

**NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

AN ORDER OF THE BOARD

NO. P.U. 13(2014)

1 **IN THE MATTER OF** the *Electrical Power*
2 *Control Act, 1994*, SNL 1994, Chapter E-5.1 (the
3 "*EPCA*") and the *Public Utilities Act*, RSNL 1990,
4 Chapter P-47 (the "*Act*"), as amended, and regulations
5 thereunder; and
6

7 **IN THE MATTER OF** a general rate application
8 by Newfoundland and Labrador Hydro to establish
9 customer electricity rates for 2014; and
10

11 **IN THE MATTER OF** an application by Newfoundland
12 and Labrador Hydro for approval on an interim basis,
13 effective January 1, 2014 of, among other things, rate
14 changes for certain customers and a deferral account for
15 others, and amendments to the Rate Stabilization Plan.
16

17
18 **The Application**
19

20 On November 18, 2013 Newfoundland and Labrador Hydro ("Hydro") filed an application
21 with the Board (the "Interim Rate Application") seeking rate relief in advance of the
22 conclusion of the general rate application which was filed on July 30, 2013. Hydro filed a
23 minor amendment to the Interim Rate Application on November 25, 2013. The Interim Rate
24 Application requests:
25

26 (a) *an Interim Order pursuant to Section 75 of the Act, approving*

27 (i) *the schedule of rates, tolls and charges set out in Schedule A to this Application to*
28 *be effective on and after January 1, 2014, until superseded by a final order of the*
29 *Board in the matter of the Application, including a change in the RSP Fuel Price*
30 *Projection charged to Newfoundland Power calculated in accordance with*
31 *Appendix F to the evidence filed in support of this Application; and*

32 (ii) *Changes to the RSP rules, as set out in Schedule B of this Application to implement*
33 *the phase-in of Industrial Customer rates, in accordance with direction provided by*
34 *the Government;*

35 *Or,*

36 (b) *an Order pursuant to Section 70 of the Act approving a deferral and recovery mechanism*
37 *whereby, commencing January 1, 2014, Hydro would defer any revenue shortfall between*
38 *existing and approved rates with such shortfall to be recovered from customers over a three-*
39 *year period commencing when final rates become effective.*

1 Schedule A to the Interim Rate Application sets out the proposed Schedule of Rates, Tolls
2 and Charges to be approved on an interim basis for Hydro's utility customer, Newfoundland
3 Power Inc. ("Newfoundland Power"), Island Industrial customers, and government
4 departments. Hydro did not apply for rate changes for its other customers and explained in
5 evidence that rates for certain rural customers would be the subject of a further application
6 after the approval of Newfoundland Power rates. Further Hydro explained in response to IR-
7 PUB-NLH-003 that it was not requesting interim rate changes for customers on the
8 Labrador Interconnected system in the context of the larger proposed rate increases for these
9 customers. The Interim Rate Application seeks, in the alternative, an Order of the Board
10 approving a deferral and recovery mechanism for the revenue shortfall between existing and
11 approved rates commencing January 1, 2014. Hydro explained in evidence that the deferral
12 and recovery mechanism would apply to all rates, including the Labrador Interconnected
13 system.

14
15 A copy of the Interim Rate Application was provided to the parties in the general rate
16 application: Newfoundland Power; the Consumer Advocate, Mr. Thomas Johnson; Corner
17 Brook Pulp and Paper Limited, North Atlantic Refining Limited and Teck Resources
18 Limited (the "Industrial Customer Group"); Vale Newfoundland and Labrador Limited
19 ("Vale"); the Innu Nation; the Towns of Labrador City, Wabush, Happy Valley-Goose Bay,
20 and North West River (the "Towns"); and Yvonne Jones, MP. Separate notice of the
21 application was not published.

22
23 On November 19, 2013 the Board established the schedule to be followed for the Interim
24 Rate Application, requiring that requests for information and submissions be filed by
25 December 6, 2013. On December 4, 2013 the Board revised the schedule to allow for the
26 filing of a second round of requests for information on December 5, 2013. The Board
27 advised that the remainder of the schedule would be established thereafter.

