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March 13, 2024

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

Attention: Jo-Anne Galarneau  
Executive Director and Board Secretary

Dear Ms. Galarneau:

**Re: Newfoundland and Labrador Hydro (“Hydro”) – 2021 Capital Budget  
Supplemental Application Approval of the Construction of Hydro’s Long-Term  
Supply Plan for Southern Labrador – To Parties – Request for Submissions**

**A. Introduction**

On October 5, 2023, Hydro filed Revision 2 of its application for approval of the construction of its long-term supply plan for Southern Labrador (the “Revised Application”).<sup>1</sup> The Revised Application proposes the construction of a new regional diesel generating station in Port Hope Simpson to replace four isolated diesel systems serving the communities of: (i) Charlottetown and Pinsent’s Arm; (ii) Mary’s Harbour and Lodge Bay; (iii) Port Hope Simpson; and (iv) St. Lewis (the “Southern Labrador Communities”). The Revised Application also proposes construction of approximately 130 km of 25 kV distribution line to enable the new regional diesel generating station to supply the Southern Labrador Communities.

Newfoundland Power filed its submission in relation to the Revised Application on November 30, 2023 (the “November Submission”). In its December 18, 2023 reply submission, Hydro requested approval of the proposed project conditional on fulfillment of the duty to consult and receipt of environmental approval. Subsequent to the Board’s requests for clarification, Hydro provided additional information on January 12, 2024 and February 13, 2024.

In its letter dated February 26, 2024 the Board asked the parties to specifically address a list of items related to Hydro’s request for conditional approval. These are Newfoundland Power’s submissions in response to the Board’s request.

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<sup>1</sup> Hydro’s original Application was filed with the Board on July 16, 2021.

**Newfoundland Power Inc.**

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## **B. Items Identified by the Board**

The Board identified seven items for the parties to address. The following outlines Newfoundland Power's submissions on the requested items.

Item 1: *Please confirm if previously submitted comments are not impacted by the revised request and additional information filed. If previously submitted comments are impacted, please submit revised comments as needed.*

Newfoundland Power reiterates and reconfirms its comments contained in its November Submission. These previously submitted comments are not impacted by the revised request and additional information filed. The Company's additional comments as stated herein relate only to the regulatory approval process currently under consideration by the Board.

Item 2: *Should the Board grant conditional approval as proposed by Hydro to allow it to proceed with the proposed project?*

See the response to item 1 and the Company's comments in its November Submission.

Item 3: *If the proposed conditional approval is granted, should the Board approve Hydro's request to recover all costs of the project from customers with the risk that the conditions may not be met or that changes to the project may subsequently be required.*

Hydro has requested approval of the full project and all of its proposed expenditures based on the evidence provided. Hydro has requested that conditions of approval be: (i) the completion of Hydro's duty to consult; and (ii) environmental approval.<sup>2</sup>

The Board's *Capital Budget Application Guidelines (Provisional), Effective January 2022* (the "Guidelines") provide direction regarding multi-year capital projects proposed by a utility. The Guidelines state:

*"The proposed expenditures for each year of a multi-year project will be considered together in the initial year of the application. Where a utility confirms in its capital budget application in subsequent years that the scope, nature and magnitude of the project continues to be consistent with the original approval, further approval of the project is not required. If there is a material change in the subsequent year the expenditures will be subject to further review. A change will be considered material if the nature or scope of the project changes such that the*

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<sup>2</sup> See Hydro's January 12, 2024 letter *Re: Newfoundland and Labrador Hydro – 2021 Capital Budget Supplemental Application Approval of the Construction of Hydro's Long-term Supply Plan for Southern Labrador – Request for Further Information – Reply*, page 1.

*original rationale provided is no longer applicable or where the revised forecast expenditure exceeds the approved amount by 10% or more.”<sup>3</sup>*

The Guidelines do not contemplate *conditional approval* of capital expenditures; however, the Guidelines anticipate that a multi-year project, such as Hydro’s proposed project for Southern Labrador, may be influenced throughout the multi-year period by factors that were not known at the time the application was filed, reviewed and subsequently approved by the Board. Following Board approval, the onus is on the utility to provide the Board with sufficient information as the project progresses to enable the Board to continue to assess the project, giving consideration to any factors that may have changed since the project was initially approved.

In Newfoundland Power’s view, the Guidelines provide sufficient direction to Hydro and the Board in terms of establishing a process by which to assess multi-year capital projects, including Hydro’s Southern Labrador project.

Item 4: *Should the Board approve recovery of only certain costs, for example only pre-construction costs, estimated to be \$9.6 million.*

See the response to item 3.

Item 5: *If the proposed conditional approval is granted, with or without full or partial cost recovery, should Hydro be required to provide updated project and cost information before it proceeds to the construction phase? If so, what additional reporting requirements should be required.*

Reporting requirements in relation to capital expenditures have formed part of previous Board orders. For example, in its order approving Hydro’s *2016 Capital Budget Application*, the Board directed Hydro to file with its *2017 Capital Budget Application* a report on the construction of the TL 267 transmission line project addressing the work progress, the expenditure and budget status, and an explanation of any deviation from the project scope and budget.<sup>4</sup>

Newfoundland Power defers to the Board in determining the particular reporting requirements which may be appropriate for capital expenditures related to Hydro’s Southern Labrador system.

Item 6: *Should the Board grant approval of only part of the project and recovery of the associated costs at this time so that Hydro would be required to file a subsequent*

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<sup>3</sup> See the Guidelines, page 5.

<sup>4</sup> See Order No. P.U. 33 (2015), page 14, lines 29-32. In a letter dated July 19, 2016 the Board requested that Hydro provide monthly updates on the project, beginning on September 15, 2016.

*application for the balance of the project? If so, what portion of the project should be approved at this time?*

See the response to item 3.

Item 7: *Should the matter be adjourned to allow Hydro and NCC resolve the duty to consult issue? If so, for how long?*

See the response to item 3.

**C. Conclusion**

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

Yours truly,



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Legal Counsel

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