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August 14, 2025

VIA E-MAIL jgalarneau@pub.nl.ca

Jo-Anne Galarneau
Executive Director and Board Secretary
The Board of Commissioners of Public Utilities
Prince Charles Building
120 Torbay Road, P.O. Box 21040
St. John's, NL A1A 5B2

Dear Ms. Galarneau:

Re: Newfoundland and Labrador Hydro - Capital Budget Supplemental Application for the Approval of the Construction of Hydro's Long-Term Supply Plan for Southern Labrador - Order No. P.U. 12(2025) - Request for Reconsideration

Comments of Intervenor NunatuKavut Community Council

We represent the NunatuKavut Community Council ("NCC"), an intervenor in the above-noted Application before the Board of Commissioners of the Public Utilities (the "Board").

We are writing further to your correspondences dated July 16, 2025 and July 29, 2025, wherein the Board set a schedule for filing comments in response to the "request for reconsideration" of the Board's Order No. P.U. 12(2025) dated March 31, 2025 (the "Order") submitted by Newfoundland and Labrador Hydro ("Hydro") on June 25, 2025 (collectively, the "Request").

Please accept this letter as NCC's comments in response to Hydro's Request related to the Board's Order.

EXECUTIVE SUMMARY

- Hydro's Request cannot succeed for three reasons:

    1. The Request is contrary to well-established legal principles. Mere disagreements regarding the weight of evidence and the consideration of

evidence are not considered legal errors. Different ascriptions of weight do not provide a basis for overturning the findings of fact.

2. The Request is outside the Board's authority under the *Public Utilities Act*. Under subsection 28(1) of the *Board Regulations*, the Board can only consider applications for rehearing based on errors of finding of fact or law. The Board lacks the authority to consider Hydro's allegations of issues with improper consideration and weighing of evidence.

3. The Request fails to meet the requirements under subsection 28(1) of the *Board Regulations*. This subsection requires that an application for rehearing state the findings of fact or of law claimed to be erroneous and provide a brief statement of the alleged error. Hydro's Request fails to do so and instead simply resubmits or reargues its earlier submissions in the Application.

- The Board's decision and reasons in the Order are fulsome and reasonable. The Board detailed its findings of fact and its application of the evidence in the four areas identified by Hydro, among others. The Board spent considerable time setting out and evaluating the evidence and highlighting the gaps and lack of clarity with same.

- Hydro simply disagrees with the result in the Order, and is requesting that the Board revisit the voluminous materials in the Application and reverse the Order. Hydro is effectively (and incorrectly) seeking an opportunity to re-submit its Application to this Board.

- NCC strongly supports further evaluation of interconnection with the Labrador Interconnected System as a long-term solution for the provision of sustainable and reliable energy to Southern Labrador communities.

- NCC looks forward to Hydro's plans for immediate provision of safe and reliable service to Charlottetown and Pinsent's Arm, early development of renewables, and renewed efforts to ensure that it fulfills its duty to consult and accommodate, all of which has been ordered by the Board.

RELEVANT BACKGROUND

Hydro's Application

On July 16, 2021, Hydro filed an application (the "Application") seeking approval of capital expenditures related to a project for the long-term supply for Southern Labrador (the "Project").

The Order

On March 31, 2025, the Board released its final Order in the Application. In the Order, the Board denied Hydro's Application related to the Project. The Board found that Hydro failed

to demonstrate that the proposed Project would deliver electricity at the lowest possible cost, in an environmentally responsible manner, and with reliable service, in accordance with statutory requirements.

The Board identified several issues with the Application, including:

- significant and unexplained cost escalation,
- premature replacement of still-functional diesel plants,
- lack of a clear plan for renewable energy integration, and
- insufficient exploration of the alternative to connect to the Labrador Interconnected System (LIS).

In addition, the Board expressed concern with the continued reliance on temporary mobile generation to serve Charlottetown and Pinsent's Arm since the 2019 fire destroyed their generating station.