28
29 On December 9, 2013 the Board received submissions from the parties on an amendment to
30 the Rate Stabilization Plan rules which would suspend the operation of the January 1, 2014
31 adjustment for Island Industrial customers.

32
33 On December 13, 2013 the Board issued Order No. P.U. 40(2013) approving the
34 amendment to the Rate Stabilization Plan rules to suspend the January 1, 2014 Rate
35 Stabilization Plan adjustment for Island Industrial customers.

36
37 On December 17, 2013 the Board established a further schedule for the proceeding which
38 included a third round of requests for information and provided for the filing of final
39 submissions on January 24, 2014.

40
41 On January 17, 2014 Hydro filed another application, which it stated was supplemental to its
42 November 18, 2013 application, changing its proposals in relation to several matters,
43 including rates for Newfoundland Power and certain Rural customers (the "Supplemental
44 Application").

1 On January 27, 2014 the Board wrote Hydro to confirm that Hydro planned to withdraw the
2 Supplemental Application and file an amended interim rate application and to advise that a
3 schedule for the remainder of the proceeding would be established upon receipt of the
4 amended application.

5
6 On February 11, 2014 Hydro withdrew the Supplemental Application and filed an amended
7 interim rate application ("Amended Interim Rate Application"). On March 5, 2014 Hydro
8 filed a minor revision to the Amended Interim Rate Application. In this application Hydro
9 requests:

- 10
11 (a) *An interim Order pursuant to Section 75 of the Act, approving*
12 *(i)the schedule of rates, tolls and charges for Island Interconnected Industrial*
13 *Customers set out in Schedule A to this Amended Application to be effective on and*
14 *after January 1, 2014, until superseded by a final order of the Board in the*
15 *Application;*
16 *(ii)changes to the RSP rules, as set out in Schedule B of this Application to:*
17 *(1)implement the phase-in of Industrial Customer rates, in accordance with*
18 *direction provided by Government;*
19 *(2)segregate, within the RSP, amount collected by Hydro through NP's current*
20 *Fuel Price Projection rider of 1.634 cents/kWh until a further order of the Board on*
21 *the matter;*
22 *(3)remove the Board's suspension of January 1, 2014 RSP changes to the*
23 *Industrial Customers;*
24 *(4)include in the RSP rules specific references to the proposed 2013 Test Year;*
25 *(iii)an Order pursuant to Section 70 of the Act approving a deferral mechanism*
26 *whereby Hydro would defer any revenue shortfall between interim and final rates*
27 *with such deferral to be dealt with when final rates become effective;*
28 *(iv)on an interim basis, present rates for all classes of Hydro's Rural Customers as*
29 *set out in Schedule C;*
30 *(v)use, on an interim basis, of Hydro's proposed 2013 Test Year values as the*
31 *approved Test Year values in Hydro's Rate Stabilization Plan;*
32 *(vi)the RSP rate to be charged by Hydro to Island Interconnected Industrial*
33 *Customers as calculated in Appendix B of the evidence filed with the Application*
34 *and as set out in Schedule A to this Application, to be effective for electrical*
35 *consumption on or after January 1, 2014; and*
36

37 On February 19, 2014 the Board wrote to the parties to establish the schedule for the
38 remainder of the proceeding.

39
40 On March 6, 2014, the last responses were filed to the requests for information. There were
41 a total of 166 requests for information answered by Hydro.

42
43 On March 11, 2014 the Towns filed final submissions. On March 14, 2014 final
44 submissions were filed by the Consumer Advocate, Newfoundland Power, Vale, and the
45 Industrial Customer Group. On March 18, 2014 Hydro filed a final submission.

