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Via Electronic Mail and Courier

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

**Attention: Ms. G. Cheryl Blundon, Director of Corporate Services
and Board Secretary**

Dear Ms. Blundon:

Re: Hydro Amended 2013 General Rate Application – Compliance Application

1 This submission is made on behalf of NARL Refining Limited Partnership ("NARL") only.

2 This submission is made in reply to section 5.2 of Hydro's Reply of April 13, 2017, and is
3 supplementary to NARL's separate submission of April 10, 2017.

4 Hydro by its Reply stated the following:

5 *In NARL's opinion, a distinction between the sources of revenue deficiency is necessary,*
6 *specifically between specifically assigned charges and Energy sales. NARL submits that when*
7 *the past revenue deficiencies are disaggregated in this manner, significant disparities between*
8 *members of the customer group are evident.*

9 In response, we state that it is not necessary for NARL to argue or prove that this distinction is
10 "necessary"; NARL is pointing out that the distinction exists in the long-standing rules and
11 regulations governing Industrial Customer (IC) rates and the RSP. Specifically assigned
12 charges are not treated in the RSP, or otherwise in the rules and regulations governing IC rates,
13 as a class cost of service; Energy sales are. When paid in the normal course (ie when not
14 distorted by the effects of a long-delayed and protracted GRA process), the treatment and
15 impact of Energy sales, past and future, within the RSP are disaggregated from each individual
16 IC's payment of its SAC. Is it just and reasonable, and non-discriminatory, to ignore this
17 disaggregation in the normal course of IC rate-paying, just because a long-delayed and
18 protracted GRA process has given rise to a revenue deficiency?

19 Hydro, in its Reply, cited the following positions expressed on behalf of Vale and CBPP:

20 *Vale and CBPP support Hydro's proposal to recover the balance by a transfer of approximately*
21 *\$1.6 million from the Island Industrial Customer segregated load variation component of the*
22 *RSP. In its submission, Vale submits that the recovery of the revenue deficiencies from the*
23 *balance available in the RSP is equitable and is consistent with Hydro's evidence and past*
24 *practice of collecting past balances on a class, as opposed to individual customer, basis.*

25 CBPP submits Hydro's approach is reasoned, reasonable, and meets the standard for
26 acceptance by the Board. CBPP also submits that the use of the RSP balances to address
27 deficiency was always contemplated, including any part related to any specifically assigned
28 charges. In disagreeing with NARL's position, CBPP stated:

29 CBPPL understands that other industrial customers (including NARL) may object
30 to the use of RSP funds to pay shortfalls that relate to Specifically Assigned
31 Charges, on the premise that this leaves the specific customers in question with
32 a lower balance in "their" RSP to pay for future costs. CBPPL submits that this is
33 an incorrect view of the RSP. The RSP, and in particular positive RSP balances,
34 reflect a collective benefit to the industrial class, not an entitlement of any given
35 customer. In this regard, the objecting customers are not being prejudiced by
36 having "their" RSP balance used to transition SAC charges, as there are no
37 customer-specific RSP balances. This would be akin to saying the customers in
38 question unfairly benefitted from having Teck Resources Limited drop their load
39 levels, leaving behind a "Teck RSP share", or that Teck Resources Limited could
40 somehow submit a request for a payout of "their" share of the RSP upon its
41 closure; this, of course, they could not, as it would reflect a similarly erroneous
42 view of the RSP balances.

43 In response, we submit that it is not enough to merely assert that what Hydro proposes is
44 "equitable" or that it was always contemplated that RSP balances could be utilized to offset
45 revenue deficiencies. As noted in NARL's April 10, 2017 submission, the Board made clear, in
46 its GRA Order, that the parties would have the opportunity to review and make submissions on
47 Hydro's proposal to use RSP credit balances to offset the revenue deficiency. This cannot be a
48 hollow opportunity. NARL submits that Hydro's proposed manner of offsetting a revenue
49 deficiency (arising largely from the non-collection of non-class assigned SAC) with a class-
50 assigned RSP credit balance is overly simplistic and discriminatory to NARL. NARL receives no
51 benefit from Hydro's proposal, other than avoiding having to pay for the undercollection of SAC
52 from other Industrial Customers; the contrast with the benefit that would be conferred on all the
53 other ICs by Hydro's proposal – avoiding having to pay the GRA-ordered adjusted cost of their
54 own SAC - could hardly be more stark.

55 NARL recognizes (and indeed seeks to emphasize) that the RSP credit balances are intended
56 to confer class-wide benefits, in a just and reasonable, and non-discriminatory manner. NARL
57 does not claim an entitlement to any particular share of the RSP credit balances due to its past
58 "share" of IC load or sales. However, by the same token, Vale and CBPP (and Praxair and
59 Teck) cannot claim to be entitled to have past shortfalls in collection of their respective SAC
60 offset by the RSP credit balances, particularly as this is not how SAC is dealt with in the normal
61 course of IC rate-paying, past or future; indeed, if an approach which included using RSP credit
62 balances to offset SAC variation were to be accepted, does not NARL have at least an equal if
63 not better claim for a refund for the overcollection of its SAC during the same period?

64 What NARL is asking is that the difference between the impact on NARL (and the other ICs) of
65 what would be expected in the normal course of IC-rate paying and the operation of the RSP,
66 and what is being proposed by Hydro, be clearly and transparently identified and analyzed by
67 Hydro, so that it can be determined whether or not the approach is just and reasonable, and
68 non-discriminatory, and if it is discriminatory, whether there are adjustments to that approach
69 that can be made to mitigate that discriminatory effect.

