted his submission requesting intervenor status on March 3, 2015 and was subsequently formalized by the Board as an intervenor in the Review on April 24, 2015.
4. What follows is Mr. Dumaresque's submission following the Review, which will pay

particular attention to prudence with respect to the manner in which the generation in question was procured, specifically the value for money that ratepayers of the province received, as well as the reliability of the equipment contracted.

Value for Money

5. Pursuant to the *Electrical Power Control Act, 1994*, SNL 1994, c E-5.1, section 3(b)(iii):
 3. *It is declared to be the policy of the province that*
 - (b) *all sources and facilities for the production, transmission and distribution of power in the province should be managed and operated in a manner*
 - (iii) *that would result in power being delivered to consumers in the province at the lowest possible cost consistent with reliable service.*
6. As noted above, the addition of new generation to the island power system must be the most reliable option available while also providing the best value for money to ratepayers.
7. On May 29, 2014, the tender for a Turnkey 100 MW (Nominal) Combustion Turbine Generator at Holyrood Generating Station was accepted and awarded to ProEnergy for \$99,827,669.00, which consolidation agreement consisted of two separate procurement contracts; one for the CT package and one for the on-site procurement and constructions services (installation).

Price of the Combustion Turbine Package

8. The CT Package, as confirmed by Newfoundland and Labrador Hydro ("Hydro") throughout the hearing, consists of the combustion turbine and miscellaneous parts, the combustion turbine generator and miscellaneous parts, and the balance of the package being mechanical and electrical auxiliaries. The turbine was manufactured in 2007, while the generator was manufactured in 2009.
9. As noted in Undertaking 111, Hydro states that it was aware in February, 2014 that these assets were on the market and were being advertised for the price of \$23 million or nearest offer.

Reference: Undertaking 111

10. Given the age of these assets at the time, seven years old and five years old respectively, the usual amortization that would accompany these aging assets strongly suggests that the CT package advertised for "\$23 million or nearest offer" would have likely been available for a lower price than that advertised. This price is confirmed by third party appraisals on units of the same make and model. Specifically, a fair market appraisal by R.W. Beck on three SWPC 501 D5A 100 MW (Nominal) Combustion Turbine and Auxiliaries determined that these new, unused assets were assessed at fair market value of \$23,598,950 per plant.
11. This is also in line with fair market values provided in the Gas Turbine World 2013 GTW Handbook. Indeed, on Page 44 of this GTW Handbook Edition it identifies the unit described above to have a 2013 Budget Plant Price of \$32,500,000 USD; this is for a brand new CTG plant with a full Manufacturer's Warranty of precisely the same specifications to what Hydro has purchased. It should also be noted that Hydro provided costs of transporting this package from the US to Holyrood.
12. Hydro confirmed in its testimony that a third party appraisal to determine fair market value for the CT package was not completed at any time prior to purchasing the package, or subsequently. No effort was made to determine the fair market value of the assets or whether the best value for money was truly being achieved. As stated in testimony from the November 6, 2015 hearing at pages 72 -73:

Mr. Dumaresque:

Q: When you got the offer from ProEnergy when the tender closed on April 21st, and you put into action your due diligence process, knowing months before that this complete package was available for \$23 million or nearest offer, did it cross your mind that maybe...we should go and talk to the owners of this machine...did you actually take the time in your due diligence process with ProEnergy to discuss whether the price they had...tendered was a fair price in relation to the world advertising that was taking place around this package, because clearly they were not the same numbers...Did you have any discussions with ProEnergy along those lines?

Mr. MacIsaac:

A: We did not, sir...

13. The contract awarded by Hydro to ProEnergy for the CT package portion of the Consolidated Agreement is valued at approximately \$54.7 million.

Reference: GD-DD-NLH-001, Contract 2014-57952, Page 1.

Price of Installation

14. In testimony from the Missouri Public Service Commission Utility Services Division, as well as from the above noted fair market appraisal by R. W. Beck, installation costs for an aftermarket new 501D5A 100MW (Nominal) GT plant were quoted on average to be \$15 million.

Reference: Missouri Public Service Commission Utility Services Division Surrebuttal Testimony of Cary G. Featherstone, Case No. ER-2007-0004.

15. Indeed, in Exhibit CE-47 Rev. 1 (Public) submitted to the Board in July, 2011 by Newfoundland and Labrador Hydro, it was confirmed that a high level estimate to purchase and install a new 50 MW gas turbine would be \$40,000,000 and that there was an allocation of \$15,000,000 to cover installation, including site acquisition/preparation, fuel storage/distribution, environmental enhancement options, integration into the Island grid, engineering/project management (internal and external consultant).
16. It is also noteworthy that of the tenders received, the only other viable tender, by PW Power Systems, quoted \$14 million for installation costs, in line with the industry standard.
17. The accepted tender by ProEnergy Services, however, quotes installation costs at approximately \$45 million; a figure that has yet to be explained or justified by Hydro.