1 Evidence and Submissions

2
3 In the Amended Interim Rate Application Hydro states that, without a timely rate change, it
4 will be deprived of the opportunity to recover its costs, including a reasonable return on rate
5 base as required by section 80 of the Act. Hydro states in evidence (page 7) that:

6
7 *Hydro requests interim rates in order to have the opportunity to earn a return on rate*
8 *base that is closer to that which results from the Government directed ROE for the 2013*
9 *Test Year.*

10
11 Hydro explains that the proposed 2013 Test Year rate of return on rate base of 7.83% is
12 based on OC2009-063, which directs the Board to set Hydro's earnings based on the return
13 on equity approved for Newfoundland Power, currently 8.80%. Hydro states in evidence
14 (page 2) that it believes its modified approach will enable:

- 15
- 16 • *Implementation of IC rates in a manner that achieves the result that was contemplated*
17 *in the Government directives;*
- 18 • *Deferral of rate implementation for other customers until rate design and cost of*
19 *service issues are addressed;*
- 20 • *Provision to Hydro of the opportunity to earn a return on rate base that is closer to*
21 *that which results from the Government directed Return on Equity (ROE) for the 2013*
22 *Test Year; and*
- 23 • *Improvement of Hydro's financial position in anticipation of a return to the capital*
24 *markets in 2014 to fund the infrastructure renewal and new assets construction*
25 *program estimated at \$763 million over the 2014 to 2017 period.*
- 26

27 The Towns state in final submissions that they do not object to continuing with existing
28 rates for customers on the Labrador Interconnected system on an interim basis until the
29 completion of Hydro's general rate application. The Towns clarify that they oppose the
30 implementation of a deferral and recovery mechanism for Hydro's Labrador Interconnected
31 customers on the basis that it would be unfair and would create uncertainty. They further
32 argue that it would not be unduly costly for Hydro to forego the deferral and recovery for
33 customers on the Labrador Interconnected system. The Towns note that Hydro's response to
34 IR-LWHN-NLH-006 implies only a modest impact on Hydro's return on rate base if the
35 deferral and recovery mechanism is not implemented for Labrador Interconnected customer
36 rates and that this impact would be temporary. The Towns argue that to be fair to customers
37 proposals for large increases in rates such as these should be thoroughly assessed before
38 implementation. They argue that the deferral and recovery mechanism is even more unfair
39 and that delaying possible and large increases means that customers do not fully know the
40 true costs of their current electricity consumption and will be compelled to pay for past
41 consumption retroactively. They note the proposed rate increases are more than 25% for
42 domestic customers on the Labrador Interconnected system and argue that such large
43 increases should not be implemented before a complete regulatory hearing. The Towns
44 submit that Labrador Interconnected customers are facing considerable uncertainty as to
45 rates which makes it difficult to make appropriate decisions regarding electricity
46 consumption and conservation. It is argued that a deferral and recovery mechanism means

1 that the Labrador Interconnected customers would not know the price of electricity until
2 after the winter is over.

3
4 In its final submission Newfoundland Power takes the position that the Board should deny
5 the Amended Interim Rate Application. Newfoundland Power explains that it does not have
6 a direct interest in the proposed Island Industrial customers' rate changes except that these
7 changes also involve changes to the Rate Stabilization Plan rules. Newfoundland Power
8 does not support the proposed changes to these rules on the basis that there are
9 inconsistencies on the record and that there is a lack of clarity as to how the Rate
10 Stabilization Plan will operate following the proposed changes. Newfoundland Power
11 argues that the proposed deferral mechanism is premature and should not be approved at this
12 time. Newfoundland Power submits that, based on the record of this proceeding, it is
13 uncertain how the July 1, 2014 Newfoundland Power Rate Stabilization Plan adjustment
14 will be determined. Newfoundland Power states:

