

1 Q. **Reference: 2018 Cost of Service Methodology Review Report, p. 4 (15 pdf)**

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Citation:

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Following the commissioning of the Muskrat Falls Project, Newfoundland and Labrador will have an inter-provincial transmission system fully interconnected with Quebec, Nova Scotia, and the broader North American electric grid. This development gives rise to the obligation for Hydro and its affiliated transmission owners to provide open, non-discriminatory access to transmission service on transmission lines used for inter-provincial trade by third parties. This requirement is established by the Federal Energy Regulatory Commission (“FERC”), which is an independent agency that regulates the transmission of electricity in the United States. To meet the FERC requirement of reciprocity, Hydro must provide comparable open access to transmission service over the interprovincial transmission system within Newfoundland and Labrador. From a cost of service perspective, FERC requires that Hydro record its transmission costs in a manner that can be used in the determination of open access transmission tariffs.

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On December 21, 2017, OC2017-380 directed the Board to adopt a policy that the submissions of the Newfoundland and Labrador System Operator (“NLSO”) relating to the transmission of electricity over the Province’s high voltage transmission system be approved on the following terms: (i) the pro-forma Transmission Service Agreements, and attached rates and rate methodology, be approved on an interim basis; and (ii) the Transmission Policies and Procedures and Code of Conduct for transmission system operations to be adopted by the NLSO be approved until such time as the Board reviews the interim proposals.

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In Order No. P.U. 3(2018), the Board approved, on an interim basis, the pro-forma Transmission Service Agreements, the NL Transmission Policies and Procedures and the Code of Conduct for NL Transmission System Operations, effective February 9, 2018. (underlining added)

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- 1 a) Please explain the source of this “obligation” or “requirement”. Does it flow from
2 statute or regulation, or from the fact that Hydro or its affiliates takes transmission
3 service from other entities that either are subject to FERC jurisdiction or have adopted
4 FERC-compliant Open Access Transmission Tariffs (OATTs) that contain said reciprocity
5 provisions? Please provide details with respect to your response.
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- 7 b) In Hydro’s view, do the pro-forma Transmission Service Agreements, the NL
8 Transmission Policies and Procedures and the Code of Conduct for NL Transmission
9 System Operations adopted effective February 9, 2018 meet the minimum standards
10 for an OATT set out in FERC’s Order 890 or subsequent orders? If not, does Hydro
11 intend to seek Board approval for an OATT that meets FERC’s minimum requirements
12 as set out in these orders? If so, when?
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- 15 A. a) The requirement to provide open, non-discriminatory access to transmission service on
16 transmission lines used for inter-provincial trade arises from the fact that
17 Newfoundland and Labrador Hydro and its affiliates are provided open, non-
18 discriminatory access to transmission service from entities whose Open Access
19 Transmission Tariffs (“OATT”) contain reciprocity obligations, as well as the fact that
20 Hydro’s affiliate, Nalcor Energy Marketing (“NEM”), takes service from entities that are
21 subject to the Federal Energy Regulatory Commission (“FERC”) jurisdiction. The FERC
22 requires that, as a condition of NEM taking transmission service over transmission
23 systems where the FERC regulations are followed, NEM’s transmission owning affiliates
24 must provide comparable transmission service to third parties, including affiliates of
25 the transmission providers over whose systems NEM takes transmission service.
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- 27 b) The FERC has held that the reciprocity obligation can be met by either adopting an
28 OATT that is equal or superior to the FERC’s pro-forma OATT, or by providing

1 comparable transmission service under a bilateral transmission service agreement¹. In
2 Hydro's view, the pro-forma Transmission Service Agreements, the NL Transmission
3 Policies and Procedures and the Code of Conduct for NL Transmission System
4 Operations adopted effective February 9, 2018 meet this obligation.

¹ See Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), order on reh'g, Order No. 888-A, 62 Fed. Reg. 12,274, at 30,285-86 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), order on reh'g, Order No. 888-B, 81 FERC ¶ 61,248 (1997), order on reh'g, Order No. 888-C, 82 FERC ¶ 61,046 (1998), aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC, 225 F.3d 667 (D.C. Cir. 2000), aff'd sub nom. New York v. FERC, 535 U.S. 1 (2002); see also Preventing Undue Discrimination and Preference in Transmission Service, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at P 191, order on reh'g, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), order on reh'g, Order No. 890-B, 123 FERC ¶ 61,299 (2008), order on reh'g, Order No. 890-C, 126 FERC ¶ 61,228, order on clarification, Order No. 890-D, 129 FERC ¶ 61,126 (2009).