Reliability

18. On or about August 5, 2014 Hydro noted as follows:

"A third party inspection of the unit was completed between April 28 and May 1, 2014 to evaluate the condition and suitability of the unit for use. The unit was found to be in good condition and suitable for use. The inspection report is attached."

19. As noted above, a fair market appraisal was not completed on the assets. As per Mr. MacIsaac's testimony, the only other report Hydro commissioned to determine the suitability of the assets was a visual inspection reporting that it appeared the machine had been stored appropriately during the years 2009-2014. No inspections on the internal integrity of the unit were completed. No other suitability or fitness inspection was commissioned or carried out.

Reference: November 5th, 2015 PUB Hearing Testimony, Page 161-162.

20. Indeed, Hydro did not receive the visual inspection report until May 30th, 2014 and had already awarded the contract to ProEnergy on May 16th, 2014. Thus, at the time the contract was awarded, Hydro did not have in its possession any inspections or reports indicating fitness, suitability, fair market value or any other prudency measure of the assets.

Further Prudency Issues

21. Subsequent to the tenders closing on April 21st, Hydro undertook a zero-one assignment of values to the two viable tender options to determine which tender was the more suitable option.

22. This zero-one assignment tool is one that was developed in-house at Hydro and provides a weighting on various aspects of each tender. However, Hydro was unable to provide any details on how or why the items in the tool were chosen to be included and often seemed to assign values on an arbitrary basis. For example, PW Power Systems was given a zero on item sp-7, whereas ProEnergy was given a one regarding fencing. Hydro notes in Undertaking 128 that while PW Power Systems had not indicated one way or the other in their tender whether fencing was being provided around the GSU, Hydro also did not inquire or seek confirmation of this item. Further, Hydro notes in Undertaking 130 that none of the items listed in the tool are differentiated in terms of importance to the contract, and that no specific weighting of the rating for this technical analysis is made. For example, the tender from PW Power Systems was not credited any extra value for the fact that its tender included brand-new, unused assets with a full manufacturer's warranty, whereas ProEnergy's did not.

Reference: Undertaking 128 and Undertaking 130.

Conclusion

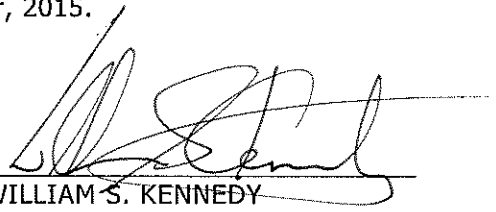
23. Following the in-service of the new CT generation asset at Holyrood, Hydro has experienced a number of problems when calling upon the asset to be available. This occurred most notably on or about March 4, 2015 wherein the 170 MW unit at Holyrood was down for required maintenance and the new CT failed to start when called on for backup, three months after its in-service date.

24. Throughout this process, there have been a number of issues with the procurement and installation of the CT unit that simply have never been satisfactorily addressed by Hydro, despite the prudency review process. It is the opinion of Mr. Dumaresque that this

inability to address these issues speaks to the lack of prudence and lack of foresight by Hydro throughout the acquisition of the assets.

25. It simply cannot be argued that the most prudent business practice to establish the cost of a unit such as the CT generation asset would have been to commission a professional appraisal of the package by an independent appraisal company. This is standard business practice, yet was not undertaken by Hydro.
26. While the Liberty Consulting Group, in its prudence report, concluded that the mere addition of this unit and its final cost when compared to other such projects was prudent, Liberty did not assess the fair market value of this CT package, and therefore could not make an assessment of the fair market value of the CT package in comparison to other packages around the country and the world. Furthermore, Liberty did not deal with the reliability and performance of this unit to date versus the reliability which would come with the alternative option of new units, which had been offered by PW Power Systems.
27. There remains considerable concern in the minds of ratepayers about the prudence in the decision making and tender process undertaken by Hydro and what consequences this imprudent decision making will yet have on the reliability of power in the province. Even throughout this Prudence Review, it is still unclear why Hydro opted for a seven year old technology over brand new units with full Manufacturer's Warranty, and even more so, why this option was chosen when installation costs were three times the industry standard. It is still unclear why there was no Professional Appraisal completed to determine fair market value. It is still unclear why there was no due diligence performed in terms of carrying out an internal inspection and a truly independent engineer's report. It is still unclear why there was no negotiation of the final price, despite Hydro knowing the previously advertised market price of the unit was \$23 million or lower. It is still unclear why the contract was signed before a final inspection report was filed.
28. To conclude, despite the intensive process provided by the Board to determine the issue of prudence, Hydro has been unable to speak to the above noted issues, which leaves Mr. Dumaresque to conclude that the decisions made by Hydro in procuring the CT asset were imprudent. Due diligence was not properly performed and it is the submission of Mr. Dumaresque that the costs of this imprudence should not be passed on to ratepayers of the province.

ALL OF WHICH is respectfully submitted, in the City of Mount Pearl, in the Province of Newfoundland and Labrador, this 23rd day of December, 2015.

A handwritten signature in black ink, appearing to read 'W. S. Kennedy', written over a horizontal line.

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