15
16 *According to the RSP rules set out in the Amended Application, the Newfoundland Power*
17 *fuel rider to be used for the July 1, 2014 RSP adjustment will be based on the difference*
18 *between the 2014 forecast fuel price and the average 2013 proposed test year fuel price.*
19 *However, in response to Request for Information IR-NP-NLH-041, Hydro appears to*
20 *calculate the fuel rider based on the difference between the 2014 forecast fuel price and*
21 *the average 2007 test year fuel price. The difference in rate impact between these two*
22 *possible approaches to calculating the fuel rider is approximately 1.6 cents per kilowatt-*
23 *hour.*

24
25 *Further, in response to Request for Information IR-NP-NLH-040, Hydro states that*
26 *"final RSP rate changes for July 1, 2014 will be determined in April 2014 in accordance*
27 *with the existing RSP rules." This appears inconsistent with the proposal in the*
28 *Amended Application to revise the RSP rules effective January 1, 2014 so that the RSP*
29 *operates using 2013 Test Year values.*

30
31 *In Newfoundland Power's submission, the proposals in the Amended Application to*
32 *revise the RSP rules should be denied due to lack of clarity and evidence regarding*
33 *customer impacts, and only considered when Hydro provides a clear explanation of the*
34 *manner in which the RSP is proposed to operate.*

35
36 Newfoundland Power argues that Hydro's request for approval of deferred recovery in
37 advance of a review of costs and revenues is not necessary and not in accordance with
38 current regulatory practice, which requires clear evidence of a revenue shortfall before the
39 Board grants relief to permit a utility to earn a just and reasonable return. Newfoundland
40 Power argues that the Board should not approve the proposed deferral mechanism at this
41 time and should consider it following review of Hydro's costs and revenues.

42
43 The Consumer Advocate recommends that the Board deny Hydro's Amended Interim Rate
44 Application. The Consumer Advocate submits that the issues raised in the Amended Interim
45 Rate Application are better addressed within the context and timing of the general rate
46 application, enabling a comprehensive review of the issues and a more efficient use of the
47 limited time available. The Consumer Advocate notes that the process that determines what
48 is a just and reasonable return is a full review by the Board of the evidence filed. The

1 Consumer Advocate notes that Hydro agrees that it would have an opportunity to earn a
2 return on rate base closer to that resulting from the Government directive if, upon
3 conclusion of the general rate application, the Board approved a deferral account to permit
4 recovery of a 2014 revenue shortfall resulting from delayed implementation of customer
5 rates. The Consumer Advocate argues that Hydro has not quantified the improved financial
6 results associated with approval of the Amended Interim Rate Application and further
7 questions this benefit given that it is not likely that the Board's decision will take effect
8 prior to April 2014. The Consumer Advocate submits that the Board does not need to
9 approve the Amended Interim Rate Application and can issue an Order following a full
10 review of the issues in the general rate application that allows Hydro to earn a return in 2014
11 that is closer to that directed by Government. In relation to the Island Industrial customer
12 rates the Consumer Advocate submits that approval of the Amended Interim Rate
13 Application is not required given that Order No. P.U. 40(2013) enables the Board to go back
14 and adjust the rates. The Consumer Advocate argues that there is no evidence that justifies
15 issuing an Order prior to a complete review of the issues in the general rate application. The
16 Consumer Advocate also submits that, owing to the complexities of the issues involved, it is
17 best to simplify the approach and review the issues within the overall context of the general
18 rate application.

19
20 The Industrial Customer Group states that they do not object to the implementation of
21 interim rates as proposed by Hydro and acknowledge that Hydro proposes to reconcile the
22 overall spirit and intent of the Government direction with the present reality that general rate
23 application tested outcomes will now be delayed until well into 2014. The Industrial
24 Customer Group explains that they have three main qualifications in their position. Firstly,
25 they state that interim rates are always risk-free to the rate payer. Second the Industrial
26 Customer Group suggests that it is not clear that the deferral account alternative has any
27 necessary regulatory purpose. They note that the deferral account has no impact on cash
28 flow and no certainty as it is subject to later adjustment. Finally the Industrial Customer
29 Group explains that their primary interest is to see all outstanding issues resolved in the
30 context of the general rate application in as expeditious a manner as possible consistent with
31 due regulatory scrutiny. To that end they recommend that the Board order that the interim
32 rates and the amendments to the Rate Stabilization Plan rules remain in effect only until
33 August 31, 2014.

