

NLH-LAB-008. Re: “Newfoundland and Labrador Hydro’s Proposed Network Addition Policy and Transmission Expansion Study – Addendum” Page 5 “the Régie did not in fact base its decision on either of these two documents, but rather strictly on regulatory principles and the application of its governing legislation”.

Please confirm that the selection process for cryptocurrency customers in Quebec is based on an evaluation criterion that does not “strictly” adhere to regulatory principles (i.e., Number of direct jobs per MW, Total wages for direct employment in Quebec per MW, Investment in Quebec per MW, heat recovery criterion).

RESPONSE:

Mr. Raphals states:

First, it should be noted that the cited sentence (which begins, “As we shall see below ...”) was introductory in nature and meant to summarize the detailed discussions later on.

In stating that “the Régie did not in fact base its decision on either of these two documents” (the Order-in-Council (“OIC”) and the Ministerial Order), I did not mean to suggest that the Régie ignored the OIC. Under the s. 52.1.2 (3) of the *Act Concerning the Régie de l’énergie*, in setting electricity rates:

The Régie shall also consider such economic, social and environmental concerns as have been identified by order by the Government.

In the OIC (quoted at paragraph 14 of the Decision), the government specified, at s. 3(d), that the applicable rates should “permit the maximization of economic spinoffs to Quebec in terms of electricity revenues, taxes, investment and job creation”¹⁵. There is nothing unusual in this — this provision has been used many times in the past to allow the government to identify economic, social and environmental concerns for the Régie to consider.

My point was that the main elements of the Régie’s decision were not imposed by the government, but rather flowed directly from its own assessment of the “risks inherent in this class of consumers”, as it would in setting any other rate:

[172] In conformity with paragraphs 6, 7 and 9 of section 49 of the Act, the Régie must, when it sets a tariff, take into account the cost of service and the various risks inherent in each rate class, ensure that rates are just and reasonable and that it consider service quality.

[173] According to the Régie, it is just and reasonable that the risks inherent in the cryptocurrency mining industry be compensated globally by a limitation in the amount of

¹⁵ 3. Les consommateurs de cette catégorie devraient avoir accès à des solutions tarifaires innovantes visant à : ... (d) permettre la maximisation des retombées économiques du Québec en terme de revenus des ventes d’électricité, de retombées fiscales, d’investissement et d’emplois

electricity available for this usage and, individually, by the fact that the cost of infrastructures to interconnect be borne by the customer *as well by as the obligation to curtail during a maximum of 300 hours during system peak.*¹⁶

More specifically, the key elements of the Régie's decision that were taken without reference to the OIC or the Ministerial Order are:

- establishing a new rate class for cryptographic use;
- defining that rate class as “cryptographic use of electricity applied to blockchains”;
- establishing a 300-MW block of power to be made available to that rate class, in addition to the 338 MW already in service;
- rejecting HQD's proposal to fix the rates for that power by auction;
- establishing selection criteria for the attribution of the block;
- requiring curtailment upon HQD's request during up to 300 hours per year, without compensation; and
- imposing a dissuasive rate of 15¢/kWh for any unauthorized cryptographic use of electricity applied to blockchains.

¹⁶ [172] Conformément aux paragraphes 6, 7 et 9 de l'article 49 de la Loi, la Régie doit, lorsqu'elle fixe un tarif, tenir compte des coûts de services et des différents risques inhérents à chaque catégorie de consommateurs, s'assurer que les tarifs sont justes et raisonnables et qu'ils tiennent compte de la qualité de la prestation du service.

[173] Selon la Régie, il est juste et raisonnable que les risques inhérents à l'industrie du minage de cryptomonnaies soient compensés globalement par la limitation des quantités d'électricité disponible pour cet usage et, individuellement, par le fait que le coût de raccordement des infrastructures soit à la charge du client ainsi que par l'obligation d'effacement en pointe pour un maximum de 300 heures.