Office of the Consumer Advocate

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December 11, 2017

Via Courier

Board of Commissions of Public Utilities
120 Torbay Road, P.O. Box 2140
St. John's, NL A1A 5B2

Attention: G. Cheryl Blundon, Director of Corporate Services / Board Secretary

Dear Ms. Blundon:

RE: Newfoundland and Labrador Hydro - 2017 General Rate Application

Further to the above-captioned, enclosed please find enclosed the original and thirteen (13) copies of the Consumer Advocate's Requests for Information numbered CA-NLH-225 to CA-NLH-247.

Yours truly,

Dennis Browne, Q.C.

Encl.
/bb

cc

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<u>IN THE MATTER OF</u>
the *Electrical Power Control Act, 1994*
SNL 1994, Chapter E-5.1 (the "*EPCA*")
and the *Public Utilities Act,* RSNL 1990,
Chapter P-47 (the "*Act*"), as amended; and

<u>IN THE MATTER OF</u> a General Rate
Application by Newfoundland and Labrador
Hydro to establish customer electricity rates
for 2018 and 2019.

CONSUMER ADVOCATE
REQUESTS FOR INFORMATION

CA-NLH-225 to CA-NLH-247

Issued: December 11, 2017

CA-NLH-225 (Expert Evidence – JT Browne Consulting, page 3) It is stated "*The TFA is a long term agreement that begins upon full commissioning of the LIL and is expected to extend for about 50 years. Under this agreement, Hydro is required to make payments to LIL Opco in accordance with terms specified in the agreement.*" Later on the same page it is stated "*None of the amounts are to be included in customer rates until the MFP is commissioned, or nearing commissioning, and Hydro is receiving services from the MFP*". It is understood that the LIL will be commissioned on July 1, 2018, and that the Muskrat Falls Project (MFP) will be commissioned about two years later in 2020. Under the Muskrat Falls Agreements, is the term "*nearing commissioning*" defined? Could Hydro make the case that Muskrat Falls will be "*nearing commissioning*", so the costs of the LIL/LTA transmission could be included in Island customer rates beginning in July 2018?

CA-NLH-226 (Expert Evidence – JT Browne Consulting, page 3) It is stated "*The TFA is a long term agreement that begins upon full commissioning of the LIL and is expected to extend for about 50 years. Under this agreement, Hydro is required to make payments to LIL Opco in accordance with terms specified in the agreement.*" Later on the same page it is stated "*None of the amounts are to be included in customer rates until the MFP is commissioned, or nearing commissioning, and Hydro is receiving services from the MFP*". Is Hydro not in fact proposing to recover operating and maintenance costs for LIL/LTA beginning in 2018 (Table 1), and if so, is this a violation of the Muskrat Falls Agreements?

CA-NLH-227 (Expert Evidence – JT Browne Consulting, page 4) It is stated that in addition to Recapture Power from Churchill Falls, "*Hydro will be able to acquire the pre-commissioning power from MFGF (i.e., power produced prior to full commissioning) at no cost before transmission costs,*". In light of the Government directive that no amounts are to be included in customer rates until the Muskrat Falls Project is commissioned or nearing commissioning, how is it that transmission costs will be charged to customers, but not the cost of the power when both the power and transmission services are part of the Muskrat Falls Project?

CA-NLH-228 (Expert Evidence – JT Browne Consulting) Please confirm the correctness of the following statement:

Hydro is proposing to recover operating and maintenance costs of the LIL/LTA assets from Island customers beginning in 2018. Hydro will also *recover the cost of Island network transmission assets from Island customers as those costs are built in to retail rates. Hydro is proposing to file an open access transmission tariff during the first quarter of 2018. The open access transmission tariff will recover the costs of Island network transmission, Labrador network transmission, and capital, operating and maintenance costs of the LIL/LTA assets.*

Please correct any inaccuracies in this statement. If the statement is correct, will Island customers pay less than third parties for use of the transmission system following implementation of the open access regime, presumably when the LIL/LTA transmission assets are commissioned in July 2018, and if so, is this consistent with the objectives of an open access regime?