34
35 Vale submits that it is prepared to accept the interim rates proposed by Hydro and the
36 proposed Rate Stabilization Plan rules. However, Vale expresses concern that, in setting
37 interim rates equal to the rates proposed in the general rate application, a sense of urgency to
38 proceed expeditiously with the general rate application will be lost. Vale notes that, while
39 the original schedule for the general rate application contemplated that all requests for
40 information would be answered by November 22, 2013, Hydro did not answer all of the
41 requests for information until January 31, 2014. Vale states in its submission:

42
43 *Hydro has defended the delays on the GRA (see IR-NP-NLH-012 and IR-NP-NLH-013)*
44 *as being beyond Hydro's control. While that may be partially correct, the fact is that*
45 *seven years between general rate applications, which is four years longer than sound*
46 *utility practice requires (see PUB-NLH-075), is too long. The issuance of a number of*
47 *additional applications at or around the same time as the GRA, including the RSP*

1 *Application filed on July 30, 2014 [sic] and its 2014 Capital Budget Application filed on*
2 *August 5, 2013, have also contributed to the delays on the GRA. Lastly, the within*
3 *Application, which was ironically necessitated by the delays in the GRA, has itself caused*
4 *further delays in the GRA. By not filing the GRA before July 30, 2013, Hydro left*
5 *insufficient time to complete the GRA in time for new rates to become effective on*
6 *January 1, 2014. As a result, on November 14, 2013, Hydro filed the within Application,*
7 *which itself has been amended on more than one occasion and has led to three rounds of*
8 *RFIs. With the parties focusing on the within Application, their focus has been diverted*
9 *from the GRA for the past four months.*

10
11 Vale notes that the interim rates being sought are based on information and assumptions that
12 have not been fully tested. Vale submits that, to ensure that the balance remaining in the
13 Island Industrial Customer Rate Stabilization Surplus is sufficient to provide for the phase-
14 in of rates directed by Government, Hydro should be required to reapply for a further Order
15 for interim rates if final rates are not in place by August 31, 2014. Vale submits that if the
16 rates charged after September 1, 2014 are lower than the phase-in rates, the results may be
17 inequitable for Vale and Praxair. Therefore it is argued that the interim rates established by
18 the Board should remain in effect only until August 31, 2014 and in the absence of a new
19 application by Hydro the interim rates should revert to pre-interim rate application levels,
20 including the freeze on the Rate Stabilization Plan adjustment. In the alternative Vale
21 proposes specific rates to be effective September 1, 2014. Vale explains that the deferral
22 account alternative could have unfair and unintended consequences for individual members
23 of the Island Industrial customers.

24
25 Hydro argues in its final submission that its proposals provide a reasonable approach to deal
26 with delayed implementation of final rates in the general rate application by giving balanced
27 consideration to both the impact on customers and the opportunity for reasonable cost
28 recovery by Hydro. Hydro states that the Amended Interim Rate Application avoids a rate
29 change for Newfoundland Power and retail customers until final rates are approved. Hydro
30 explains that the Amended Interim Rate Application provides for the phase-in of cost based
31 rates for the Island Industrial customers including the application of Rate Stabilization Plan
32 adjustments effective January 1, 2014. Hydro states that the average Island Industrial
33 customer rate impact as a result of implementing the Rate Stabilization Plan adjustment
34 effective January 1, 2014 is approximately 1.0%. Hydro submits that its proposals balance
35 customer impacts, regulatory efficiency and customer acceptance by limiting the number of
36 rate changes required to implement new test year rates. Hydro states that this approach
37 provides a smooth transition from existing rates to final rates while limiting the amount of
38 current costs to be recovered in future rates through the deferral account.

