

May 27, 2015

VIA COURIER and ELECTRONIC MAIL

Ms. G. Cheryl Blundon, Board Secretary
Board of Commissioners of Public Utilities
120 Torbay Road
P.O. Box 21040
St. John's, NL A1A 5B2

Dear Ms. Blundon:

RE: 2013 Amended General Rate Application of Newfoundland and Labrador Hydro

Enclosed are the original and twelve (12) copies of an Application for an Order compelling Newfoundland and Labrador Hydro to fully respond to certain Requests for information submitted by Vale Newfoundland & Labrador Limited.

We have provided a copy of this correspondence together with enclosures to all concerned parties.

We trust you will find the enclosed satisfactory.

Yours faithfully,



Thomas J. O'Reilly, Q.C.

TJOR/js
Encl.

c.c. Geoffrey P. Young, Newfoundland & Labrador Hydro
Gerard Hayes, Newfoundland Power
Thomas J. Johnson, O'Dea, Earle
Paul Coxworthy, Stewart McKelvey
Dennis Browne, Q.C., Browne Fitzgerald Morgan & Avis
Nancy Kleer, Olthuis, Leer, Townshend LLP
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IN THE MATTER OF the *Public Utilities Act*,
R.S.N.L. 1990, Chapter P-47 (the “Act”), and

IN THE MATTER OF a General Rate Application (the Amended Application) by Newfoundland and Labrador Hydro for approvals of, under Sections 70 and 75 of the Act, changes in the rates to be charged for the supply of power and energy to Newfoundland Power, Rural Customers and Industrial Customers; and under Section 71 of the Act, changes in the Rules and Regulations applicable to the supply of electricity to Rural Customers.

TO: The Board of Commissioners of Public Utilities (the “Board”)

1 **APPLICATION FOR AN ORDER COMPELLING**
2 **NEWFOUNDLAND AND LABRADOR HYDRO**
3 **TO FULLY RESPOND TO CERTAIN REQUESTS FOR INFORMATION**
4 **SUBMITTED BY VALE NEWFOUNDLAND & LABRADOR LIMITED**

5 **Introduction**

6 One of the central issues in Newfoundland and Labrador Hydro’s (“Hydro’s) Amended
7 General Rate Application (the “GRA”) for Vale Newfoundland and Labrador Inc. (“Vale”) is the
8 Specifically Assigned Charge Hydro is seeking for Vale. As can be seen in Table
9 1, Vale’s 2015 cost of service, this Specifically Assigned Charge is approximately
10 \$500,000 annually.

Table 1: Vale’s Annual Specific Assigned Charges (\$)

Operating and maintenance expense	436,715
Depreciation	37,553
Return on debt (interest)	19,281
Return on equity	7,339
Other	(1,367)
Total	499,522

Reference: Amended GRA, Exhibit 13, 2015 COS, page 40 of 109, line 21

1 The \$436,715 operating and maintenance expense specifically assigned to Vale
2 represents 87% of the Specific Assigned Charge. Table 2 breaks down the operating
3 and maintenance expense into its components.

Table 2: Vale's Annual Specific Assigned Maintenance Charge (\$)

Lines	74,839
Terminals	104,837
Other	44,050
Subtotal LTO*	223,726
Administrative and General	212,989
Total	436,715

Reference: Amended GRA, Exhibit 13, 2015 COS, page 40 of 109, line 21

* LTO is lines, terminals and other

4 Of the \$436,715 operating and maintenance expense assigned to Vale, \$179,676 (or
5 41%) relates to lines and terminals that are used only by Vale. The \$44,050 in 'Other'
6 expenses include costs that are related to both "Lines" and "Terminals" such as
7 vegetation control, helicopter use and fleet vehicle use (see V-NLH-069 Rev 1). The
8 Administrative and General component is the portion of Hydro's overall administrative
9 and general expense that it proposes to allocate to Vale.

10 The operating and maintenance charges for "Lines", "Terminals" and "Other" are
11 calculated by prorating the original cost of plant in service of the system equipment
12 used by Vale against the total original cost of plant in service for all Hydro's assets on
13 the system (see V-NLH-066 Rev 1, V-NLH-067 Rev 1 and V-NLH-069 Rev 1). The
14 charge for Administrative and General is largely determined by the same method (see
15 V-NLH-068 Rev 1).

16 The prorating of operating and maintenance costs using plant in service without
17 accounting for the time value of money has the potential to achieve inequitable
18 results. This possibility is heightened where the electrical system consists of new and
19 old assets as one is comparing vastly different original costs. The current island
20 system is comprised of "more than 40,000 assets with in-service years ranging back to
21 the 1960's" (see V- NHL-083). As such, the total cost of Vale's plant in service
22 measured in 2012 dollars is being prorated against the total cost of plant in service

1 that is based only on 1960's dollars. (Reference page 10 and 11 of Mel Dean's
2 Evidence dated April 25, 2014.).