CA-NLH-229 (Expert Evidence – JT Browne Consulting, page 4) It is stated "*The net benefits prior to full commissioning of the MFGF would also include improved reliability of the IIS. It would be difficult to estimate the value of this increased reliability and Hydro has not attempted to estimate it.*" Why are reliability benefits so difficult to estimate? For example, would it be possible to estimate the savings arising from: 1) relegating Holyrood Units 1 and 2 to standby status, and Unit 3 to synchronous condenser operation, 2) cancellation of capacity assistance agreements, and/or 3) avoiding the costs of firm purchases with an implied capacity charge in lieu of non-firm energy purchases? Is Hydro proposing to set Island customer rates at levels reflecting the continued operation of Holyrood for both capacity and energy purposes including capital, O&M and fuel, without returning to customers in the deferral account the avoided costs arising from reliability benefits of the LIL/LTA and ML? Please explain how this is consistent with established regulatory principles?

CA-NLH-230 (Expert Evidence – JT Browne Consulting, page 4) It is stated "*Since it is unlikely that the ML would have been built at this time without the MFP, Hydro views any net savings as a result of the ML prior to the commissioning of the MFGF to be an integral part of the net benefits/costs of the MFP.*" Is there legally binding documentation stating that the ML, following commissioning, cannot be used to the benefit of Island customers prior to commissioning of Muskrat Falls, or that if it is used, there would be a cost associated with doing so? If so, please file copies of such documentation.

CA-NLH-231 (Expert Evidence – JT Browne Consulting, Table 1, page 6) Regarding the cost of Off-Island Purchases, Table 1 indicates that Hydro's estimate of the cost of Recapture Power is $886,000, $1,946,000 and $260,000 in 2018, 2019 and 2020, respectively. On page 4, it is stated that the cost of Recapture Power is 0.2 cents per kWh. The implied amount of recapture power is therefore 443,000 MWh, 973,000 MWh and 130,000 MWh in 2018, 2019 and 2020, respectively. Based on those quantities and the given estimates of payments for transmission, the following table gives the implied cost in $/MWh, and in cents/kWh, paid by Hydro for transmission of that energy.

	2018	2019	2020
OpEx LTA/LIL (from Table 1)	$27,300,000	$52,900,000	$35,700,000
Recapture Energy (implied, based on 0.2 cents per kWh)	443,000 MWh	973,000 MWh	130,000 MWh
Implied transmission cost (row 1 divided by row 2)	$61.63 per MWh, or 6.163 cents/kWh	$54.37 per MWh, or 5.437 cents/kWh	$274.62 per MWH, or 27.462 cents/kWh

a) Are these figures correct – in particular, is any no-cost pre-commissioning power from Muskrat Falls included in "recapture energy"? If not correct, please provide your estimate of the implied transmission costs per MWh for each year.
b) Please confirm that the transmission costs in the table do not include capital-related expenses.
c) How do these transmission costs (or your estimates from (a)) compare with typical per-MWh transmission costs with which you are familiar?
d) In light of regulatory practice, are these transmission payments reasonable?

CA-NLH-232 (Expert Evidence – JT Browne Consulting, page 5) It is stated that the Off-Island Purchases Deferral Account would include "*Actual cost of Off-Island Purchases including the cost of using the LTA and the LIL*". Is it proposed that the Off-Island Purchases Deferral Account include the cost of using the LTA and LIL, as well as any other transmission costs associated with the delivery of off-island purchases? If so, 1) will the deferral account also include an offset to account for transmission costs that Island customers are already paying in rates based on a cost of service scenario that assumes the energy would be produced at Holyrood, and 2) how would such costs be accounted for in the deferral account to guard against double counting? If not, is Hydro proposing to keep any additional transmission revenues, and if so, explain how this is consistent with an open access regime and established regulatory principles.

CA-NLH-233 (Expert Evidence – JT Browne Consulting, page 8) With respect to the four regulatory principles listed, is economic efficiency as achieved by marginal cost pricing a relevant principle? How, if at all, is that notion of efficiency embodied in any of the four principles identified in the report?