70 Hydro in its Reply states:

71 *Hydro submits that NARL is effectively proposing a cost of service approach by individual*
72 *customer in determining the allocation of revenue deficiency. Hydro does not support this*
73 *proposed approach and submits that NARL has chosen a single cost component to*
74 *demonstrate cost differences in an attempt to prove it is being treated unfairly.*

75 *The credit balance in the RSP Load Variation component has resulted from fuel savings from*
76 *load variations relative to the 2007 Test Year, primarily in the Island Industrial Customer class.*
77 *Most of the load reduction relative to the 2007 Test Year resulted from reduced load*
78 *requirements to serve the pulp and paper industry (i.e., Abitibi and Corner Brook Pulp and*
79 *Paper). Other Island Industrial Customers, such as NARL, did not pay additional fuel costs*
80 *through the RSP even though the No. 6 fuel cost increased from \$55 per barrel in the 2007 Test*
81 *Year to a price in excess of \$100 per barrel in 2014. Rather, NARL experienced material*
82 *savings as a result of the RSP over this period even though the individual cost to serve NARL*
83 *may have increased materially with respect to fuel costs.*

84 *Given that Island Industrial Customer rates did not increase over the period 2007 to July 2015*
85 *due to savings that were provided from the RSP, it is challenging to engage in a pure cost of*
86 *service argument when assessing if the credit balance in the RSP Load Variation Component*
87 *should be broken down on an individual customer basis when considering the approach to*
88 *provide Hydro recovery of its revenue deficiency.*

89 What NARL is asking is that the fact that it is being proposed that a non-class component of the
90 revenue deficiency (SAC undercollection) be offset by an RSP credit balance that would
91 otherwise be used, in the normal course, as class-wide benefit in accordance with IC rate rules
92 and regulation, be recognized and clearly and transparently accounted for by Hydro. If Hydro
93 believes that NARL has chosen a "single cost component" to present its view of the matter, then
94 let it produce its own analysis to demonstrate how the InterGroup preliminary analysis submitted
95 by NARL's separate April 10, 2017 submission purportedly misrepresents the impact of Hydro's
96 proposal.

97 Hydro posits, in its Reply as excerpted above, that NARL received benefit from the "freezing" of
98 fuel costs in IC rates at 2007 test year levels and from the fuel cost savings resulting from load
99 variation of other customers. NARL does not dispute this. But all the ICs received benefit from
100 these factors, not just NARL. Moreover, NARL would submit that that the spirit and intent of the
101 Government direction in 2013 to Hydro and the Board, with respect to the load variation surplus
102 accrued to that point and the subsequent IC base rate phase-in, was to address and draw a line
103 under the impact of these factors.

104 NARL, in its April 10, 2017 submission, did not purport that InterGroup's preliminary analysis
105 represented the last word on the extent of the discriminatory impact of Hydro's proposal on
106 NARL. But Hydro's narrative above offers no analysis which comes close to demonstrating, in a
107 clear and transparent fashion, that NARL has received other benefits, in such a way as to nullify
108 NARL's concerns about Hydro's present proposal.

109 As much as Hydro seeks to obscure the fact, using a IC class credit balance to pay a non-class
110 cost of service is an allocation of the revenue deficiency (a SAC-collection deficiency) which
111 differentiates between Industrial Customers and which has a materially different and disparate
112 impact than if that SAC-collection, in past and future IC rates, occurred in the normal course of

113 operation of IC rate rules and regulations. It may be "challenging" to analyze the difference in
114 impact, but NARL submits that the contrary course of not attempting that analysis in effect
115 amounts to ignoring the impact. This contrary course of action would not serve to demonstrate
116 that Hydro's proposal is just and reasonable, and non-discriminatory for all of the Industrial
117 Customers.

118 Hydro in its Reply states:

119 *Hydro agrees with the submission of CBPP that the RSP credit balance reflects a collective*
120 *benefit to the Island Industrial Class and not an entitlement of any given customer. Increased*
121 *usage of a single Island Industrial Customer can result in a debit balance to be recovered from*
122 *the full class. At the same time, there can be decreased usage by another Island Industrial*
123 *Customer that provides an offsetting savings to all Island Industrial Customers.*

124 *Hydro submits the use of the RSP credit balance to offset the revenue deficiency on a class*
125 *basis is reasonable and is consistent with the historical treatment of the RSP balance as being a*
126 *class balance.*

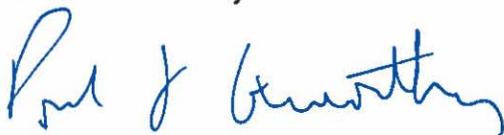
127 Again, narrative cannot replace analysis. The "increased usage" vs. "decreased usage" seesaw
128 referred to above is well understood and accounted for by the normal operation of the RSP,
129 when it comes to load and fuel price variations, which are treated as class-wide impacts. This is
130 decidedly not the approach taken in the RSP to SAC variation.

131 As submitted in NARL's April 10, 2017 separate submission, there is no historical precedent in
132 the 2006 GRA (or otherwise) for Hydro's proposal. What would be unprecedented would be the
133 use of a RSP credit balance without the agreement of all of the current Industrial Customers as
134 to the manner of that usage.

135 We trust this is in order.

Yours truly,

Stewart McKelvey



Paul L. Coxworthy

PLC/dob

- c. Tracey L. Pennell, Senior Counsel, Regulatory, Newfoundland and Labrador Hydro
- Dennis Browne, Q.C. Consumer Advocate
- Gerard Hayes, Newfoundland Power
- Denis Fleming, Cox & Palmer
- Dean A. Porter, Poole Althouse
- Sheryl Nisenbaum, Praxair Canada Inc.
- Larry Bartlett, Teck Resources Limited