39
40 Hydro acknowledges the complexity of the Rate Stabilization Plan proposal and states that it
41 is prepared to address Newfoundland Power's concerns prior to proposing a revised Rate
42 Stabilization Plan adjustment for July 1, 2014. Hydro suggests that one possible solution is
43 to defer the July 1, 2014 Rate Stabilization Plan adjustment until final rates are approved.
44 Hydro notes that this would result in a single rate change in 2014.

45
46 With respect to the argument of the Towns in relation to the proposed interim rates for
47 Labrador Interconnected customers Hydro submits that there is an opportunity to review the

1 proposed rates before they are implemented on a final basis. Hydro further explains that it is
2 now certain that a final order will not be made until late 2014 and the revenue shortfall is
3 larger than initially expected and the impact on Hydro's earnings is greater.

4
5 Hydro explains that it is requesting approval of a deferral account in advance of conclusion
6 of the general rate application to provide certainty that it will have an opportunity to earn a
7 just and reasonable return on rate base in 2014. Hydro states that the proposed revenue
8 shortfall account provides for the difference between the revenues from interim rates and
9 revenues based on approved final rates to be charged to the account. Hydro states that this
10 will provide Hydro with the opportunity to earn a reasonable return on rate base for 2014
11 and a return on equity that reasonably reflects the direction of Government. Hydro explains
12 that it earned a return on equity in 2013 of 0.14% and, without approval of a deferral
13 account to provide rate relief for 2014, it is possible that Hydro will incur financial losses in
14 2014. Hydro argues that it is important that the Board approve the proposed deferral account
15 to enable Hydro to signal to lenders and other stakeholders that it will not be financially
16 disadvantaged by the duration of the general rate application process and that it will have an
17 opportunity to earn a reasonable return in 2014.

18
19 Hydro argues that deferral accounts are a common regulatory tool. Hydro submits that the
20 proposed deferral account will avoid the need to implement a customer rate change to
21 provide for recovery of 2014 costs until the conclusion of the general rate application.
22 According to Hydro this will allow for a full understanding of the rate design and cost of
23 service implications and provide all parties the opportunity for input prior to the final
24 decision by the Board.

25
26 Hydro states that its forecast revenue shortfall from the proposed rates is more than \$55
27 million assuming October 1, 2014 implementation. Hydro submits that the magnitude of this
28 forecast revenue shortfall, Hydro's 2013 financial results and the forecast 2014 results
29 provide adequate support for approval of the proposed deferral account. Hydro argues that
30 no customers are disadvantaged by the Board's approval of the proposed deferral account.

31 32 33 **Board Findings**

34
35 Hydro filed its first application for interim rate relief some five months ago in November of
36 2013. Since then Hydro has filed two additional applications, one as a supplementary
37 application which was subsequently withdrawn, and a further application amending the
38 November, application. The Amended Interim Rate Application contained significant
39 changes to Hydro's proposed rates for several customer groups as did several of Hydro's
40 responses to information requests. In particular, since the filing of the application in
41 November Hydro has made substantive changes to its proposals in relation to the Island and
42 Labrador Isolated systems, the Labrador Interconnected system and the Island
43 Interconnected system. The fact that Hydro's proposals changed throughout the matter has
44 made it difficult to assess Hydro's position and the impacts on customers, especially in light
45 of the complexities associated with the Rate Stabilization Plan.

1 Unfortunately there continues to be considerable ambiguity in Hydro's proposals even after
 2 the filing of the Amended Interim Rate Application, the responses to the information
 3 requests and the final submissions. In particular, the Board finds that Hydro's proposals and
 4 the evidence are ambiguous in respect of Island Industrial customers rates and the rates for
 5 Newfoundland Power and therefore Hydro's customers whose rates are based on
 6 Newfoundland Power customers rates.