The Board also noted Hydro's failure to meet its constitutional duty to consult and accommodate NCC.

As a result of the above-noted issues, the Board denied the Application and directed Hydro to:

- revisit its long-term energy plan for the region,
- prioritize renewables,
- properly assess the LIS interconnection option, and
- immediately address the urgent power needs of Charlottetown and Pinsent's Arm.

In regard to the issue of the constitutional duty to consult and accommodate, the Board also stated the following at page 25, lines 27 to 29 of the Order:

> The Board expects that Hydro's future requests for approval of capital expenditures associated with a long-term supply plan for Southern Labrador will be supported with confirmation that Hydro has satisfactorily discharged it [sic] duty to consult.

As set out above, the Board expects that requests for future approval of capital expenditures associated with the Project will be accompanied by the satisfactory discharge of Hydro's duty to consult and accommodate NCC.

Hydro's Request

On June 25, 2025, Hydro submitted its Request for "reconsideration" of the Board's Order.

NCC'S COMMENTS

The Legal Principles

In its submissions, Hydro states that its Request is based on subsection 28(1) of the *Board of Commissioners of Public Utilities Regulations, 1996*, NLR 39/96 [*Board Regulations*] to the *Public Utilities Act*, RSNL 1990, c P-47.

Section 28 of the *Board Regulations* states as follows:

> **Rehearings**
>
> 28. (1) Applications for re-opening an application after final submission, or for rehearing after final order, must state the grounds upon which the application is based if the application to re-open the matter to receive further evidence, the nature and purpose of the evidence must be stated if the application is for a rehearing or argument, the applicant must state the findings of fact or of law claimed to be erroneous and a brief statement of the alleged error.
>
> (2) When a decision or order of the board is sought to be reversed, changed, or modified by reason of facts and circumstances arising subsequent to the hearing, or to the order, or by reason of consequences resulting from compliance with that decision, order or requirement which are claimed to justify or entitle a reversal, change or modification of the facts, circumstances or consequences must be fully set out in the application.

As set out above, under subsection 28(1) of the *Board Regulations*, the Board may:

1) receive applications for *rehearing* following a final order. Applications for rehearing must state the findings of fact or of law claimed to be erroneous and a brief statement of the alleged error, or

2) receive applications for *re-opening* an application after final submissions but before a final order to receive further evidence. The nature and purpose of the evidence must be stated in an application for re-opening.

Under subsection 28(2) of the *Board Regulations*, where an application for *rehearing* seeks a reversal, change, or modification of a final order based on circumstances arising subsequent to the hearing or consequences resulting from compliance, then the circumstances and consequences must be fully set out in the application.

In this matter, Hydro has submitted an application for rehearing after the Board's Order pursuant to subsection 28(1) of the *Board Regulations* (i.e. the Request). Based on its submissions, it appears that Hydro's Request is based solely on alleged errors in findings of fact by the Board in the Order. Hydro states that it has commenced an appeal at the Newfoundland and Labrador Court of Appeal with respect to any questions of law.

In addition, Hydro does not appear to be seeking a variance of the Order based on circumstances arising subsequent to the hearing nor consequences resulting from compliance. Therefore, subsection 28(2) of the *Board Regulations* does not appear to be relied upon in Hydro's Request.

As a result, this Board only needs to consider subsection 28(1) of the *Board Regulations* as it relates to applications for rehearing after a final order based on alleged errors of finding of fact in this matter.

Analysis

As set out above, in accordance with subsection 28(1) of the *Board Regulations*, Hydro has made a Request for a rehearing of the Order solely based on alleged errors of findings of fact. Therefore, the Request submissions must state the findings of fact that Hydro claims are erroneous and provide a brief statement of any alleged error.

An error of finding of fact is a mistake about a specific piece of information, a factual detail, or a circumstance related to a situation. Such an error must necessarily involve a mistaken belief about a material fact that could affect the outcome of a situation, such as the Application at issue in this matter.

