

HAND DELIVERED

January 28, 2020

Board of Commissioners
of Public Utilities
P.O. Box 21040
120 Torbay Road
St. John's, NL A1A 5B2

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

Ladies and Gentlemen:

Re: Application by Newfoundland and Labrador Hydro (“Hydro”) for Approval of the Construction and Installation of 14 Level 3 Direct Current Fast Chargers and 14 Level 2 Chargers

Introductory

On December 19, 2019, Hydro submitted an application (the “Application”) to the Board requesting approval of the construction and installation of a network of electric vehicle (“EV”) chargers. The Board set January 29th as the deadline for comments on the Application.

These are Newfoundland Power’s comments.

Newfoundland Power’s Comments

Newfoundland Power observes that the Application is the first application in which the Board is being asked to consider issues related to the provision of EV charging services to the public.

The Application states that the capital funds Hydro expends on the proposed project will not be included in its regulated rate base or recovered from customers.¹ For this reason, Newfoundland Power does not oppose the capital expenditures proposed in the Application. In Newfoundland Power’s submission, the Board’s order approving the proposed capital expenditures should clearly provide that no costs associated with the proposed EV charging network should be borne by Newfoundland Power’s customers.

Hydro indicated in its Application transmittal letter dated December 19, 2019 that it will file a further application in the first quarter of 2020 regarding “the consideration Hydro intends to

¹ Application, paragraph 8.

recover from EV owners for the charging services Hydro will provide.” In light of Hydro’s stated position that the charging services it intends to provide to EV owners by means of the proposed EV charging network are not a “service” within the meaning of the *Public Utilities Act* (the “Act”), it is not clear what relief Hydro will be seeking in its further application.²

The construction of an EV charging network as proposed in the Application raises a number of questions that should, in Newfoundland Power’s submission, be resolved by the Board before any costs associated with the proposed EV charging network are approved for recovery from utility customers. These questions include the following:

1. Is the provision of EV charging services by Hydro a “service” within the meaning of the Act?³
2. Do the provisions of Section 39 of the Act apply to the provision by Hydro of EV charging services from EV chargers proposed to be constructed and installed in Newfoundland Power’s service territory?⁴
3. Should the construction and installation of EV chargers by public utilities regulated by the Board be incorporated into joint utility conservation and demand management planning and program initiatives?
4. Does the construction and installation of EV chargers, and their operation and maintenance by public utilities regulated by the Board, benefit electricity customers?

Given the expedited process established by the Board for consideration of the Application, and the limited evidence provided by Hydro in support of the Application, Newfoundland Power submits that the resolution of these question should be deferred for future consideration by the Board. This will allow for the submission of more fulsome evidence by Hydro on these matters and detailed submissions from interested parties.

Submission

Since the capital funds Hydro expends on the project will not be included in its regulated rate base or recovered from customers, Newfoundland Power does not oppose the capital expenditures proposed in the Application. However, Newfoundland Power submits that there are important issues related to the provision of EV charging services by Hydro that merit detailed consideration by the Board. Until the Board has had an opportunity to consider evidence and

² See the responses to Requests for Information NP-NLH-002 and PUB-NLH-008.

³ Attachment 1 to the response to Request for Information PUB-NLH-008 is a decision of the Nova Scotia Utility and Review Board (“NSUARB”) in an application by Nova Scotia Power Incorporated for approval of capital expenditures for an Electric Vehicle Charging Station Network Pilot Project. Among other findings, the NSUARB found that the proposed project is not a regulated utility service. However, while the relevant provisions of the Nova Scotia *Public Utilities Act* are similar in material respects to the Act, Hydro has provided no evidence that the finding of the NSUARB in this regard is generally accepted in other jurisdictions.

⁴ If the answer to question 1 is in the affirmative, the Board may, in the absence of agreement of the utilities, attach conditions to its approval of an extension of Hydro’s “line, plant or system” into territory served by Newfoundland Power.

Newfoundland Power Inc.

detailed submissions regarding the questions enumerated above, no costs associated with Hydro's proposed EV charging network should be approved for recovery from Newfoundland Power's customers.

Concluding

We trust this is in order. If you have any questions, please contact the undersigned.

Yours very truly,



Gerard M. Hayes
Senior Counsel

c. Shirley Walsh
Newfoundland and Labrador Hydro

Paul Coxworthy
Stewart McKelvey

Dean Porter
Poole Althouse

Sheryl Nisenbaum
Praxair Canada Inc.

Dennis Browne, Q.C.
Browne Fitzgerald Morgan & Avis

Denis Fleming
Cox & Palmer

Shawn Kinsella
Teck Resources Limited