7
 8 In relation to the January 1, 2014 rates for the Island Industrial customers Hydro states that:

9
 10 *There will be no resulting change in the amounts charged to IC subsequent to January 1,*
 11 *2014. The IC RSP Surplus will be adjusted for any change resulting from approved*
 12 *rates. (Amended Interim Rate Application Evidence, page 4 in footnote 2)*
 13

14 Hydro states in response to IR-PUB-NLH-047:

15
 16 *Implementation of the interim rates for IC as proposed by Hydro results in a slight*
 17 *average increase of approximately 1% in IC bills with effect from January 1, 2014.*
 18 *Hydro has requested that the January 1, 2014 RSP rate adjustment for IC become*
 19 *effective on this date since it is in keeping with the spirit and intent of OC2013-089,*
 20 *Section 5 as well as in the overall principle of a phase in of IC rates. Hydro believes that*
 21 *there would be a disadvantage to IC if this increase is deferred requiring a larger*
 22 *increase in IC bills at a later date. Notwithstanding this potential increase, if the*
 23 *outstanding issue related to the Segregated Load Variation is resolved through the GRA*
 24 *process, the increase could possibly be offset by the IC share of the load variation*
 25 *balance.*
 26

27 The Board notes that the proposed January 1, 2014 rate sheet does not reflect the proposed
 28 1% rate increase for the Island Industrial customers. In evidence filed in November Hydro
 29 states that the Island Industrial customer Rate Stabilization Plan rates will be determined
 30 and applied for once the December Rate Stabilization Plan balance is available in
 31 accordance with the existing Rates Stabilization Plan rules. The Board notes that the rates
 32 proposed in the Amended Interim Rate Application filed on February 11, 2014 do not
 33 appear to reflect the December Rate Stabilization Plan balance. In final submission Hydro
 34 does not address why the proposed rate sheet does not appear to reflect the December
 35 balance and whether it plans to make a further application for approval of the Rate
 36 Stabilization Plan adjustment.
 37

38 Hydro's proposals in respect of the September 1, 2014 phase-in of Island Industrial
 39 customer rates are also unclear. The Amended Interim Rate Application states in paragraph
 40 14 that the proposed rates for the Island Industrial customers are to be effective on January
 41 1, 2014 on an interim basis and remain in effect "...until superseded by a final order of the
 42 Board in the matter of the Application"(see also IR-NP-NLH-001). However, in response to
 43 IR-PUB-NLH-042, Hydro provides a forecast of the phase-in of Island Industrial customer
 44 rates to be effective September 1, 2014. Hydro states in response to IR-PUB-NLH-043:

45
 46 *The rates for the September 2014 – August 2015 period are formula driven, as actual*
 47 *rates will be dependent upon the outcome of Hydro's GRA. Hydro intends to file an*
 48 *application with the Board for approval of actual phase-in rates at the appropriate time.*

1 In IR-PUB-NLH-043 Hydro provided a further revision to the Rate Stabilization Plan rules
2 which sets out the formula for the phase-in of Island Industrial customer rates from
3 September 1, 2014 to August 31, 2015. Hydro does not explain whether it plans to make a
4 further application before the conclusion of the general rate application to implement the
5 phase-in of the September 1, 2014 rates for these customers. The Board notes that
6 September 1, 2014 rates for the Island Industrial customers is a significant issue in the final
7 submissions of both the Industrial Customer Group and Vale. Despite the ambiguity on the
8 record Hydro did not address this issue in its final submission.
9

10 Newfoundland Power argues in final submission that there are inconsistencies on the record
11 of the Amended Interim Rate Application, including the responses to information requests
12 and a lack of clarity as to how the Rate Stabilization Plan will operate following the changes
13 proposed by Hydro. Newfoundland Power explains that it is not clear how the July 1 Rate
14 Stabilization Plan adjustment will operate in the context of Hydro's proposals. In final
15 submission Hydro acknowledges the complexity of the Rate Stabilization Plan proposal and
16 suggests that Hydro is prepared to address these concerns in advance of the July 1, 2014
17 Rate Stabilization Plan adjustment, perhaps by forgoing the adjustment. This approach
18 raises uncertainty as to how Hydro's proposals will be implemented and as to customer
19 impacts. In addition the Board notes that this suggestion is a change in approach from
20 Hydro's position in response to IR-NP-NLH-040, filed on March 6, 2014.
21