On page 2 of its submissions, Hydro states the following:

> **Key Issues for Reconsideration**
>
> Hydro has identified four particular areas where the Board's findings of fact **do not take into account or give appropriate weight to important evidence that is on the record**:
>
> 1) Increase in Project Costs to $110.9 million;
>
> 2) Replacement of Diesel Generating Stations;
>
> 3) Renewable Generation; and
>
> 4) Interconnection with the Labrador Interconnected System.
>
> [emphasis added]

Based on the above (and Hydro's submissions more broadly), it is clear that Hydro is really taking issue with the Board's consideration and weighing of the evidence submitted in the Application, not any particular findings of fact.

Hydro's position is contrary to: 1) the statutory requirements specifically under the *Board Regulations*; 2) the Board's authority more broadly under the *Public Utilities Act*; and 3) well-established legal principles. Each of these issues will be discussed further below.

Hydro's Request is contrary to well-established legal principles

As stated above, Hydro takes issue with the Board's consideration and weighing of the evidence before it in the Application, not any particular findings of fact. This position is contrary to well-established legal principles.

The Supreme Court of Canada in *R v. George*, 2017 SCC 38 [*George*] (NCC Book of Authorities, Tab 1) provides the following guidance in this area:

> 24 **While one may disagree with the weight the trial judge gave this evidence, no legal error arises from mere disagreements over factual inferences or the weight of evidence** (*J.M.H.*, at para. 28). Indeed, many of the majority's comments reveal that its discomfort with this evidence was not because it was irrelevant (which would have illustrated a misconception of principle, a legal issue: *ibid.*, at para. 29), but because its relevance was marginal (a factual issue). **The trier of fact is best situated to assign weight to evidence.** In any event, if the Crown objects to inferences about a complainant's physical appearance at a younger age, it is permitted to tender direct evidence of that physical appearance (for example, a photograph). The majority's view that the trial judge could not draw such an inference because Ms. George had failed to tender evidence proving that C.D.'s appearance "had not changed" between ages 14 and 17 (para. 46) suggests that the trier of fact is prohibited from drawing factual inferences. **To the contrary, factual inferences are a necessary means through which triers of fact consider all of the evidence (direct and indirect) before them.** [Emphasis added].

As stated above, mere disagreements regarding the weight of evidence and the consideration of evidence are not considered legal errors. It is also necessary for decision-makers to make factual inferences as they consider all the evidence before them.

The principles in *George* are further supported by *Nelson (City) v. Mowat*, 2017 SCC 8 (NCC Book of Authorities, Tab 2), wherein the Supreme Court of Canada found the following:

> 38 … It is certainly possible to weigh parts of the evidence differently than the chambers judge did. The possibility of alternative findings based on different ascriptions of weight is, however, not unusual, and presents no basis for overturning the findings of a fact-finder. It is not the role of appellate courts to second-guess the weight to be assigned to the various items of evidence. Absent palpable and overriding error — that is, absent an error that is "plainly seen" and has affected the result — an appellate court may not upset a fact-finder's findings of fact [citations omitted].

As stated above, it is possible and not unusual for evidence to be weighed differently, and alternative findings based on different ascriptions of weight do not provide a basis for overturning the findings of fact. Further, any alleged errors of findings of fact must be plainly seen and must affect the outcome.

The Supreme Court of Canada provided further insight in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (NCC Book of Authorities, Tab 3) as follows:

