

1 Q. LAB-NLH-71: Re: CA-NLH-012, CA-NLH-039

2

3 **Citation:**

4 With the exception of net metering customers, pursuant to section 14.1 of the
5 Electrical Power Control Act, 1994, Hydro has the exclusive right to sell power
6 directly to Newfoundland Power and the Island Industrial Customers.

7 a) Does NLH have an obligation under the EPCA to purchase power from Hydro
8 Quebec for service to Labrador Interconnected customers if that is the least cost
9 option for providing power to those customers?

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11 b) Does NLH have an obligation to purchase power from Hydro Quebec for service
12 to customers from the Island portion of the Province if that is the least cost
13 option for providing power to those customers?

14

15 c) Is there any legal impediment to Newfoundland Power serving the Labrador
16 Interconnected communities?

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18 d) Is there any legal impediment to industrial or other customers in Labrador
19 purchasing power directly from Hydro Quebec and/or Emera and taking delivery
20 under the open access transmission tariff?

21

22 e) Is there any legal impediment to independent power producers in Labrador
23 accessing transmission facilities on a non-discriminatory basis?

24

25 f) Do either Newfoundland Power or Newfoundland and Labrador Hydro have
26 defined service territories? If so, where are those territories defined?

1 A. a) The legislative framework applicable to Hydro includes the *Electrical Power*
2 *Control Act, 1994*, SNL 1994, Chapter E-5.1 (EPCA), *the Public Utilities Act*, SNL
3 1990, Chapter P-47, and regulations promulgated thereunder. The EPCA and the
4 *Public Utilities Act* apply, except and to the extent that they have been modified
5 by a directive to the Board made as an Order in Council issued pursuant to
6 section 5.1 of the EPCA, or as an exemption order issued under section 5.2 of
7 the EPCA or section 4.1 of the *Public Utilities Act*.

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9 Under this legislative framework, if Hydro has the opportunity to purchase
10 power from Hydro Quebec or elsewhere at a cost that is lower than other
11 available sources, including Recapture Energy, for service to Labrador
12 Interconnected customers, Hydro would be required to attempt to do so.

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14 b) Please refer to part a), which describes the legislative framework applicable to
15 Hydro.

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17 With respect to the Island portion of the Province, once the Island and Labrador
18 are interconnected, Hydro is contractually required to purchase its supply of
19 power and energy from Muskrat Falls under a long term power purchase
20 agreement.

21

22 c) The Labrador Interconnected communities are currently serviced by Hydro. In
23 the event that Newfoundland Power desired to service the territory,
24 Newfoundland Power would be required by section 39 of the *Public Utilities Act*
25 to notify Hydro of such desire. Following notification, if Newfoundland Power
26 and Hydro could reach an agreement with respect to Newfoundland Power's
27 servicing the territory, the utilities would be required to present the agreement

1 to the Board for approval as per subsection 39(2) of the *Public Utilities Act*. If
2 Newfoundland Power and Hydro could not reach an agreement, the Board is
3 required, upon application by either utility, and after a hearing involving the
4 financial ability and good faith of the public utilities concerned, and the
5 necessity of additional service in the territory, to issue or refuse to issue a
6 certificate to proceed.

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8 d) In the event that Hydro Quebec and/or Emera desired to sell power directly to
9 industrial or other customers in Labrador, taking delivery under the open access
10 transmission tariff, Hydro Quebec and/or Emera would be required by section
11 39 of the *Public Utilities Act* to notify Hydro of such desire. Following
12 notification, if Hydro Quebec and/or Emera and Hydro could reach an
13 agreement with respect to Hydro Quebec and/or Emera's servicing the territory,
14 the utilities would be required to present the agreement to the Board for
15 approval as per subsection 39(2) of the *Public Utilities Act*. If Hydro Quebec
16 and/or Emera and Hydro could not reach an agreement, the Board is required,
17 upon application by either utility, and after a hearing involving the financial
18 ability and good faith of the public utilities concerned, and the necessity of
19 additional service in the territory, to issue or refuse to issue a certificate to
20 proceed. Also, for any company to supply and charge the public for electrical
21 service, a rate for that service has to first be approved under section 70 of the
22 *Public Utilities Act*.

23
24 e) No, there is no legal impediment to independent power producers in Labrador
25 accessing transmission facilities on a non-discriminatory basis.

1 f) The service territories of Newfoundland Power and Hydro are not defined, *per*
2 *se*, but they are well established by history and practice and are known and
3 understood by the Board and the utilities.
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5 Newfoundland Power serves the great majority of residential and general
6 service customers on the island portion of the province. On the island portion of
7 the province Hydro serves: a minority of the residential and general service
8 customers on the Island Interconnected System (including on the Great
9 Northern Peninsula, the Baie Verte area, portions of the South Coast and Fogo
10 Island), all of the isolated system customers, and the Island Industrial
11 Customers. Hydro serves all customers in Labrador with the exception of those
12 served in the community of Natuashish, the Menihek area, and the industrial
13 facility at Voisey's Bay. Please refer to LAB-NLH-071, Attachment 1.
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15 Section 39 of the *Public Utilities Act* requires that a utility wishing to extend its
16 plant into the service territory of another utility first give notice to that other
17 utility and where an agreement is not reached between those utilities, the
18 Board will decide whether the extension of plant is to be approved.

