

IN THE MATTER OF the *Public Utilities Act*, (the “Act”);
and

IN THE MATTER OF an Application by Newfoundland and Labrador Hydro (“Hydro”) for an Order approving the Non-Firm Rate Option Rate Proposal for non-firm service on the Labrador Interconnected System (the “Application”)

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

NOTICE OF INTENTION TO PARTICIPATE

A. General

1. Blockchain Labrador Corp. (“BlockLAB”), through their solicitors Benson Buffett, hereby gives notice of its wish to participate in the within Application.

B. Interest of BlockLAB

1. BlockLAB initially applied to Hydro for 20 MW of power in Western Labrador in 2017. On March 29, 2018 and April 5, 2018, Hydro advised BlockLAB that it did not have the necessary capacity at that time to provide the requested level of service but that it had established a queue of customers. Hydro confirmed that BlockLAB was second on that list behind a prior application for 1.25 MW. On the basis of those assurances, BlockLAB proceeded with its project and accepted 7.75 MW of curtailable power in 2018 on the understanding that their request for 20 MW of power would be made available when Hydro had available capacity subject to the 1.25 MW request which ranked ahead of BlockLAB in Hydro’s queue.
2. BlockLAB has made the following applications to Newfoundland and Labrador Hydro for the Non-Firm Rate Option on the Labrador Interconnected System:

<u>Customer type</u>	<u>Service Address</u>	<u>Winter (MW)</u>	<u>Spring (MW)</u>	<u>Summer (MW)</u>	<u>Fall (MW)</u>
Data Center	21 Ottawa St., Labrador East	28	38	38	38
Data Center	12 First St., Wabush, Labrador West	20	50	50	50

Data Center Outside 115 MW initially and subsequent phases of 50 to 200
Community of MW for a total of 504 MW
Churchill Falls,
Labrador
Central

C. The Disposition advocated by BlockLAB

3. The June 20, 2021 study entitled “Feasibility of the Addition of a Non-Firm Rate Option to the Network Additions Policy for the Labrador Interconnected System” determined that there is 20 MW of firm power available twelve (12) months of the year, all industrial customers in Labrador West already have to curtail in favor of the local communities and BlockLAB would accept that clause. In addition, the study found that an additional 30 MW for a total of 50 MW would be available in the Spring, Summer and Fall seasons.

4. Hydro’s current proposed allocation is as follows:

Existing Curtailable Client (MW)	7.75			
New Curtailable capacity Winter	20			
Summer	50			
Proposed	Winter	Spring	Summer	Fall
Existing A (BlockLAB)	-7.75	-7.75	-7.75	-7.75
New BlockLAB	5	12.5	12.5	12.5
New Customer A	5	12.5	12.5	12.5
New customer B	5	12.5	12.5	12.5
New customer C	5	12.5	12.5	12.5
total (MW)	20	50	50	50

5. Based on Hydro’s commitments to BlockLAB and BlockLAB’s current Labrador operations, it is requested that the Board order that Hydro provide to BlockLAB at least 18.75 MW of the 20 MW of curtailable power that is now available for 12 months of the year, which corresponds to its initial request for 20 MW. Additionally, if the prior applicant no longer wishes to avail of the 1.25 MW, BlockLAB requests that the 1.25 MW be made available to it in priority to other applicants as follows:

Existing Curtailable BlockLAB (MW)	7.75			
New Firm Capacity	20	20	20	20
New Curtailable Capacity		30	30	30
Proposed	Winter	Spring	Summer	Fall
Existing A (BlockLAB)	-7.75	-7.75	-7.75	-7.75
Total Firm BlockLAB	20	20	20	20
Total Curtailable BlockLAB	0	7.5	7.5	7.5
New Curtailable Customer A	0	7.5	7.5	7.5
New Curtailable Customer B	0	7.5	7.5	7.5
New Curtailable Customer C	0	7.5	7.5	7.5
Total (MW)	20	50	50	50

6. BlockLAB further requests that the remaining 30 MW of power available in the Spring, Summer and Fall Seasons be allocated among all applicants which meet the criteria, including BlockLAB. In the interim period, until such users are approved and construct facilities enabling them to access their allocated portion of the remaining 30MW of power, BlockLAB requests that this power be made available to it.
7. BlockLAB proposes that the rate for such power be at the existing Labrador Industrial Rate.

D. Facts BlockLAB proposes to show in evidence

8. BlockLAB repeats the foregoing paragraphs establishing its current usage of power, applications and customer status with Hydro. BlockLAB was advised that its request for 20 MW of power would be provided when it became available. Of the potential customers identified by Hydro for the curtailable, BlockLAB is the only one that has established, and invested over \$6,000,000 with two new locations in Labrador, we have also paid \$300,389 directly to Hydro for connection fees and Hydro engineering costs and paid Hydro over \$3,000,000 in power bills, and expended the local economy with over \$2,500,000 in regional employment and labor costs over the period from late 2018 to Q32022 for its Labrador operations. BlockLAB has also paid an additional \$665,000 to Hydro for study deposits.

BlockLAB has worked collaboratively with NL Hydro to create the technologies and corresponding policies and procedures to provide a curtailable customer that is able to curtail in under 5 minutes. BlockLAB installed a direct fiber optic cable from our substation

to the wabush terminal station which, coupled with our protections and controls design, allows the energy control center in St John's direct control of our main substation breaker.

