

March 3, 2026

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

Attention: Colleen Jones  
Assistant Board Secretary

Dear Ms. Jones:

**Re: Newfoundland and Labrador Hydro (“Hydro”)- 2025 Capital Budget Supplemental Application - Application for the Purchase and Installation of Bay d’Espoir Unit 8 and Avalon Combustion Turbine (the “Application”)- Bates White Economic Consulting Expert Report - Phase Two – Confidential Information**

On February 4, 2026, the Board of Commissioners of Public Utilities (the “Board”) provided the parties with a confidential version of its expert consultant’s report entitled *Expert Report of Vincent Musco and Collin Cain* relating to Hydro’s Application for Capital Expenditures for the Purchase and Installation of Bay d’Espoir Unit 8 and Avalon Combustion Turbine (the “Bates White Report”). On February 27, 2026, the Board established a process to determine the information which will be treated as confidential in the Bates White Report. The Board set today’s date as the deadline for comments from the parties.

Newfoundland Power Inc. (“Newfoundland Power” or the “Company”) observes that it is the Board’s general policy that all documents filed in relation to an application, including correspondence, reports and submissions, will be placed on the public record unless the Board has accepted a claim of confidentiality.<sup>1</sup> Historically, claims of confidentiality have not been an issue for the Board or the utilities. For this reason, formal guidance for determining when the Board will accept a claim of confidentiality has not been established in this jurisdiction as it has in other provinces.<sup>2</sup>

In recent years, the Board has received a number of claims of confidentiality from Hydro associated with its major projects.<sup>3</sup> In considering Hydro’s requests, the Board has acknowledged that some information may be of a confidential nature and, as such, may require protection.<sup>4</sup> In making the assessment as to what information is confidential, the Board stated it balances the need to protect confidential information with the objective of ensuring transparency.<sup>5</sup>

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<sup>1</sup> *Capital Budget Application Guidelines (Provisional)*, V.A.1.c, pages 2-3.

<sup>2</sup> See (i) the Alberta’s Utilities Commission’s *Practice Note: Confidentially Motions*, March 26, 2025, (ii) the Ontario Energy Board’s *Practice Direction on Confidential Filings*, December 17, 2021, and (iii) British Columbia Utilities Commission Order G-175-22, *Part IV – Confidential Documents*, June 28, 2022.

<sup>3</sup> Namely, capital expenditures associated with Bay d’Espoir and the Avalon Combustion Turbine.

<sup>4</sup> See the Board April 11, 2025 letter regarding the Application.

<sup>5</sup> *Ibid.*

**Newfoundland Power Inc.**

55 Kenmount Road • P.O. Box 8910 • St. John’s, NL A1B 3P6

PHONE (709) 737-5500, ext. 6200 • FAX (709) 737-2974 • [dfoley@newfoundlandpower.com](mailto:dfoley@newfoundlandpower.com)

In Newfoundland Power's view, the concept of balancing the need to protect confidential information with the objective of ensuring transparency is reasonable. Placing all information on the public record is appropriate in the context of public utility regulation, however where the public disclosure of information would risk increasing costs or project schedules, the public interest may be best served by keeping such information confidential. Claims of confidentiality may also be appropriate where public disclosure of information would result in legal, regulatory or contractual non-compliance by a utility or an undue increase in cybersecurity risk.

With respect to Hydro's Application, the capital projects are atypical in terms of the magnitude of the costs involved and the extended timeline for construction of the proposed generating assets. The Company acknowledges that Hydro has a legitimate interest in protecting information that, if publicly disclosed, could negatively impact the schedule or costs associated with these projects. Newfoundland Power also acknowledges that the Board has a legitimate interest in disclosing information associated with these major projects to ensure transparency for the public. While the Bates White Report has not yet been placed on the public record, the parties have been provided with a confidential version. As a result, the parties have been able to participate in the review of the Application in the absence of a public version of the report.<sup>6</sup>

In the Company's view, the onus is on Hydro to clearly identify what disclosures could negatively impact costs, schedules or compliance obligations and limit redactions to the extent possible to protect Hydro's commercial interests and the public interest. Ultimately, the Board has the jurisdiction to accept or reject Hydro's claims of confidentiality associated with the report.

Yours truly,



Dominic Foley  
Legal Counsel

cc. Shirley A. Walsh  
Newfoundland and Labrador Hydro

Adrienne Ding  
O'Dea Earle Law Offices

Paul Coxworthy  
Stewart McKelvey

Denis Fleming  
Cox and Palmer

Glen Seaborn  
Poole Althouse

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<sup>6</sup> Newfoundland Power notes that the parties have not had access to Appendix C (RFI and Responses) of the Gruner Report on Bay d'Espoir Unit 8.