3 Vale submits that, if the time value of money was factored into the calculation of
4 operating and maintenance costs, it is a mathematical certainty that Vale's Specifically
5 Assigned Charge would be significantly reduced. Vale expects that its Specifically
6 Assigned Charge for "Lines", "Transmission" and "Other" would be reduced by in
7 excess of \$125,000 if the time value of money was accounted for while its
8 "Administrative and General Cost" would be reduced by a corresponding amount. In
9 total, the current method of calculation employed by Hydro results in Vale's Specifically
10 Assigned Charge being overvalued by approximately \$350,000 per year.

11 Hydro's expert witness, Mr. Robert Greneman, has acknowledged the inequity created
12 by Hydro's current method of dividing operating and maintenance costs among
13 Hydro's customers. In his rebuttal evidence filed on May 30, 2014, Mr. Greneman
14 wrote " ... it is **acknowledged that an inequitable allocation of O&M can result due to**
15 **significant newer plant additions associated with certain IC.**"¹ [emphasis added].
16 Hydro also acknowledged the inequality created by its current methodology in its
17 response to V-NLH-110.

18 In his evidence, Mr. Greneman proposed a solution that he said could be characterized
19 *"as an initial attempt at recognizing the impact of inflation in the O&M allocation*
20 *methodology, but could open the way to discussion among the parties relative to*
21 *refinements and steps that could be towards a more comprehensive analysis"*². Mr.
22 Greneman's alternate proposal was to take the cost of specifically assigned plant
23 additions since Hydro's 2007 general rate application and deescalate all costs back to
24 2007\$. While this alternative proposal would somewhat reduce the inequity created
25 by the current method, it would not even come close to eliminating it. Using the

¹ Reference: Hydro's Rebuttal Evidence May 30, 2014, appendix A, page A-3, lines 10 - 11

² Reference: Ibid, lines 16 - 203

1 Handy-Whitman index³ for transmission plant and a base year of 2015 (i.e. 2015 =
2 100), the index for 2007 is **78** while the index for 1968 is **10**. This demonstrates that
3 going back only to 2007, while administratively convenient for Hydro, would continue
4 to yield an inequitable result as only a small percentage of the difference in true costs
5 between assets would be accounted for.

6 The inequity that would remain if Mr. Greneman's alternate proposal were to be used
7 is increased by the fact that the vast majority of Hydro's transmission assets predate
8 2007. In the Evidence filed by Hydro in its Amended GRA, Hydro points out that there
9 are a lot of old assets on the system resulting in Hydro having to spend a lot on
10 maintenance and capital expenditures.⁴ While Mr. Greneman's proposal recalculates
11 costs to 8 years before present day values (i.e. 2007\$), chart 1.2 shows that about
12 **88%** of Hydro's transmission assets are more than 20 years.

13 Hydro's Response to RFIs

14 In an attempt to gather the information necessary to enable Vale to equitably calculate
15 a Specifically Assigned Charge on the basis referenced above, Vale has asked a series
16 of RFIs over a number of rounds of RFIs requesting what it considers necessary
17 information. In particular, in RFIs:

18 1) V-NLH-083: Vale requested that Hydro restate the original cost of plant in
19 service in 2013 dollars. Instead of responding to the request, Hydro stated:
20 "Given that Hydro has more than 40,000 assets with in-service years
21 ranging back to the 1960s, this request is onerous and cannot be
22 completed within the time frame for the proceeding."

23 2) V-NLH-112: As a result of Hydro's refusal to provide the information
24 requested in V-NLH-083, Vale requested that Hydro provide original costs
25 for plant in service of seven functions / sub-functions for each year starting

³ The Handy-Whitman Index® of Public Utilities Construction Costs, Bulletin No. 180, 1912 to July 1, 2014, compiled and published by Whitman, Requardt & Associates, LLP

⁴ See the electronic version of Hydro's Evidence, at volume I, pages 118 to 120 of 367, section 1.2.1, pages 1.7 line 12 to page 1.9, line 11 including charts 1.1 and 1.2

1 in 1967 (or the earliest year in which there was plant in service). Hydro only
2 supplied information for 1997 and 1999 - 2015.

3 3) V-NLH-113: Also, as the result of Hydro's refusal to provide the information
4 requested in V-NLH-083, Vale requested that Hydro provide original costs
5 for plant in service of subtotal terminal stations, subtotal transmission and
6 total plant for each year starting in 1967 (or the earliest year in which there
7 was plant in service). Hydro only supplied information for subtotal terminal
8 stations, subtotal transmission and limited its response to costs for 1997
9 and 1999 - 2015. Total plant data was not supplied. In 2015, for example,
10 the requested information is found on line 40, column 18 of the amended
11 GRA, exhibit 13, 2015 COS, schedule 2.2A, page 1 of 2, page 26 of 109.

12 4) V-NLH-114: Further, as the result of Hydro's refusal to provide the
13 information requested in V-NLH-083, Vale requested that Hydro provide
14 specifically allocated original plant in service costs for each customer for
15 subtotal terminal stations, subtotal transmission and total plant for each
16 year starting in 1967 (or the earliest year in which there was plant in
17 service). Again, Hydro only supplied information for subtotal terminal
18 stations, subtotal transmission and limited its response to costs for 1997
19 and 1999 - 2015. Total plant data for each customer was not supplied
20 and there was no comment about the availability of this information.