CA-NLH-234 (Expert Evidence – JT Browne Consulting, page 9) Reference is made to a Cost of Service Standard documented in a recent Supreme Court of Canada decision. Please explain how Hydro's proposed 2019 test year cost of service study meets this standard considering the following:

i) Rates will significantly over-collect the revenue requirement,

ii) Costs will be allocated, and rates established, for Island customer classes that do not reflect Hydro's best forecast of the costs that the customer classes are expected to impose on the system,

iii) Newfoundland Power customer rates will be set at levels well above the revenue requirement, so will attract a higher portion of the rural deficit since Labrador Interconnected customers rates will be set at levels reflecting the revenue requirement, and

iv) Rates for Rural and Isolated customers that are pegged to Newfoundland Power rates will over-collect since Newfoundland Power rates will be set at levels that over-collect the revenue requirement.

CA-NLH-235 (Expert Evidence – JT Browne Consulting, page 9) Reference is made to a Cost of Service Standard documented in a recent Supreme Court of Canada decision. Hydro is proposing a 2019 test year cost of service study that will significantly over-collect the revenue requirement, and result in allocations to Island customer classes that do not reflect Hydro's best forecast of the costs that the customer classes will impose on the system. Please explain how this is consistent with established regulatory practice, and provide examples where such a cost of service approach has been used elsewhere.

CA-NLH-236 (Expert Evidence – JT Browne Consulting, page 12) It is stated "*The primary reason Hydro is proposing the OPDA is to deal with the uncertainty in estimating the Pre-commissioning Net Benefits.*" Would establishing an OPDA and then, after the commissioning of the Muskrat Falls Project, returning the accumulated savings directly to the people who were customers during the life of the OPDA be equally effective in handling the uncertainty?

CA-NLH-237 (Expert Evidence – JT Browne Consulting, page 12) It is stated "*The primary reason Hydro is proposing the OPDA is to deal with the uncertainty in estimating the Pre-commissioning Net Benefits*." Hydro proposes a means for over-collecting costs to fund the deferral account which would be used to mitigate future rate increases. However, Hydro does not propose a rate mitigation strategy for returning these funds to customers. The 2019 test year cost of service study does not reflect the costs that Island customer classes are expected to impose on the system. What guidance can you provide the Board on a rate mitigation strategy for returning these funds to Island customers that is consistent with established regulatory principles? For example, in 2020, could Hydro run a cost of service study reflecting actual costs to supply each Island customer class in 2018 and 2019, an assign the funds in the deferral account accordingly? If so, would this be tantamount to retroactive ratemaking? Is retroactive ratemaking consistent with established regulatory principles?

CA-NLH-238 (Expert Evidence – JT Browne Consulting, page 13) If Hydro were to submit a 2019 test year cost of service study based on its best estimate of costs including off-island purchases, and cover off uncertainties that are mentioned in the report with a deferral account, would this meet the Supreme Court's cost of service standard, provide Hydro with the protections it needs with respect to the uncertainties brought on by off-island purchases, and be consistent with established regulatory principles?

CA-NLH-239 (Expert Evidence – JT Browne Consulting, page 14). With respect to the principle of intergenerational equity, would establishing an OPDA and then, after the commissioning of the Muskrat Falls Project, returning the accumulated savings directly to the people who were customers during the life of the OPDA ensure intergenerational equity?

CA-NLH-240 (Expert Evidence – JT Browne Consulting, page 14) It is stated "*Prior to full commissioning, the MPF will provide net benefits to Hydro and its customers*." Yet, on page15 it is stated "*the OPDA is expected to increase rates relative to what they would otherwise be in the period prior to full* *commissioning of the MFP*." Please identify the sources of the net benefits to Hydro's customers prior to full commissioning of the Muskrat Falls Project and provide estimates of the magnitude of those net benefits to Hydro's customers.

CA-NLH-241 (Expert Evidence – JT Browne Consulting, page 14) It is stated "*Prior to full commissioning, the MPF will provide net benefits to Hydro and its customers*." However, is not the unregulated Nalcor subsidiary LIL Opco a major beneficiary? As the OPDA is proposed, wouldn't the Nalcor entity receive $27.3 million in 2018, $52.9 million in 2019 and $35.7 million in 2020, all prior to Muskrat Falls Project commissioning, with all costs passed on by Hydro to ratepayers during that time period?