> 299 Unsurprisingly, applicants rarely present challenges to an administrative decision as explicit invitations for courts to substitute their opinions for those of administrative actors. **Courts, therefore, must carefully probe challenges to administrative decisions to assess whether they amount, in substance, to a mere difference of opinion with how the administrative decision-maker weighed or prioritized the various factors relevant to the decision-making process.** Allegations of error may, on deeper examination, simply reflect a legitimate difference in approach by an administrative decision-maker. By rooting out and rejecting such challenges, courts respect the valuable and distinct perspective that administrative bodies bring to answering legal questions, flowing from the considerable expertise and field sensitivity they develop by administering their mandate and working within the intricacies of their statutory context on a daily basis. The understanding and insights of administrative actors enhance the decision-making process and may be more conducive to reaching a result "that promotes effective public policy and administration ... than the limited knowledge, detachment, and modes of reasoning typically associated with courts of law"
>
> 300 **When resolving challenges to an administrative decision, courts must also consider the *materiality* of any alleged errors in the decision-maker's reasoning.** Under reasonableness review, an error is not necessarily sufficient to justify quashing a decision. Inevitably, the weight of an error will depend on the extent to which it affects the decision. An error that is peripheral to the administrative decision-maker's reasoning process, or overcome by more compelling points advanced in support of the result, does not provide fertile ground for judicial review. Ultimately, the role of the reviewing court is to examine the decision as a whole to determine whether it is [citations omitted]. **Considering the materiality of any impugned errors is a natural part of this exercise, and of reading administrative reasons "together with the outcome"** [citations omitted].
>
> 301 **Review of the decision as a whole is especially vital when an applicant alleges that an administrative decision contains material omissions. Significantly, and as this Court has frequently emphasized, administrative decision-makers are not required to consider and comment upon every issue raised by the parties in their reasons** [citations omitted]. Further, a reviewing court is not restricted to the four corners of the written reasons delivered by the decision-maker and should, **if faced with a gap in the reasons, look to the record to see if it sheds light on the decision** [citations omitted]. [emphasis added]

As set out above, mere differences of opinion with how an administrative decision-maker weighed or prioritized the various factors relevant to the decision-making process do not amount to legal errors. In addition, where an error may be identified, it must be *material* to the outcome of the decision in order to warrant any variance. Further, administrative

decision-makers are not required to consider and comment upon every issue raised by parties in their reasons. Reasons are supplemented by the record.

It is clear that Hydro's Request is based on alleged issues with the Board's consideration and weighing of evidence in the Order. As set out above, mere disagreements with a decision-maker's weight and consideration of evidence do not amount to a legal error. As such, Hydro's Request is contrary to these well-established legal principles and cannot succeed.

Hydro's Request is outside the Board's authority under the *Public Utilities Act*

As stated above, Hydro's Request is based on alleged issues with the Board's consideration and weighing of the evidence before it in the Application, not any particular findings of fact. This position is contrary to the Board's authority under the *Public Utilities Act*.

The Board is a creature of its statute – the *Public Utilities Act* – and is restricted to the authority provided therein. Subsection 28(1) of the *Board Regulations*, on which Hydro relies for its Request, is restricted to rehearings based on alleged errors of fact (or law). The Board does not have the authority to consider Hydro's allegations of improper weighing and consideration of evidence. The Board can only consider applications for rehearing based on alleged errors of fact (or law) and the brief statements regarding same that may be submitted in accordance with the *Board Regulations.*

Fundamentally, the Board lacks the authority under the *Public Utilities Act* to consider Hydro's Request for a rehearing of the Order based on alleged issues with the consideration and weighing of evidence. As stated above, Hydro has commenced an appeal of the Order. An appeal is the proper forum for this matter, not a rehearing before this Board.

Hydro's Request fails to meet the requirements under subsection 28(1) of the *Board Regulations*

As set out above, the Board may receive applications for rehearing following a final order in accordance with subsection 28(1) of the *Board Regulations*. Applications for rehearing must state the findings of fact (or of law) claimed to be erroneous and a brief statement of the alleged error.

Upon review of its submissions, Hydro fails to both identify any error of fact and to provide a brief statement of any alleged error. Hydro simply disagrees with the result in the Order and is requesting that the Board revisit the voluminous materials and earlier submissions in the Application and reverse the Order.

As set out above, Hydro identifies "four particular areas" where it alleges that the Board makes errors in findings of fact as follows:

1. Increase in Project Costs to $110.9 million;

2. Replacement of Diesel Generating Stations;

3. Renewable Generation; and

4. Interconnection with the Labrador Interconnected System.

The Board's findings in its Order and Hydro's submissions in its Request are discussed in turn below.