22 The Board believes that at this stage Hydro's proposals and the impacts of its proposals
23 should be clear. After three applications, four rounds of information requests, and 166
24 responses to information requests there appears to be no clear understanding of what Hydro
25 is proposing and the impact on customers. The Board is especially concerned about
26 approving this application given the size of the increase in base rates proposed to be
27 reflected in a deferral account. The Amended Interim Rate Application proposes a deferral
28 account to collect a revenue shortfall based on an overall average increase in base rates for
29 Newfoundland Power of 18.7% and for Labrador Interconnected customers of 23.3%.
30

31 The Board acknowledges Vale's concerns in relation to delays in the implementation of the
32 phase-in of Island Industrial customer rates. The Board also acknowledges Hydro's
33 concerns in relation to its rate of return for 2014. Unfortunately, the Board finds that Hydro
34 has not filed an application with supporting evidence setting out a comprehensive,
35 unambiguous set of proposals. The Board must therefore dismiss the Amended Interim Rate
36 Application. It is open for Hydro to file another application which contains clear and
37 unambiguous proposals supported with comprehensive and consistent evidence.
38
39

40 **Costs**

41

42 Vale requests that the Board make an award of costs in the within application on the same
43 basis as any award of costs made in favor of the Consumer Advocate and/or the Industrial
44 Customer Group. Vale argues that an award of costs is justified on the basis that Vale will
45 soon be Hydro's single largest industrial customer and further that its interests are discreet
46 from the interests of the Industrial Customer Group.

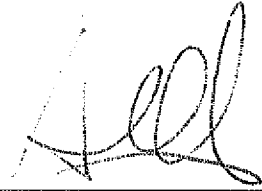
1 Hydro did not object to Vale's claim for costs. The Board accepts that Vale has a unique
2 interest in this application and Vale's participation was necessary and helpful. As such the
3 Board will make an award of costs to Vale. Vale will be required to file its detailed claim
4 for costs with the Board within thirty days of this Order.
5

6 No other Intervenor made a claim for costs. The Board has dismissed this application but
7 will grant leave to any other Intervenor to this application to apply for an award of costs
8 within 30 days of this Order. A detailed claim for costs must be filed at the same time.
9

10
11 **IT IS THEREFORE ORDERED THAT:**
12

- 13 1. The Amended Interim Rate Application is hereby dismissed.
14
- 15 2. Vale Newfoundland and Labrador Limited is entitled to an award of costs in an
16 amount to be fixed by the Board, with cost submissions to be filed within 30 days of
17 this Order.
18
- 19 3. Leave is granted to the remaining Intervenors to apply within 30 days of this Order for
20 an award of costs.
21
- 22 3. Newfoundland and Labrador Hydro shall pay all expenses of the Board arising from
23 this Application.

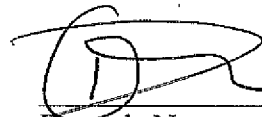
DATED at St. John's, Newfoundland and Labrador, this 25th day of April, 2014.



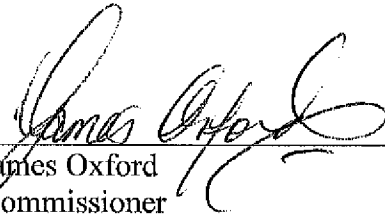
Andy Wells
Chair & Chief Executive Officer



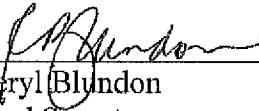
Darlene Whalen, P.Eng.
Vice-Chair



Dwanda Newman, LL.B.
Commissioner



James Oxford
Commissioner



Cheryl Blundon
Board Secretary