CA-NLH-242 (Expert Evidence – JT Browne Consulting, page 15) The report points out that raising rates, due to the use of the proposed OPDA, would serve to help smooth the rates up until the time of Muskrat Falls Project commissioning. However, as shown in CA-NLH-081, during that pre-commissioning period, the marginal cost of energy to Hydro will fall significantly. Would raising rates when marginal costs are falling be incompatible with economic efficiency?

CA-NLH-243 (Expert Evidence – JT Browne Consulting) The Labrador-Island Link and the Maritime Link open the door to imports that could provide significant benefits to customers (NP-NLH-11 5, rev 1). However, even though the Maritime Link is expected to be in service less than two months from now:

a. A power procurement plan for purchases over the Maritime Link does not appear to be in place (NP-NLH-115, rev 1),
b. A plan for sales of capacity and energy over the Maritime Link does not appear to be in place (CA-NLH-1 79),
c. A regulatory review process for power procurement and sales that ensures customers are gaining optimal value from the new transmission links is not in place (CA-NLH-176), and
d. An open access transmission tariff has neither been filed, nor approved (CA-NLH-161).

Is it common for utilities to submit rate applications with so much missing information? If so, please provide examples. Is submission of rate applications with so much missing information consistent with established regulatory principles? What guidance can you provide the Board on an approach for dealing with a rate application with so much missing information?

CA-NLH-244 (PUB-NLH-109) The response states "*Based on the current in-service date of the Labrador-Island Link (LIL) and the Labrador Transmission Assets (LTA), anticipated to be July 1, 2018, in order to obtain the full benefits of the LIL and the LTA, the necessary processes for the open access regime will need to be proposed for approval by July 1, 2018.*" Please expand on this response. Specifically, what benefits are obtained from LIL/LTA transmission before implementation of the open access regime, what benefits are obtained from LIL/LTA as a result of implementation of the open access regime, what benefits are obtained from ML before implementation of the open access regime, and what benefits are obtained from ML as a result of implementation of the open access regime?

CA-NLH-245 (CA-NLH-177) The response states "*Hydro is currently reviewing the forecast operating and maintenance costs for LIL and LTA.*" Please file a copy of the outcome of this review. If it is not yet completed, please indicate when the results of the review will be placed on the record and if it will be in time for the negotiation sessions to be held in January 2018.

CA-NLH-246 (CA-NLH-193) The question asks for a forecast of the amount of money that is expected to accumulate in the proposed Off-Island Purchases Deferral Account in 2018, 2019 and 2020 including off-island purchases over the Maritime Link. More specifically, the question requests: "*Please show separately an estimate of savings from purchases over the Maritime Link based on a forecast of energy costs in the New England Power Pool and/or the New York Power Pool; i.e., marginal costs were determined based on a blend of New England ISO and New York – Zone A (CA-NLH-81).*" The response does not include the requested forecast, apparently because Nalcor Energy Marketing is in confidential negotiations. The two issues are mutually exclusive - a response to the RFI does not require Hydro to divulge confidential information. It requests Hydro to provide a forecast based on publicly available information using a methodology similar to that used to estimate the marginal costs provided in CA-NLH-81. We are also open to a forecast based on an alternative methodology if Hydro deems appropriate. We understand that this is forecast only, and that funds that accumulate in the proposed deferral account would be based on the actual costs of off-island purchases. It is important that the Parties and the Board have an understanding of the magnitude of the balance expected to accumulate in the proposed deferral account; otherwise, Hydro is requesting that the Board approve a blank check. Please provide the information requested in CA-NLH-193.

CA-NLH-247

(a) Please provide copies of the actual forecasts used in providing the opinion of JT Browne Consulting.

(b) Has Hydro shared any confidential information with JT Browne Consulting in formulating this opinion?

(c) Please provide a list of any and all documents used in formulating your opinion.

<u>DATED</u> at St. John's, Newfoundland and Labrador, this 11th day of December, 2017.

Per: ______________________________

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