Increase in Project Costs

In the Order, the Board found that it was not satisfied that Hydro provided sufficient detail to support the increase in estimated cost of the proposed Project. Hydro's proposed Project experienced a cost increase from $72.6 million in its original filing to $110.9 million in the 2024 Capital Budget Application Update.

In the Order, the Board considered Hydro's submissions on this issue in detail setting out the reasons for the increased costs, including indirect costs, such as contingency, interest, and escalation, and more direct drivers, such as project oversight, inflation, and refinement of deliverables. The Board set out its issues with the evidence, including lack of detail and lack of updated cost-benefit modelling. Hydro also failed to revise its economic analysis to reflect the higher estimate, among other things.

In its Request, Hydro simply reargues and restates its earlier submissions on cost estimates from the Application. Hydro's "Summary" of its Request submissions on the issue of increased Project costs is as follows:

> The Board's conclusion did not fully consider the updated analysis completed by Midgard or the improbability of the small number of sensitivity cases that favored [sic] alternative scenarios. The evidence supports that the project remains least cost even with the cost increase to $110.9 million.

It is clear from Hydro's submissions that it takes issue with the Board's consideration and weighing of the evidence it submitted in the Application. Hydro fails to identify any alleged error of finding of fact and to provide a provide a brief statement of same as required by the *Board Regulations.*

Replacement of Diesel Generating Stations

Hydro's proposal included the retirement and replacement of diesel generating stations in St. Lewis, Port Hope Simpson, and Mary's Harbour. In the Order, the Board provided a detailed consideration of the evidence before them from all parties and intervenors. The Board evaluated the diesel generating stations in each location and found that these facilities were still functional and had not reached the end of their useful life.

The Board noted that the Application did not provide asset condition assessments nor engineering evaluations to justify early decommissioning. The Board also noted that Hydro had previously extended the life of other diesel plants beyond 40 years through

refurbishment. Based on the evidence before it (including some additional analysis based on a proposed 50-year lifespan), the Board was not satisfied with Hydro's assumption that the local diesel generating stations would be retired at 40 years.

In its Request, Hydro restates its earlier submissions in the Application, wherein it provided some analysis related to an extension of community diesel plants to 50 years. It is clear from a review of the Order that the Board reviewed and commented on these submissions in detail.

Hydro's "Summary" of its Request submissions on the issue of replacement of diesel generating stations is as follows:

> The Board's conclusion did not account for the low probability of the scenarios in which the extension of the service life of the existing diesel plants resulted in the proposed project no longer being the least cost solution. The evidence supports the reasonableness of Hydro's assumptions and the continued support for the viability of the proposed project as the least-cost option.

Again, it is clear from Hydro's submissions that it takes issue with the Board's consideration and weight of the evidence it submitted in the Application. Hydro fails to identify any alleged error of finding of fact and to provide a provide a brief statement of same as required by the *Board Regulations.*

Renewable Generation

In its Order, the Board found that it was not satisfied that Hydro had made reasonable efforts to advance development of renewable generation in Southern Labrador.

The Board noted that Hydro's Application proposed a regional diesel-based interconnection project but did not include a clear or actionable plan to integrate renewable energy. The increased potential for renewable generation was one of the cited benefits for the proposed Project and a significant interest of the intervenors and stakeholders. The Board identified information gaps in this area very early in the Application proceeding. The Board specifically asked Hydro to address the shift towards renewable energy and the provincial government's renewable energy plan.

In the Order, the Board summarized the evidence before it in the Application and highlighted the continued gaps and lack of clarity around whether the increased potential for renewable energy could be achieved or that it would be economic.

The Board found that the lack of a defined path toward renewables was inconsistent with provincial energy policy and stakeholder priorities, including NCC. As a result, the Board concluded that the proposal failed to demonstrate how the Project would deliver electricity in an environmentally responsible manner as required.

