

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

AN ORDER OF THE BOARD

NO. P.U. 8(2019)

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** an application by
8 Newfoundland and Labrador Hydro for an exemption
9 of the temporary restriction on load additions in Labrador
10 East, pursuant to its Rules and Regulations.
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12

13 **Background**
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15 In Order No. P.U. 36(2018) the Board of Commissioners of Public Utilities (“Board”) approved a
16 revised regulation permitting a temporary restriction on load additions greater than 100 kW in
17 Labrador East during the period September 11, 2018 to May 30, 2019 (“Regulation 17”). This
18 regulation provides for approval of an exemption to the restriction on load additions as follows:
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20 When Hydro has reason to believe there are special circumstances surrounding an
21 application for service in Labrador East that will result in the addition of load
22 requirements of greater than 100 kW, where it may be appropriate to approve service
23 connections and upgrades, Hydro may apply to the Board for a variance or exemption to
24 this Regulation.¹
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26 **Application**
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28 On February 6, 2019 Newfoundland and Labrador Hydro (“Hydro”) applied to the Board for an
29 exemption to the temporary restriction on load additions greater than 100 kW in Labrador East,
30 set out in Regulation 17, to allow Hydro to provide a service connection in Happy Valley-Goose
31 Bay to Colby 2000 Ltd. (the “Application”). The Application stated that on December 20, 2018
32 Hydro sent a letter of refusal to provide service to Colby 2000 Ltd. (“Colby”) which had applied
33 for service for an office building in Happy Valley-Goose Bay. On January 9, 2019 Colby wrote to
34 Hydro to request that Hydro apply to the Board for an exemption from the temporary restriction
35 on load additions. Colby advised that the requested service is for a new building to house various
36 government departments, including the local MHA and the Premier’s office. Further Colby

¹ Hydro’s Rules and Regulations, Regulation 17.

1 explained that access to the building is required for May 2019 and that the expected peak load is
2 145 kW.

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4 The Application was copied to: Newfoundland Power Inc. (“Newfoundland Power”); the
5 Consumer Advocate, Dennis Browne, Q.C. (the “Consumer Advocate”); a group of Island
6 Industrial customers: Corner Brook Pulp and Paper Limited, NARL Refining Limited Partnership
7 and Vale Newfoundland & Labrador Limited; Iron Ore Company of Canada (“IOC”); the
8 communities of Sheshatshiu, Happy Valley-Goose Bay, Wabush, and Labrador City; Teck
9 Resources Limited and Praxair Canada Inc.

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11 On February 7, 2019 Newfoundland Power submitted that it had no comments on the Application.
12 On February 12, 2019 the Consumer Advocate submitted that he will not be intervening in the
13 Application. On February 19, 2019 IOC filed a submission and on February 20, 2019 Hydro filed
14 a reply submission. No other submissions were received by the Board.

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16 **Submissions**

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18 IOC stated in its submission that it would be inappropriate to grant the Application for an
19 exemption from the temporary restriction on load additions in Labrador East and stressed the
20 importance of maintaining the system load at current levels to the greatest extent possible while
21 the Expansion Study is ongoing. IOC submitted that an application for exemption should be
22 supported by clear evidence which can sustain a reasonable belief that special circumstances exist
23 and that this would require, at least in part, that material benefits to the community are identifiable.
24 According to IOC Hydro has not set out a sufficient evidentiary basis to allow the Board to assess
25 and consider granting the exemption. IOC noted that the application is for commercial office space
26 but that all commercial tenants currently occupy other premises within the community. In IOC’s
27 view providing a central location for government departments with reduced costs for taxpayers
28 does not rise to the level associated with the Board granting an exemption under Regulation 17.
29 IOC also submitted that there is no evidence of negative impacts associated with abiding by the
30 terms of the temporary restriction. Further according to IOC there is no evidence that Hydro
31 expects a reduction in load at existing locations following the consolidation of the existing 18
32 positions in the new commercial office premises. It was IOC’s position that, without evidence, the
33 fact that all 18 positions expected to be located within the new commercial office space are
34 presently housed within existing commercial office space means that there is not a defined need
35 for additional commercial office space within the community. IOC stated:

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37 In summary, without appropriate evidence IOC does not see that having expanded
38 commercial office space available to individual tenants who already have offices within
39 Happy Valley-Goose bay is a “special circumstance” within the meaning of Regulation 17.
40 The application for exemption by NL Hydro does not disclose that granting the exemption
41 will both bring material benefits to the community and, at the same time, not significantly
42 add to the load during the 2018-2019 winter season. For these reasons, and the regulatory
43 rationale of allowing the ongoing works associated with studies and analyses of the
44 Labrador Interconnected system to continue in accordance with the principles set out in
45 P.U. 32(2018), IOC’s position is that it would be inappropriate to grant this application for
46 exemption.²

² IOC Submission, page 3.

1 Hydro submitted that the Application should be approved as submitted. Hydro explained that it
2 uses the discretion afforded to it by Regulation 17 to determine when an application to the Board
3 for an exemption or variance should be made. Hydro noted that the Board did not require wording
4 in Regulation 17 regarding “material benefits” or the significance of the load. Hydro further
5 explained that when determining whether to apply for an exemption or variance Hydro takes into
6 consideration that the intent of Regulation 17 is to not prevent the development and construction
7 of community infrastructure. Hydro submitted that, although Colby’s application is for a
8 commercial office building, there is benefit to the community in having access at one location to
9 several government departments providing services and there is a financial benefit through savings
10 of approximately \$120,000 annually to taxpayers. In addition Hydro submitted that the expected
11 peak load for Colby’s office building is 145 kW or 45 kW over the load addition limit which is not
12 material enough to have any impact on the load requirements of the Labrador East System in the
13 latter part of the 2018/2019 winter season.

14 15 **Board Findings**

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17 The circumstances relating to the service connection requested by Colby and the amount and
18 timing of the load associated with the requested service are important in the consideration of the
19 application for an exemption to the restriction on load additions in Labrador East. While the service
20 requested is commercial it relates to the operation and provision of services by the Government of
21 Newfoundland and Labrador. As set out in the media release from the Government, the
22 consolidation of several departments and 18 positions at two separate locations into one office
23 space is intended to provide more effective and efficient operations and will save taxpayers
24 \$120,000.³ In terms of the amount and timing of the load the Board accepts that the load addition
25 associated with the requested service is not large enough to have a material impact on load
26 requirements for the winter of 2018-2019 given that the expected peak load is 145 kW and that the
27 service is not required until the end of the winter season.

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29 The Board is satisfied that an exemption pursuant to Regulation 17 to allow for the service
30 connection requested by Colby to the office building being constructed at Hamilton River Road,
31 Happy Valley-Goose Bay is reasonable in the circumstances and should be approved.

32 33 34 **IT IS THEREFORE ORDERED THAT:**

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36 1. An exemption to the temporary restriction on load additions in Labrador East, pursuant to
37 Regulation 17, to allow for the service connection requested by Colby 2000 Ltd in Happy
38 Valley-Goose Bay is approved.
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40 2. Hydro shall pay all expenses of the Board arising from this Application.

³ Application, Schedule 3, Media Release, Government of Newfoundland and Labrador, page 2.

DATED at St. John's, Newfoundland and Labrador, this 4th day of March, 2019.



Darlene Whalen, P. Eng., FEC
Chair & CEO



Dwanda Newman, LL.B.
Vice-Chair



James Oxford
Commissioner



Cheryl Blundon
Board Secretary