21 5) V-NLH-115: Alternatively, Vale requested the "*Functional Classification of*
22 *Plant in Service for the Allocation of O&ME expenses*" (schedule 2.2A) and
23 the "*Allocation of Specifically Assigned Amounts to Classes of Services*"
24 (schedule 3.3A) for all historic cost of service. If the historic cost of service
25 was not available, Vale requested that Hydro provide the forecast. Hydro
26 chose to limit its response to test year cost of services for 2002, 2004 and
27 2007.

1 Vale submits that its RFIs are reasonable and that Hydro's responses are inadequate.
2 Vale requests that the Board order Hydro to provide complete responses to RFIs V-
3 NLH-112, V-NLH-113 and V-NLH-114 or, in the alternative, V-NLH-115.

4 **The Information Provided is Inadequate to Remedy Inequity**

5 Even though Hydro has provided some of the information requested, such is
6 inadequate. For example, by providing data that only goes back to 1997, Hydro is
7 asking Vale to accept data that allows it to make submissions based on costs
8 deescalated 18 years despite the fact that some of Hydro's transmission assets are
9 almost 50 years old and almost 90% of its transmission assets are more than 20
10 years old.

11 In its response to each of V-NLH-112 to V-NLH-114, Hydro provided information only as
12 far back as 1997 and stated that "Collecting the data for years prior to this date would
13 be unduly onerous **considering the relevance to the current proceeding.**" This
14 statement is a gross misinterpretation by Hydro of the reason such information is
15 being sought. Vale submits that the data being requested is materially significant and
16 therefore relevant to the current proceeding. The current method used to classify and
17 allocate the Specific Assigned Charge uses original cost data that dates back to the
18 1960's yet Hydro takes the position that data pre-1997 is not relevant. The relevance
19 of all available data is magnified by the fact that much of the plant in service was
20 installed in 1960's and there has been a ten-fold increase in inflationary indexing
21 between 1967 and 1997. As such, Vale submits that the data from 1967 to 1997 is
22 very relevant.

23 As discussed above, the current methodology results in Vale being annually
24 overcharged an estimated \$350,000 per year on its Specifically Assigned Charge, an
25 amount which represents more than 50% of the total charge. Given the magnitude of
26 the effect that this charge has for Vale, Vale submits that Hydro should be required to
27 gather and provide the requested information unless it can demonstrate to the
28 satisfaction of the Board that such information is not available.

1 **Remedy Sought**

2 Section 3(a) of the *Electrical Power and Control Act, 1994*, S.N.L. 1994, c. E-5.1
3 provides:

It is declared to be the policy of the province that:

(a) the rates to be charged, either generally or under specific contracts,
for the supply of power within the province

(i) should be reasonable and not unjustly discriminatory,

4 Based on the evidence set out above, Vale submits the current method of calculating
5 Specifically Assigned Charges is unjustly discriminatory and it creates inequity for new
6 industrial customers.

7 Vale requests that:

8 (i) the Board Order Hydro to provide:

9 a. all available information requested in V-NLH-112, V-NLH-113 and V-NLH-
10 114;

11 b. in the alternative, if Hydro is able to establish to the satisfaction of the
12 Board that the requested information is either unavailable or if available
13 is prohibitively difficult to obtain, that Hydro provide the information for
14 every fifth year starting in 1967. While the result would not be as
15 accurate, it would at least reduce the current inequity in the
16 methodology; or

17 c. in the further alternative, if Hydro is able to establish to the satisfaction
18 of the Board that the information requested in b. is prohibitively difficult
19 to obtain, that it provide all of the information requested in V-NLH-115.
20 While this alternative would not permit as accurate a calculation as
21 would be possible with the information requested in a. and b. due to the
22 long periods of time between some test year cost of service, it would at

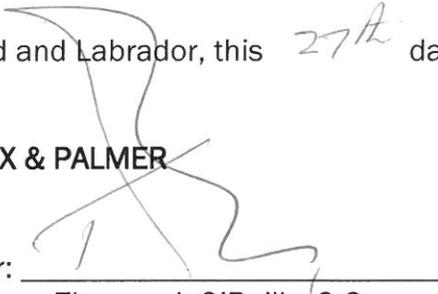
1 least allow for a more accurate calculation than is possible using the
2 information currently on the record;

3 (ii) that as the current schedule calls for expert evidence to be filed by June 1,
4 2015, Vale be provided 14 days from the date on which the required
5 information is provided to file supplemental evidence containing updated
6 calculations and submission on Vale's appropriate Specifically Assigned
7 Charge; and

8 (iii) that Vale be awarded its costs on this Application.

DATED at St. John's, in the Province of Newfoundland and Labrador, this 27th day
of May, 2015.

COX & PALMER

Per: 
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