9. Decisions of Hydro and the Board on the allocation of new power and the rates to be charged therefore will have a substantial impact on BlockLAB's ability to manage, maintain and grow its business.

E. Reasons that BlockLAB believes the board should decide in the manner advocated

10. The Hydro Application should not be for 50 MW of curtailable power but for 20MW of firm power and 30 MW curtailable. There is an existing rate for firm power that is determined by the Public Utility Board and BlockLAB should be granted 20MW of firm power as was promised. That contract should be honored and extended beyond the current expiry date of December 31, 2022 which was only set because of the characterization of this power as "non firm".
11. BlockLAB has proven its ability to curtail power usage within the 10 minutes identified in the Hydro Application and should be accorded the right to as much of the 30MW of curtailable power as is available. The other identified but undisclosed applicants have made no investment and it is unknown how many of them still remain and to what extent they are willing and able to make the required capital investments and how long it will take them to do so.
12. If there is local demand for power, it is not, by definition, "surplus". Export sales should only be permitted from power that is, in fact, surplus to provincial needs.
13. The Hydro Application proposes a profound shift in the regulation of Hydro rates charged in the Province. Rather than charge its incremental cost for such power as it now does on the island, Hydro proposes in paragraphs 14 and 15 of its Application to redefine its "incremental cost" in Labrador as the hypothetical value of that power based on a blend of forecast market prices on both the New York wholesale energy market price and the New England Massachusetts Hub energy market price. This would increase the price charged to Labrador customers, including BlockLAB by over 1100%. In addition, it does not equate to the net profit Hydro could potentially derive from such power sales as it does not account for wheeling and sales charges, line losses and administration costs. This also assumes that the power is able to be transported to the Eastern United States and that the Labrador Island Link (LIL) will be reliable which the data shows that the link will not deliver a reliable uptime.
14. This proposal runs contrary to Hydro's legislated mandate.
15. Section 6 of the *Hydro Corporation Act, 2007*, SNL 2007 Chapter H-17 defines Hydro's objects as engaging in the production of power "for domestic, commercial industrial or other uses in the province". Sales outside the province are subject to the prior approval of the Lieutenant-Governor in Council.

16. Subsection 3(a) of the *Electrical Power Control Act, 1994*, SNL 1994 Chapter E-5.1 (the "*Electrical Power Control Act*") declares that it is the policy of the province that rates charged for the supply of power within the province should be "reasonable and not unjustly discriminatory" and "should promote the development of industrial activity in Labrador". Subsection 3(b) requires that all sources of 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 customers in the province at the "lowest possible cost consistent with reliable service" and result in "open, non-discriminatory and non-preferential access" to the electric system. It further requires that, where necessary, all power in the province is to be "assessed and allocated and re-allocated in the manner that is necessary to give effect to this policy". The Hydro Application is offensive and completely contrary to the enunciated policy.
17. Section 4 of the *Electrical Power Control Act* requires the public utilities board to implement the power policy declared in section 3.
18. The danger in approving the Hydro Application is that it seeks to "transition" the regulated marginal energy cost on the island to the "market value of exports" as stated in paragraph 19. It sets a dangerous precedent particularly when it was not proposed in the general rate application. In fact, the Application proposes, in paragraph 25, to amend the Island Industrial Rate to "reflect" what it terms the "market value of exports".

F. Qualification of Expert Witnesses whose Opinions are to be Relied Upon

19. BlockLAB has not decided if it will call expert testimony to support its requested disposition. If its intervention request is approved by the Board, BlockLAB intends to circulate the Christiansen Associates Energy Consultants' report to experts in the same field to see if such evidence would be helpful to the Board. BlockLAB's decision on calling expert evidence will also depend on whether any of the other parties to the Hearing intend to call expert evidence and the answers to questions it intends to submit to the Board for approval in accordance with regulation 14 of the *Board of Commissioners of Public Utilities Regulations, 1996*

G. List of Information and Support Documents that may be Useful in Explaining the Representations

20. BlockLAB intends to file information and documents in relation to its applications and correspondence with Hydro, minutes of meetings, financial records relating to investments and other commercial activities, as well as information resulting from its requests if approved by the Public Utilities Board.

21. BlockLAB wishes to receive, review, and consider materials filed in support of the Application to assess whether and the extent to which Hydro's record and submissions support its Application. BlockLAB will also present evidence demonstrating its investment and commitment to Labrador and its ability to access and use the power.
22. BlockLAB intends to participate in the various procedures associated with the Application including, without limitation:
- a. directing Requests for Information and other information requests to the Applicant as may be permitted by the Board;
 - b. participating in technical conferences, pre-hearing conferences and other processes associated with the Application;
 - c. cross-examination of witnesses appearing on behalf of the Applicant or of any other participant in any hearing on the Application, as may be appropriate in the circumstances of any hearing on the Application that may be ordered by the Board;
 - d. calling witnesses as may be appropriate at any hearing on the Application that may be ordered by the Board; and
 - e. making representations and submissions, through counsel, to the Board concerning the disposition of the Application.

H. Name and address of BlockLAB's agent

23. Documents in relation to this hearing may be served on BlockLab in care of:

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DATED at St. John's, Newfoundland and Labrador, this 19th day of October, 2022.

BENSON BUFFETT PLC INC.

Per: Paul D. Dicks / Megan S. Reynolds
Paul D. Dicks, Q.C. &
Megan S. Reynolds

TO: The Board of Commissioners of Public Utilities
Attention: Board Secretary