In its Request, Hydro again reargues its earlier submissions without identifying any error of finding of fact. Hydro notes that some of its submissions and evidence were not explicitly referenced in the Order (e.g. renewable energy and firm supply). As set out

above, it is a well-established principle that a decision-maker need not address every single argument or piece of evidence. This would be a particularly unreasonable expectation in this matter given the volume of materials before the Board.

Hydro's "Summary" of its Request submissions on the issue of renewable generation is as follows:

> The Board stated that ". . . *the [Electrical Power Control Act, 1994] was recently changed to require that power be delivered at the lowest possible cost, in an environmentally responsible manner, consistent with reliable service*."[19] However, the Board appeared to focus its attention on the preference of stakeholders for renewable generation without consideration of the environmental benefits of the proposed project nor the primary requirement for firm supply which renewables do not currently provide economically or technically.
>
> The Board did not fully consider Hydro's expressed commitments, the technical limitations of renewables, or the other environmental benefits provided by the proposed project.

Again, it is clear from Hydro's submissions that it takes issue with the Board's consideration and weight of the evidence it submitted in the Application. Hydro fails to identify any alleged error of finding of fact and to provide a provide a brief statement of same as required by the *Board Regulations.*

Interconnection to the Labrador Interconnection System (LIS)

The Board found that Hydro's Application did not adequately assess the potential to connect the Southern Labrador communities to the existing Labrador Interconnected System (LIS).

The Board reviewed the evidence provided to it in the original 2021 filing, a March 31, 2023 report by Midgard Consulting, and a 2020 Hatch report. While the LIS alternative was found to be technically feasible, it was excluded from detailed modelling or cost-benefit analysis early in the Application based on cost. As a result, no updated cost estimates, engineering assessments, or timelines for LIS implementation were included in the Application.

The Board noted that the LIS alternative was not the subject of comprehensive engineering analysis, cost estimates were high level and based on dated information, and details were unclear and inconsistent through the Application, among other issues.

The Board also noted that there was a lack of evidence in regard to efforts made by Hydro for potential federal or provincial funding for interconnection and transmissions lines, including through partnership with corporations and local Indigenous groups, such as NCC.

In its Request, Hydro again sets out and reargues its earlier submissions on this issue. Hydro's "Summary" of its Request submissions on the issue of interconnection to the LIS states as follows:

> The Bord's finding overlooks the comprehensive evidence provided that demonstrates that interconnection with the Labrador Interconnected System is not a viable least-cost alternative.

Again, it is clear from Hydro's submissions that it takes issue with the Board's consideration and weight of the evidence it submitted in the Application. Hydro fails to identify any alleged error of finding of fact and to provide a provide a brief statement of same as required by the *Board Regulations.*

Other Considerations

As stated above, the Board also identified concerns with the delayed restoration of a permanent generation solution in Charlottetown and Pinsent's Arm and with inadequate fulfillment of the duty to consult and accommodate NCC.

Delayed Restoration of Permanent Generation in Charlottetown and Pinsent's Arm

Since a 2019 fire destroyed the diesel generating station in Charlottetown, Hydro has been relying on temporary mobile generation to supply electricity to Charlottetown and Pinsent's Arm. Under the proposed Project, permanent infrastructure would not be completed until 2029 (at the earliest). The Board found this timeline unacceptable, noting that it would result in a decade-long reliance on temporary generation, which does not meet the standards of reliable utility service. The Board emphasized the need for an immediate solution to restore permanent, dependable power to these communities.

In its Request, Hydro acknowledged the extended use of mobile units but maintained that the proposed Project was the most efficient long-term solution for the region. It did not propose any accelerated interim measures or revised implementation timelines specific to Charlottetown and Pinsent's Arm, nor did it commit to addressing reliability concerns in advance of the 2029 in-service date.

Inadequate Fulfillment of Duty to Consult and Accommodate

The Board found that Hydro had not fulfilled its constitutional duty to consult and accommodate NCC, in relation to the proposed Project. While Hydro acknowledged that early engagement activities had occurred, the Application did not include sufficient documentation to demonstrate that meaningful consultation had taken place. The Board emphasized that consultation and accommodation is a procedural obligation that must be fulfilled *before* project approval, especially when potential impacts on Indigenous rights are involved.

The lack of evidence regarding the scope, content, and outcomes of consultation efforts led the Board to conclude that the Application was incomplete in this regard. As a result,

the Board directed Hydro to revisit its engagement process and ensure that appropriate consultation and accommodation is conducted and documented before proceeding.

Hydro did not comment on this issue in its Request.

Additional Evidence: report by Midgard Consulting dated June 18, 2025

In its Request, Hydro appends additional evidence by way of a report by Midgard Consulting dated June 18, 2025.

As set out above, Hydro is relying on subsection 28(1) of the *Board Regulations* to make an application for rehearing after a final order based solely on allegations of errors of finding of fact. Hydro is not seeking, nor is it entitled to seek, a re-opening of the matter based on new evidence submissions under the *Board Regulations* at this juncture of the Application. Applications for reopening are only available following final submissions but before final order. A final order has been provided in this matter.

Therefore, this additional report by Midgard Consulting is not properly before the Board and should not be considered in Hydro's Request.

Conclusion

As set out above, Hydro's Request for a rehearing of the Board's Order is really based on alleged issues with the Board's consideration and weighing of evidence submitted in the Application, not particular errors of finding of fact as it purports. As such, Hydro's Request cannot succeed for three reasons:

1. The Request is contrary to well-established legal principles. Mere disagreements regarding the weight of evidence and the consideration of evidence are not considered legal errors. Different ascriptions of weight do not provide a basis for overturning the findings of fact.

2. The Request is outside the Board's authority under the *Public Utilities Act*. Under subsection 28(1) of the *Board Regulations*, the Board can only consider application for rehearing based on errors of finding of fact or law. The Board lacks the authority to consider Hydro's allegations of issues with improper consideration and weighing of evidence.

3. The Request fails to meet the requirements under subsection 28(1) of the *Board Regulations*. This subsection requires that an application for rehearing state the findings of fact or of law claimed to be erroneous and provide a brief statement of the alleged error. Hydro's Request fails to do so and instead simply resubmits or reargues its earlier submissions in the Application.

Upon review of the Order, it is clear that the Board's decision and reasons were fulsome and reasonable. The Board's denial of Hydro's Application was driven by a combination of technical, procedural, and strategic deficiencies that collectively undermined the viability of the proposed Project. While the proposal sought to address long-standing

reliability and sustainability challenges in Southern Labrador, it failed to meet the evidentiary standards and expectations of the Board for project approval.

More broadly, the Board's decision reflects systemic shortcomings in the current approach to energy planning for remote and Indigenous communities. The Application did not sufficiently reflect evolving policy priorities around decarbonization, resilience, and reconciliation. It also appears to have lacked the technical rigour, stakeholder inclusiveness, and Indigenous consultation expected for a project of its scale and impact.

NCC looks forward to Hydro's plans for immediate provision of safe and reliable service to Charlottetown and Pinsent's Arm, early development of renewables, and renewed efforts to ensure that it fulfills its duty to consult and accommodate, all of which has been ordered by the Board.

NCC also strongly supports further evaluation of interconnection with the LIS. As noted by the Board in its Order, the recent signing of a Memorandum of Understanding with Québec for further hydroelectric development in Labrador reinforces interest in interconnection.

There remain opportunities for partnership between Hydro and NCC as an Indigenous collective to work together in support of a permanent solution for reliable and sustainable energy in Southern Labrador communities and on the path to reconciliation.

Thank you for the opportunity to provide further comments on this Application.

All of which is respectfully submitted.

Yours very truly,

BURCHELL WICKWIRE BRYSON LLP

Jason T. Cooke, K.C.

JTC/slm

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